

CHAPTER IV HUMAN RIGHTS DEVELOPMENTS IN THE REGION

INTRODUCTION

1. The Inter-American Commission on Human Rights (IACHR or Commission) continues its practice of including a Chapter in its Annual Report to the General Assembly of the Organization of American States (OAS) on the situation of human rights in the Member States of the Organization, based on its competence as set forth in the OAS Charter, the American Convention on Human Rights, the Statute and the Commission's Rules.

2. Preparing reports on the situation of human rights in the countries of the region has been one of the main tools of the Commission since its first Annual Report to the OAS General Assembly in 1969. Beginning in 1977, the Commission started to publish this information systematically, using different titles, chapters or sections, in what essentially has become Chapter IV.

3. In 1996, the Commission established four specific criteria to identify those OAS member States whose human rights practices merited special attention by the IACHR and consequently a special analysis to be included in the annual report. In the 1997 Annual Report, the Commission added a fifth criterion to be considered when deciding which countries to include in this Chapter. The IACHR has applied these criteria on the basis of the mandate and faculties assigned to it by the regional instruments, and accordingly analyzes the situations under consideration in light of the actions of States, pursuant to inter-American human rights standards.

4. Following a process of reflection on the strengthening of the inter-American human rights system, the IACHR issued Resolution 1/2013, "Reform of the Rules of Procedure, Policies and Practices," which included changes with respect to the content of Chapter IV of its Annual Report. Along these lines, Chapter IV has been divided into two sections:

- i. Section A) will include an annual overview of the human rights situation in the hemisphere, derived from its monitoring work, which shall identify the main tendencies, problems, challenges, progress and best practices of civil and political rights, and social, economic and cultural rights;
- ii. Section B) will include the special reports that the Commission considers necessary regarding the situation of human rights in Member States, pursuant to the criteria, methodology and procedure provided below.

5. As part of the process of reflection, the Commission reviewed and modified the criteria to be applied for including a State in Chapter IV. B. The current criteria are:

CRITERIA

- a. A serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:
 - i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the

- f. human rights reports issued by governments and regional organs;
- g. reports by civil society organizations, as well as information presented by such organizations and private persons; and
- h. public information that is widely disseminated in the media.

7. The Commission deliberates in plenary during its third ordinary session each year, applying the methodology and criteria indicated to make reasoned decisions on Chapter IV and on other matters included in the Annual Report. During its 153rd Period of Sessions, the IACHR analyzed informative *memoranda* about the situation of human rights in some countries, which were previously requested by the Commissioners, and voted on whether to include them or not. As a result, in some cases it was decided to include the State in Chapter IV.B; and in others, not to do so.

8. The Commission, by an absolute majority, and based on the indicated criteria, decided to include two member States in the current Chapter: Cuba and Venezuela. In addition, as provided in the Rules of Procedure, the Commission sent the draft of the respective sections of Chapter IV.B to the States concerned with a request to present relevant observations within a certain period. Neither Cuba nor Venezuela presented comments within the period provided.

9. It should be mentioned that, in its reform process, the Commission established a procedure by which a State that has received an on-site visit from the Commission, would not be included in Chapter IV.B of the Annual Report of that year. The monitoring of the situation of human rights would be carried out by means of a country report derived from the on-site visit. Once the country report is published, the Commission will follow up on compliance with the respective recommendations by means of Chapter V of its Annual Report. Thereafter, the Commission will decide what would be the appropriate procedure to monitor the situation. Such is the case of Honduras, which received a visit from the Commission in December of 2014.

A. Overview of the human rights situation in the hemisphere

1. List of press releases and requests for information from the States in the exercise of the monitoring faculty

10. In keeping with its mandate to monitor the human rights situation in the hemisphere in 2014, the Commission issued a series of press releases regarding situations that raised concerns and, also, voiced positions recognizing good practices of some States. The complete list of press releases issued by the Commission over the course of 2014 appears hereunder:

- R157/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Brazil. Washington, D.C., December 30, 2014
- 156/14 - IACHR Welcomes Announcement to Reestablish Relations between the United States and Cuba. Washington, D.C., December 19, 2014
- 155/14 - Joint Statement on International Migrants' Day "Open, Safe and Regular Migration Channels Crucial to Stop Human Rights Violations against Migrants". Geneva / Banjul / Washington, D.C., December 18, 2014
- R154/14 - Office of the Special Rapporteur Condemns Murder of Communicator in Honduras. Washington, D.C., December 17, 2014
- 153/14 - IACHR Expresses Concern over Pervasiveness of Violence against LGBTI Persons and Lack of Data Collection by OAS Member States. Washington, D.C., December 17, 2014
Annex to the Press Release
- 152/14 - IACHR Calls on the United States to Investigate and Punish Acts of Torture Established in the Senate Intelligence Committee Report. Washington, D.C., December 12, 2014

- [151/14 - IACHR Welcomes Brazil's Truth Commission Report and Calls on the State to Implement its Recommendations.](#) Washington, D.C., December 12, 2014
- [150/14 - IACHR Concludes Visit to Chile.](#) Washington, D.C., December 11, 2014
- [149/14 - IACHR Condemns the Assassination of Defenders of the Human Rights of Migrants in Mexico.](#) Washington, D.C., December 11, 2014
- [148/14 - IACHR Regrets Deaths Due to Reported Drug Overdose in Jail of Venezuela.](#) Washington, D.C., December 11, 2014
- [147/14 - IACHR Welcomes the Resettlement of Six Guantanamo Detainees to Uruguay and Urges OAS Member States to Follow Uruguay's Example.](#) Washington, D.C., December 10, 2014
- [146/14 - IACHR Wraps Up Onsite Visit to Honduras.](#) Tegucigalpa, Honduras, December 5, 2014
[Annex to the Press Release: Preliminary Observations](#)
- [145/14 - IACHR Urges States to Ensure Full Exercise of Human Rights of Persons with Disabilities.](#) Washington, D.C., December 2, 2014
- [144/14 - IACHR Takes Case involving Colombia to the Inter-American Court.](#) Washington, D.C., December 1, 2014
- [143/14 - IACHR Presents Report on the Right to Truth in the Americas.](#) Washington, D.C., November 27, 2014
- [142/14 - IACHR Welcomes Executive Action on Immigration in the United States.](#) Washington, D.C., November 26, 2014
- [141/14 - IACHR Conducts Onsite Visit to Honduras.](#) Washington, D.C., November 25, 2014
- [140/14 - On the International Day for the Elimination of Violence Against Women, IACHR Urges States to Implement Transformative Measures.](#) Washington, D.C., November 25, 2014
- [139/14 - IACHR Condemns Murder of Justice Operators in Honduras.](#) Washington, D.C., November 24, 2014
- [138/14 - On Transgender Day of Remembrance, the IACHR Expresses Concern About the Situation of Trans Persons in the Americas.](#) Washington, D.C., November 21, 2014
- [137/14 - UN and Inter-American Human Rights Systems Sign Joint Declaration on Collaboration.](#) Washington, D.C., November 19, 2014
- [136/14 - IACHR Makes Official Technical Cooperation Agreement about Ayotzinapa Students in Mexico.](#) Washington, D.C., November 18, 2014
- [R135/14 - Office of the Special Rapporteur Condemns Murders of Journalist in Peru.](#) Washington, D.C., November 14, 2014
- [134/14 - IACHR Conducts Visit to Colorado, United States.](#) Washington, D.C., November 14, 2014
- [133/14 - IACHR Agrees on Terms of Agreement on Technical Assistance to Mexico.](#) Washington, D.C., November 12, 2014
- [132/14 - IACHR Publishes Report on Impact of Friendly Settlement Procedure.](#) Washington, D.C., November 10, 2014
- [131/14 - IACHR Wraps Up its 153rd Session.](#) Washington, D.C., November 7, 2014
[131A/14 - Report on the 153rd Session of the IACHR](#)
- [130/14 - IACHR Condemns Judgment of the Constitutional Court of the Dominican Republic.](#) Washington, D.C., November 6, 2014
- [R129/14 - Office of the Special Rapporteur Condemns Murders of Two Communicators in Mexico.](#) Washington, D.C., November 3, 2014
- [R128/14 - Office of the Special Rapporteur Joins the International Day to End Impunity for Crimes against Journalists.](#) Washington, D.C., November 2, 2014
- [127/14 - UN and IACHR Rapporteurs Call on States to Protect Human Rights Defenders.](#) Washington, D.C., October 31, 2014
- [126/14 - IACHR Welcomes the Measures Taken by Uruguay and Brazil for the Protection of Syrian Refugees.](#) Washington, D.C., October 24, 2014
- [125/14 - Rapporteurship on the Rights of the Child Culminates Visit to Mexico.](#) Washington, D.C., October 20, 2014

- [R124/14 - Office of the Special Rapporteur Condemns Murder of Radio Announcer and Expresses Concern over Disappearance of Journalist in the State of Sinaloa, Mexico.](#) Washington, D.C., October 17, 2014
- [123/14 - IACHR Takes Case Involving Peru to the Inter-American Court.](#) Washington, D.C., October 17, 2014
- [R122/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Paraguay.](#) Washington, D.C., October 17, 2014
- [121/14 - IACHR Urges States to increase efforts to eradicate poverty in America.](#) Washington, D.C., October 17, 2014
- [120/14 - IACHR Announces Schedule for its 153rd Session.](#) Washington, D.C., October 17, 2014
- [119/14 - IACHR Urges States to Respect and Guarantee Human Rights of Rural Women.](#) Washington, D.C., October 15, 2014
- [118/14 - IACHR Chair Concludes Visit to Colombia.](#) Washington, D.C., October 10, 2014
- [117/14 - IACHR Makes an Urgent Call on the Mexican State Regarding the Murder and Disappearance of Students.](#) Washington, D.C., October 10, 2014
- [116/14 - IACHR Takes Case Involving Peru to the Inter-American Court.](#) Washington, D.C., October 10, 2014
- [115/14 - IACHR Urges OAS Member States to Abolish the Death Penalty.](#) Washington, D.C., October 10, 2014
- [114/14 - Edison Lanza Begins his Mandate as Special Rapporteur for Freedom of Expression.](#) Washington, D.C., October 8, 2014
- [113/14 - IACHR Takes Case Involving Guatemala to the Inter-American Court of Human Rights.](#) Washington, D.C., October 7, 2014
- [112/14 - IACHR Takes Case Involving Peru to the Inter-American Court of Human Rights.](#) Washington, D.C., October 6, 2014
- [111/14 - IACHR Gratefully Recognizes the Work of Catalina Botero as Special Rapporteur for Freedom of Expression.](#) Washington, D.C., October 3, 2014
- [110/14 - IACHR Wraps Up Visit to the United States of America.](#) San Antonio, Texas, October 2, 2014
- [R109/14 - Office of the Special Rapporteur Pleased with Recent Ruling by Brazil's Supreme Federal Tribunal.](#) Washington, D.C., September 29, 2014
- [108/14 - IACHR Reiterates its Concern about the Processes to Select and Appoint Judges to Guatemala's Appeals Court and Supreme Court.](#) Washington, D.C., September 27, 2014
- [R107/14 - Office of the Special Rapporteur Expresses Concern over the Situation of the Freedom of Expression in Venezuela.](#) Washington, D.C., September 22, 2014
- [106/14 - IACHR Calls upon Member States of the OAS to Guarantee Fully and Effectively the Human Rights of Indigenous Peoples in the Americas.](#) Washington, D.C., September 22, 2014
- [105/14 - IACHR Visits Southern Border of United States Concerned about Situation of Unaccompanied Children and Families.](#) Washington, D.C., September 22, 2014
- [104/14 - IACHR Expresses Concern over Detention Conditions at Rikers Island Prison, United States, a year after the tragic death of an inmate.](#) Washington, D.C., September 18, 2014
- [103/14 - IACHR Expresses Deep Concern over Threats against Defenders of Human Rights Organizations Working for Peace in Colombia.](#) Washington, D.C., September 18, 2014
- [102/14 - IACHR Condemns Killing of Four Asháninka Indigenous Leaders in the Department of Ucayali, Peru.](#) Washington, D.C., September 18, 2014
- [101/14 - IACHR Condemns Murder of Human Rights Defender in Honduras.](#) Washington, D.C., September 17, 2014
- [100/14 - IACHR Takes Case Involving Guatemala to the Inter-American Court of Human Rights.](#) Washington, D.C., September 17, 2014
- [99/14 - Argentina Hands Records of the Military Dictatorship to IACHR.](#) Washington, D.C., September 17, 2014

- [98/14 - IACHR Office of the Rapporteur on the Rights of the Child Wraps Up Visit to Uruguay and Speaks Out against Reducing the Age of Criminal Responsibility.](#) Montevideo, September 16, 2014
- [97/14 - Rapporteurship on the Rights of Persons Deprived of Liberty Wraps up Visit to Paraguay.](#) Washington, D.C., September 15, 2014
- [R96/14 - Office of the Special Rapporteur Condemns Attack to Journalist in Mexico.](#) Washington, D.C., September 9, 2014
- [95/14 - IACHR Congratulates Mexican Supreme Court for Adoption of Protocol Involving Sexual Orientation and Gender Identity.](#) Washington, D.C., August 29, 2014
- [94/14 - IACHR expresses concern over threats against and arrests of campesino leaders in Bajo Aguán, Honduras.](#) Washington, D.C., August 29, 2014
- [93/14 - IACHR Publishes Fourth Report on Human Rights Situation in Colombia.](#) Washington, D.C., August 28, 2014
- [92/14 - IACHR Concerned over Violent Deaths in Brazilian Prison.](#) Washington, D.C., August 28, 2014
- [91/14 - IACHR Deplores Deaths and Injuries at Youth Education Center in Paraguay.](#) Washington, D.C., August 22, 2014
- [90/14 - IACHR Expresses Concern over Police Killings of African-American Persons in the United States.](#) Washington, D.C., August 22, 2014
- [R89/14 - Office of the Special Rapporteur Condemns Murder Journalist in Honduras.](#) Washington, D.C., August 21, 2014
- [88/14 - IACHR Publishes Report: “Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico”.](#) Mexico City, August 18, 2014
- [R87/14 - Office of the Special Rapporteur Condemns Murder Journalist in Mexico.](#) Washington, D.C., August 16, 2014
- [86/14 - IACHR Wraps Up its 152nd Special Session.](#) Mexico City, August 15, 2014
- [R85/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Colombia.](#) Washington, D.C., August 14, 2014
- [84/14 - IACHR Calls on States to Implement Social Inclusion Policies for Youth.](#) Washington, D.C., August 13, 2014
- [R83/14 - Office of the Special Rapporteur Condemns Attack to Journalist and Murder of his Son in Mexico.](#) Washington, D.C., August 6, 2014
- [82/14 - IACHR Announces Schedule of Public Hearings for its 152nd Extraordinary Period of Sessions.](#) Washington, D.C., August 5, 2014
- [81/14 - IACHR Receives Requests for Hearings and working meetings for the 153rd Period of Sessions.](#) Washington, D.C., July 31, 2014
- [80/14 - IACHR Wraps Up its 151st Regular Period of Sessions.](#) Washington, D.C., July 30, 2014
- [79/14 - IACHR Publishes Report: “Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas”.](#) Washington, D.C., July 29, 2014
- [78/14 - IACHR Expresses Deep Concern over Execution of Joseph Wood in the United States.](#) Washington, D.C., July 25, 2014
- [77/14 - IACHR makes its choice of Edison Lanza as Special Rapporteur for Freedom of Expression.](#) Washington, D.C., July 23, 2014
- [76/14 - IACHR Welcomes Mexico’s Withdrawal of Treaty Reservations.](#) Washington, D.C., July 22, 2014
- [R75/14 - Office of the Special Rapporteur Presents Report on Violence against Journalists and Media Workers.](#) Washington, D.C., July 21, 2014
- [74/14 - IACHR Welcomes Ban on Physical Punishment of Children in Brazil.](#) Washington, D.C., July 11, 2014
- [73/14 - IACHR Holds Extraordinary Period of Sessions in Mexico.](#) Washington, D.C., July 9, 2014
- [R72/14 - Office of the Special Rapporteur Presents Report on Freedom of Expression and the Internet.](#) Washington, D.C., June 27, 2014

- [71/14 - IACHR Urges States to Take Decisive Actions to Prevent Torture.](#) Washington, D.C., June 26, 2014
- [R70/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Paraguay.](#) Washington, D.C., June 24, 2014
- [69/14 - IACHR Condemns Execution of John Winfield in the United States.](#) Washington, D.C., June 23, 2014
- [68/14 - World Refugee Day: IACHR Emphasizes the Importance of the Right to Seek and Receive Asylum.](#) Washington, D.C., June 20, 2014
- [67/14 - IACHR Expresses Deep Concern on the Situation of Children Migrants Arriving to the United States.](#) Washington, D.C., June 20, 2014
- [66/14 - IACHR Urges United States to Suspend Execution of John Winfield.](#) Washington, D.C., June 11, 2014
- [65/14 - 20th Anniversary of Adoption of the Convention of Belém do Para June 9, 2014.](#) Washington, D.C., June 9, 2014
- [R64/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Mexico.](#) Washington, D.C., June 10, 2014
- [63/14 - IACHR Welcomes Stay of Execution of Russell Bucklew in the United States.](#) Washington, D.C., May 30, 2014
- [62/14 - IACHR Condemns Killing of Human Rights Defender in Honduras.](#) Washington, D.C., May 28, 2014
- [61/14 - IACHR Urges United States to Suspend Execution of Russell Bucklew and Charles Warner.](#) Washington, D.C., May 20, 2014
- [60/14 - The IACHR Welcomes Recent Developments in OAS Member States to Protect and Promote the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons.](#) Washington, D.C., May 20, 2014
- [R59/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Paraguay.](#) Washington, D.C., May 19, 2014
- [58/14 - IACHR Urges Guatemala to Continue Complying with its International Obligations and Fighting against Impunity.](#) Washington, D.C., May 16, 2014
- [57/14 - May, 17 - International Day Against Homophobia and Transphobia \(IDAHO-T\).](#) Geneva / Washington, D.C., May 15, 2014
- [56/14 - IACHR Expresses Concern over Violent Deaths of Children, Adolescents, and Youths in a Context of Citizen Insecurity in Honduras.](#) Washington, D.C., May 14, 2014
- [55/14 - IACHR Expresses Deep Concern over Deaths and Disappearances of Migrants in Shipwrecks in the Caribbean Sea.](#) Washington, D.C., May 14, 2014
- [54/14 - IACHR Expresses Concern over Attacks on Migrants and Human Rights Defenders by State Agents in Mexico.](#) Washington, D.C., May 12, 2014
- [53/14 - IACHR Welcomes Military Justice Reforms in Mexico.](#) Washington, D.C., May 9, 2014
- [52/14 - IACHR Condemns Murder of Senior Counsel of Trinidad and Tobago.](#) Washington, D.C., May 9, 2014
- [51/14 - IACHR Holds Third Lecture in the Lecture Series: Transforming the Invisible into the Visible.](#) Washington, D.C., May 9, 2014
- [50/14 - IACHR Deplores Violent Deaths at Educational Facility for Adolescents in Paraguay.](#) Washington, D.C., May 6, 2014
- [49/14 - IACHR Expresses Deep Concern over Agonizing Death of Clayton Lockett in Death Chamber in the United States.](#) Washington, D.C., May 6, 2014
- [48/14 - IACHR Calls on Member States to Open their Archives on the Human Rights Violations Committed under the Regime of Jean-Claude Duvalier.](#) Washington, D.C., May 5, 2014
- [R47/14 - Office of the Special Rapporteur Commemorates World Press Freedom Day on its twenty-first anniversary.](#) Washington, D.C., May 3, 2014
- [46/14 - IACHR Expresses Concern for Vigilante Attacks in Argentina.](#) Washington, D.C., April 24, 2014

- [R45/14 - Office of the Special Rapporteur Presents its 2013 Annual Report](#). Washington, D.C., April 24, 2014
- [44/14 - IACHR Conducted a Visit to New York, United States](#). Washington, D.C., April 24, 2014
- [43/14 - IACHR Presents Annual Report](#). Washington, D.C., April 23, 2014
- [42/14 - IACHR Takes Case involving Chile to the Inter-American Court](#). Washington, D.C., April 22, 2014
- [41/14 - IACHR Urges Guatemala to Ensure Transparency and Meet Minimum Standards in the Appointment of Justice Operators](#). Washington, D.C., April 21, 2014
- [40/14 - IACHR Expresses Deep Concern over Discoveries of 370 Child Migrants Abandoned by their Traffickers in Mexico](#). Washington, D.C., April 16, 2014
- [R39/14 - Office of the Special Rapporteur Condemns Murder of Radio Worker in Honduras](#). Washington, D.C., April 15, 2014
- [38/14 - IACHR Expresses Deep Concern over the Discovery of 110 Migrants being Held against their Will in a "Stash" House in the United States](#). Washington, D.C., April 11, 2014
- [37/14 - IACHR Condemns Execution of Ramiro Hernandez Llanas in the United States](#). Washington, D.C., April 11, 2014
- [36/14 - IACHR Urges United States to Suspend Execution of Ramiro Hernández Llanas](#). Washington, D.C., April 8, 2014
- [35/14 - IACHR Wraps Up its 150th Session](#). Washington, D.C., April 4, 2014
- [35A/14 - Report on the 150th Session of the IACHR](#)
- [34/14 - IACHR to Create an Office of the Special Rapporteur on Economic, Social, and Cultural Rights](#). Washington, D.C., April 3, 2014
- [33/14 - IACHR Takes Case involving Ecuador to the Inter-American Court](#). Washington, D.C., April 2, 2014
- [32/14 - IACHR Takes Case involving Honduras to the Inter-American Court](#). Washington, D.C., April 2, 2014
- [31/14 - IACHR Welcomes Adoption of Law on Creation of National Mechanism for Prevention of Torture in Costa Rica](#). Washington, D.C., April 2, 2014
- [30/14 - IACHR Takes Case involving El Salvador to the Inter-American Court](#). Washington, D.C., April 1, 2014
- [29/14 - IACHR Takes Case involving Guatemala to the Inter-American Court](#). Washington, D.C., April 1, 2014
- [28/14 - IACHR and Inter-American Court Agree to Strengthen Cooperation on the Petition and Case System](#). Washington, D.C. / San Jose, March 26, 2014
- [27/14 - IACHR Elects New Board](#). Washington, D.C., March 20, 2014
- [26/14 - IACHR Announces Schedule for its 150th Session](#). Washington, D.C., March 14, 2014
- [25/14 - On International Women's Day, the IACHR Highlights Deep Concerns Regarding the Protection of the Rights of Women in the Americas](#). Washington, D.C., March 8, 2014
- [24/14 - IACHR Welcomes Decision of the Haitian Court of Appeals to Investigate Serious Human Rights Violations Committed under the Regime of Jean-Claude Duvalier](#). Washington, D.C., February 28, 2014
- [23/14 - IACHR Expresses Concern about Attacks against LGBTI Persons and other Forms of Violence and Restrictions against LGBTI Organizations in the Americas](#). Washington, D.C., February 27, 2014
- [22/14 - IACHR Welcomes Death Penalty Moratorium in the State of Washington](#). Washington, D.C., February 26, 2014
- [R21/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Colombia](#). Washington, D.C., February 26, 2014
- [R20/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Brazil](#). Washington, D.C., February 25, 2014
- [19/14 - IACHR Takes Case involving Peru to the Inter-American Court](#). Washington, D.C., February 25, 2014

- [18/14 - The IACHR Expresses Deep Concern Over the Deaths of Migrants Caused by the U.S. Border Patrol.](#) Washington, D.C., February 24, 2014
- [17/14 - IACHR expresses deep concern over the situation with respect to the right to peaceful protest, freedom of association and freedom of expression in Venezuela.](#) Washington, D.C., February 21, 2014
- [16/14 - IACHR Expresses Sorrow over Deaths in Fires at Colombian Prison.](#) Washington, D.C., February 21, 2014
- [15/14 - IACHR Rapporteurship on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex \(LGBTI\) persons becomes fully operational and first Rapporteur duly designated.](#) Washington, D.C., February 19, 2014
- [14/14 - IACHR Presents Report on “The right of boys and girls to a family. Alternative care. Ending institutionalization in the Americas”.](#) Washington, D.C., February 19, 2014
- [13/14 - IACHR Expresses Deep Concern over Acts of Violence in Venezuela and Urges the State to Ensure Democratic Citizen Security.](#) Washington, D.C., February 14, 2014
- [R12/14 - Office of the Special Rapporteur Condemns Murder of Journalist in Mexico.](#) Washington, D.C., February 14, 2014
- [R11/14 - Office of the Special Rapporteur Condemns Death of Journalist in Brazil.](#) Washington, D.C., February 12, 2014
- [10/14 - IACHR Presents Report, in Costa Rica and Guatemala, on Guarantees for the Independence of Justice Operators in the Americas.](#) San Jose, Costa Rica, February 5, 2014
- [9/14 - IACHR Takes Case involving Kaliña and Lokono Peoples v. Suriname to the Inter-American Court.](#) Washington, D.C., February 4, 2014
- [8/14 - IACHR Welcomes Entry into Force of the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.](#) Washington, D.C., February 3, 2014
- [7/14 - IACHR Assigns Rapporteurships.](#) Washington, D.C., January 30, 2014
- [6/14 - IACHR Condemns Execution of Edgar Tamayo Arias in the United States.](#) Washington, D.C., January 27, 2014
- [R5/14 - Office of the Special Rapporteur Expresses Concern over Confirmation of Criminal Sanctions for Defamation in Ecuador.](#) Washington, D.C., January 24, 2014
- [4/14 - IACHR Troubled by entry into Force of Law 30151 In Peru.](#) Washington, D.C., January 23, 2014
- [3/14 - IACHR Urges the State of Guatemala to Investigate and Clarify the Circumstances Surrounding the Death of Human Rights Defender and Indigenous Leader.](#) Washington, D.C., January 20, 2014
- [2/14 - IACHR Concludes that the United States Violated Tamayo’s Fundamental Rights and Requests that his Execution be Suspended.](#) Washington, D.C., January 17, 2014
- [1/14 - IACHR Presents Report on the Use of Pretrial Detention in the Americas.](#) Washington, D.C., January 17, 2014

11. Additionally, in exercising the powers granted to it under Article 41 of the American Convention on Human Rights and Article 18 of its Statute, the Commission requested information from Member States, regarding the specific issues listed hereunder:

Member State	Issue/Situation	Date
Guatemala	Situation of journalist José Rubén Zamora	January 2014
Bolivia	Situation of the ADHLP in La Paz	January 2014
Mexico	Dictum on the law on Public Protests for the Federal District	January 2014
Guatemala	Decisions by Constitutional Court with respect to the term of Attorney General Paz y Paz	January 2014
Bolivia	Situation of children detained with their parents and subject to a proceeding for leaving the prisons, in particular the San Pedro prison, in the city of La Paz	February 2014
Colombia	Fire at the Modelo prison in Barranquilla	February 2014

Member State	Issue/Situation	Date
Argentina	Deaths of inmates at Unit 6 of the Federal Penitentiary Service, in Rawson	March 2014
Mexico	Situation of internally displaced persons in Mexico	March 2014
Honduras	Attack on María Santos Domínguez, a human rights defender, and her family	March 2014
United States	Investigations into the deaths of persons that occur as the result of confrontations with agents of the United States Border Patrol	March 2014
Guatemala	Request for information on the legal situation of Mr. Andony Godínez and Invitation to the State of Guatemala	April 2014
Guatemala	Suspension of Judge Iris Yassmin Barrios by the Tribunal of Honor (disciplinary body) of the Guatemalan Bar Association (CANG)	April 2014
Mexico	Mechanism of protection for human rights defenders and journalists in Mexico	April 2014
Panama	Situation of former judge Alexis Ballesteros	April 2014
Venezuela	Situation of persons detained	April 2014
Honduras	Request for information on criminal proceeding against journalist Julio Ernesto Alvarado and Invitation	May 2014
Panama	Situation of the communities of the Ngäbe-Buglé people in the province of Chiriquí	May 2014
Honduras	Casa Alianza	May 2014
Mexico	Assassination of Sandra Luz Hernández, human rights defender	May 2014
Honduras	Attacks on José Guadalupe Ruelas García, human rights defender	May 2014
Venezuela	Situation of persons deprived of liberty	May 2014
Mexico	Secondary legislative initiative on telecommunication and radio broadcasting	June 2014
Brazil	Request for information on the reported attacks and arrests of journalists during the demonstrations held in the context of the FIFA World Cup	June 2014
Honduras	Guardians of the Homeland Program (Programa de Guardianes de la Patria)	June 2014
Trinidad and Tobago	On the measures for the protection of journalist Mark Bassant	June 2014
Guatemala	Violent breakup of demonstration at La Puya	June 2014
Venezuela	Judgment of the Constitutional Chamber of the Supreme Court of Justice of April 24, 2014	June 2014
Peru	Medical condition of prisoner at Lurigancho Prison	June 2014
Colombia	Representation of the Afro-descendant population in the Congress of the Republic	June 2014
Colombia	Assassination of four members of Fundaprogreso	June 2014
Colombia	Situation of student Alejandro Ospina Cogua	June 2014
Antigua and Barbuda	On the bill to abolish criminal defamation and also offering technical assistance to the State	July 2014
Honduras	Situation of members of the COPINH and members of the Lenca indigenous community	July 2014
Paraguay	Deisy Aguilera	July 2014
Brazil	Marinalva De Santana Ribeiro, human rights defender	July 2014
Paraguay	Strike of workers at Chirico	July 2014
Paraguay	Situation of the inhabitants of the community known as Colonia Huber Duré (Canindeyú)	August 2014
Honduras	Bill to protect human rights defenders, journalists, other media workers, and judicial officers	August 2014
Chile	Situation of the girls P and D	August 2014
Peru	Investigation into the assassination of journalist Hugo Bustíos (Report No. 38/97)	August 2014
Paraguay	On the Law on free access to public information and government transparency	August 2014
Brazil	Protests and arrests	August 2014

Member State	Issue/Situation	Date
Mexico	Situation of Grupo Juárez, Mexico City	August 2014
Argentina	Conditions of detention	August 2014
Brazil	Death threats against Davi Kopenawa, indigenous leader of the Yanomami tribe	August 2014
Paraguay	Request for information with respect to the seizure of community radio equipment	September 2014
Costa Rica	Request for information on Bill No. 16,992	September 2014
Guatemala	Situation of acts of police violence in the department of Alta Verapaz	September 2014
Bolivia	Situation of women judges on the Plurinational Constitutional Court	September 2014
Colombia	National Protection Unit	September 2014
Colombia	Police abuse of trans women	September 2014
Peru	Exclusion of LGBTI persons from the National Human Rights Plan	September 2014
Argentina	Situation of the Provincial Ombudsman of Santa Fe, Gabriel Ganon	September 2014
Trinidad and Tobago	Investigations on alleged abuses of detained migrants, committed by agents of the Immigration Detention Centre at Aripo	September 2014
Argentina	Article 41 request for information on the Law on Audiovisual Communication Services	October 2014
Trinidad and Tobago	New immigration policy to come into force as of January 2015	November 2014
Ecuador	Situation of the Shuar indigenous person José Isidro Tendezta Antún	December 2014

2. Issues of Concern

12. Under Chapter IV.A, the Commission provides a yearly overview of the human rights situation in the region and, in so doing, has deemed it important to highlight certain issues, as laid out below.

13. In preparing Chapter IV.A of the 2014 Annual Report, the Commission received information from Member States, public officials, civil society, international organizations and two individuals from Uruguay and Mexico. The Commission wishes to express its gratitude for information received from Chile, Colombia, Costa Rica, Guatemala, Panama, the United States of America and Uruguay. Likewise, the Commission is grateful for information received from public officials from the municipality of Pereira, Colombia, from the Public Defender's Office of the Republic of Argentina,¹ and from the Directorate of Human Rights Research of the Institution of Ombudsman for Human Rights, Guatemala.² The Commission also expresses its gratitude for the information provided by the United Nations High Commissioner for Refugees (UNHCR).³

14. Similarly, the Commission is thankful for information received from civil society organizations and networks of civil society organizations, namely: *Defensoría Militar*,⁴ *Red Pro Bono de las Américas*,⁵ Peace Brigades International,⁶ International Human Rights Clinic of the Loyola Law School of Los Angeles,⁷ International Detention Coalition,⁸ Human Rights Watch,⁹ *Fundación Pro Bono Venezuela*,¹⁰ *Centro*

¹ *Defensoría General de la Nación de la República Argentina* (<http://www.mpd.gov.ar/>).

² *Dirección de Investigación en Derechos Humanos de la Institución del Procurador de los Derechos Humanos* (<http://www.pdh.org.gt/>).

³ <http://www.unhcr.org/cgi-bin/texis/vtx/home>.

⁴ <http://www.defensoriamilitar.org/>.

⁵ <http://redprobono.org/>.

⁶ <http://www.peacebrigades.org/>.

⁷ <http://www.lls.edu/academics/clinicexperientiallearning/internationalhumanrightsclinic/>.

⁸ <http://idcoalition.org/>.

⁹ <http://www.hrw.org/>.

¹⁰ <http://www.provene.org/>.

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¹¹ <http://www.cidsep.org.py/>.

¹² <http://cmdpdh.org/>.

¹³ <http://www.centroprodh.org.mx/>.

¹⁴ <http://www.reproductiverights.org/>.

¹⁵ <http://www.ijdh.org/about/>.

¹⁶ <http://www.ijdh.org/about/>.

¹⁷ <http://asylumaccess.org/AsylumAccess/>.

¹⁸ <http://www.acai.cr/sitioweb/>.

¹⁹ <https://astradomes.wordpress.com/>.

²⁰ <http://www.cidehum.org/>.

²¹ <http://www.wilpfinternational.org/>.

²² <http://www.caritas.cr/ver2/>.

²³ www.theret.org.

²⁴ <http://www.anep.or.cr/>.

²⁵ <http://adhjus.org/>.

²⁶ <https://binacional.wordpress.com/>.

²⁷ <http://www.simn-global.org/>.

²⁸ <http://www.soleterre.org/>.

²⁹ <http://cristosal.org/>.

³⁰ <http://www.insami.org/>.

³¹ <http://gmies.org/>.

³² <http://www.sinfronteras.org.mx/index.php/es/foro-migraciones#foro-migraciones>.

³³ <http://www.sinfronteras.org.mx/index.php/es/>.

³⁴ http://www.imumi.org/pnd/index.php?option=com_content&view=article&id=18:casa-del-migrante-de-salttillo&catid=2:uncategorised&Itemid=120.

³⁵ <http://www.alliancedefendingfreedom.org/>.

³⁶ <http://aireana.org.py/index.php>.

Citizen Insecurity

15. Throughout the years, the Inter-American Commission has addressed the issue of citizen security and its relationship to human rights through the study of petitions, cases and precautionary measures, in reports on the situation of human rights in the Member States of the OAS, in thematic reports and at hearings held during its sessions. Based on the information received, the Commission prepared a thematic report on citizen security and human rights in which it analyzed the issue and made recommendations to Member States on how to improve the institutions, laws, policies, programs and practices on prevention and control of crime and violence.³⁷

16. In its Report on Citizen Security, the Commission noted that countries of the region had some of the highest rates of crime and violence in the world at the time and that their young population was the most affected, both as victims and as perpetrators.³⁸ The Commission also noted that for the first time in decades the population of Latin America had listed crime as a major concern, even greater than unemployment. In its report the Commission noted that positive obligations undertaken by Member States are required to develop public policies on citizen security contemplating as a priority an efficient institutional structure that guarantees the public the exercise of human rights related to the prevention and control of violence and crime.³⁹ The Commission highlighted certain difficulties that the region has had in the past in creating a set of institutions to enable the State to function properly address citizen security, particularly with regard to the areas of: i) the treatment of victims of violence and crime; ii) the privatization of security services; iii) the governability of citizen security; iv) the professionalization and modernization of the police forces; and v) the intervention of the armed forces in tasks related to citizen security.⁴⁰

17. The Commission continues to be deeply concerned by the level of violence and citizen insecurity in the region. In this section of Chapter IV.A the Commission addresses examples difficulties that States of the region continue to face in addressing the issue of citizen security such as the need for improvements in collecting data related to citizen insecurity, the militarization of security forces, the vulnerability of certain groups and the impact of citizen insecurity generally. Additionally, the Commission provides some examples of positive measures adopted by Member States to address this issue. The Commission recalls that, in keeping with their international human rights obligations, States have an obligation to adopt all necessary measures to protect the life and personal integrity of all those under their jurisdiction. This duty, set out in State obligations in matters of citizen security, also entails protecting people from violence and crime.⁴¹

18. Nevertheless, despite the Commission's findings and recommendations made in its Report on Citizen Security, recent data from the United Nations Office on Drugs and Crime (UNODC) shows that States in the region are not adequately discharging their duty to protect those under its jurisdiction and that the situation has become worse. Indeed, UNODC's Report on Global Homicide in 2013 portrays the Americas⁴² as the region with the highest homicide rates in the world.⁴³ This report indicates that the global

³⁷ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

³⁸ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 3, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

³⁹ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 7, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

⁴⁰ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 7, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

⁴¹ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 5, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

⁴² UNODC considers the region of the Americas to be comprised of four sub-regions, namely North America, Central America, the Caribbean, and South America.

⁴³ See generally, United Nations Office on Drugs and Crime, Global Study on Homicide 2013: Trends, Contexts, Data ("UNODC Report on Homicides"), available at: http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

average homicide rate stands at 6.2 per 100,000 persons but that on average Central America⁴⁴ has rates above 25 homicides per 100,000 persons and South America⁴⁵ and the Caribbean⁴⁶ have rates between 16 and 23 homicides per 100,000 persons.⁴⁷ These rates are roughly three to four times higher than the global average and may be higher when analyzed by individual country.⁴⁸ Eight out of the ten countries in the world with the highest homicide rates are located in the Americas.⁴⁹ Even more alarming is the indication that homicide rates appear to be steadily increasing in the region⁵⁰ or have stabilized at comparatively high rates.⁵¹ Even some countries that have registered a noticeable decrease in their homicide rates in recent years, such as El Salvador and Jamaica, still possess rates that greatly exceed the global and regional averages.⁵²

19. The available information establishes that only a handful of Member States in the Americas possess homicide rates that do not exceed the global average, particularly in comparison to the regional average. The Commission is aware, however, that even these countries face many challenges with regard to citizen insecurity.⁵³ While the national homicide rates in the countries of the region clearly illustrate that citizen insecurity is a major problem in the Americas, they do not portray the entire problem as they fail to address the complex nature of violent crimes and homicides, such as their geographical distribution at the sub-national level, the socio-economic context in which they are committed, the characteristics of the victims and the disproportionate manner in which they are committed against certain segments of society.

20. Such factors are overlooked much too often by States whose response to the growing phenomenon of citizen insecurity is to adopt “tough on crime” and “zero tolerance” policies and legislative reforms in order to appease the demands of a population that is frightened by the growing sense of insecurity and strongly influenced by that fear. State and societal concerns about citizen security are legitimate as violence and crime are perceived by most of the hemisphere’s population as some of the main challenges that

⁴⁴ The UNODC Report on Homicides considers that the region of Central America is comprised of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, and Panama. *See* UNODC Report on Homicides, p. 7.

⁴⁵ The UNODC Report on Homicides considers that the region of South America is comprised of Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Ecuador, French Guiana, Guyana, Paraguay, Peru, Suriname, Uruguay, and Venezuela (Bolivarian Republic of). *See* UNODC Report on Homicides, p. 7.

⁴⁶ The UNODC Report on Homicides considers that the region of the Caribbean is comprised of Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, British Virgin Islands, Cayman Islands, Cuba, Dominica, Dominican Republic, Grenada, Guadeloupe, Haiti, Jamaica, Martinique, Montserrat, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and United States Virgin Islands. *See* UNODC Report on Homicides, p. 7.

⁴⁷ UNODC Report on Homicides, pp. 12, 22.

⁴⁸ In this regard, Belize, El Salvador, Guatemala, Honduras, Jamaica and Venezuela have national homicide rates that greatly exceed the sub-regional averages as they have registered rates of 44.7, 41.2, 39.9, 90.4, 39.3 and 53.7 homicides, respectively, per 100,000 persons in 2012. *See* UNODC Report on Homicides, pp. 125-127.

⁴⁹ Statistics contained in the UNODC Report on Homicides place Honduras, Venezuela, Belize, El Salvador, Guatemala, Jamaica, Saint Kitts and Nevis, and Colombia on this list. *See* the most recent rate available for those countries in the UNODC Report on Homicides, pp. 122-133, and compare.

⁵⁰ According to UNODC, the Americas have experienced an overall regional increase in homicide rates over the past few years. Specifically, the homicide rate increased in: i) The Bahamas from 22.8 in 2007 to 29.8 in 2012, although it should be noted that the rate peaked at 34.7 in 2011 and registered a drop in 2012; ii) Belize from 33.9 in 2007 to 44.7 in 2012; iii) Bolivia from 8.1 in 2007 to 12.1 in 2012; iv) Dominica from 9.9 in 2007 to 21.1 in 2010, the last year of available data; v) Haiti from 5.1 in 2007 to 10.2 in 2012; vi) Honduras the homicide rate increased from 50.0 in 2007 to 90.4 in 2012; vii) Mexico from 7.8 in 2007 to 21.5 in 2012; viii) Panama from 12.7 in 2007 to 17.2 in 2012, although it should be noted that the homicide rate peaked at 22.6 in 2009 and has since dropped; ix) Saint Kitts and Nevis the homicide rate increased from 31.7 in 2007 to 64.2 in 2011 before dropping back down to 33.6 in 2012; x) Saint Lucia from 17.0 in 2007 to 21.6 in 2012; and xi) Venezuela from 47.6 in 2007 to 53.7 in 2012. On the other hand, North America has experienced a continuous decline in homicide rates that has accelerated in the last five years. *See* UNODC Report on Homicides, pp. 33, 125-127.

⁵¹ *See* UNODC Report on Homicides, pp. 125-127. In particular, *see* the homicide rates from 2007 to 2012 in Brazil, Colombia, Costa Rica, The Dominican Republic, Guatemala, Nicaragua, and Peru.

⁵² UNODC Report on Homicides, pp. 125, 126.

⁵³ According to the most recent data available in the UNODC Report on Homicides, the following Member States possess homicide rates below the global average: Argentina, Canada, Chile, Cuba, Suriname, and the United States of America.

States must address.⁵⁴ Given that Governments are responsible for taking adequate action, in strict adherence to the law and human rights, it is important that they design and implement short, medium and long-term measures as part of an integral strategy to promote security with a rights-based focus.⁵⁵ A human rights perspective enables the issues of crime and violence, and their impact in citizen security, to be tackled through the strengthening of democratic participation and the implementation of policies focused on the protection of the individual instead of those focused on the security of the State or of any particular political system.⁵⁶

21. Other kinds of short-term or heavy-handed policies – based on control and repression – in search of fast, effective solutions end up being ineffective or counterproductive in the region’s countries.⁵⁷ Citizen security involves the interrelationship among several actors, conditions, and factors, including the history and structure of the State and society; government policies and programs; the observance of economic, social, and cultural rights; and the regional and international context.⁵⁸ Therefore, its realization cannot be reduced simplistically and misleadingly to speeches announcing harsher criminal justice policies and the massive incarceration of persons as the only response to perceptions of high levels of insecurity. The criminal justice policy of States must be preventive, with policies and programs geared to crime prevention.

22. In 2014 the Commission warned of such regressive trends throughout the hemisphere in terms of the increased exercise of the State’s punitive power in areas with high levels of insecurity and violence, and particularly as regards adolescents.⁵⁹ The Commission is concerned by the positions being proffered as solutions for the issue of citizen insecurity in the region such as lowering the age of criminal responsibility and harsher sentences for adolescents.⁶⁰ In light of this concern, the Commission and the Rapporteur for the Rights of Children spoke out against legislative reforms in Uruguay that sought to reduce the age of criminal responsibility and other initiatives such as Law 19.055 that imposed harsher penalties on adolescents in that country.⁶¹ The referendum held to decide on the approval of this legislative reform ultimately resulted in the rejection of the proposed reduction of the age of criminal responsibility.⁶²

⁵⁴ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 3, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>; IACHR, Press Release No. 84/14, “IACHR Calls on States to Implement Social Inclusion Policies for Youth,” August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

⁵⁵ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 4, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

⁵⁶ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 5, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

⁵⁷ See IACHR, Press Release No. 84/14, “IACHR Calls on States to Implement Social Inclusion Policies for Youth,” August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

⁵⁸ IACHR, Press Release No. 97/14, “Rapporteurship on the Rights of Persons Deprived of Liberty Wraps up Visit to Paraguay,” September 15, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/097.asp.

⁵⁹ See IACHR, Press Release No. 84/14, “IACHR Calls on States to Implement Social Inclusion Policies for Youth,” August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

⁶⁰ See IACHR, Press Release No. 84/14, “IACHR Calls on States to Implement Social Inclusion Policies for Youth,” August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

⁶¹ See IACHR, Press Release No. 98/14, “IACHR Office of the Rapporteur on the Rights of the Child Wraps Up Visit to Uruguay and Speaks Out against Reducing the Age of Criminal Responsibility,” September 16, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/098.asp. With regard to Law 19.055, the Commission noted that it stiffened penalties making the deprivation of liberty the rule by establishing that adolescents who commit crimes considered under this law to be very serious may not be released from prison for a period of one year, which has resulted in an exponential increase in incarceration. See IACHR, Press Release No. 98/14, “IACHR Office of the Rapporteur on the Rights of the Child Wraps Up Visit to Uruguay and Speaks Out against Reducing the Age of Criminal Responsibility,” September 16, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/098.asp. While the Commission expressly addressed this issue in relation to Uruguay in 2014, it is also aware of current and past legislative initiatives proposed in other countries of the region, such as Argentina and Brazil, which also seek to reduce the age of criminal responsibility.

⁶² See e.g. La Capital, “Uruguay: fracasó el plebiscito para bajar la edad de imputabilidad” (Uruguay: Referendum to lower age of criminal responsibility fails”), October, 27, 2014, available at: <http://www.lacapital.com.ar/el-mundo/Uruguay-fracaso-el-plebiscito-para-bajar-la-edad-de-imputabilidad-20141027-0035.html>.

Initiatives to reduce the age of criminal responsibility, if approved, would constitute a grave violation of the fundamental rights of adolescents and run contrary to international treaties, as they infringe on the guarantee that adolescents who are criminally prosecuted must be tried within a specialized juvenile justice system that applies a framework based on their age.⁶³

23. In general, such repression-centered responses have proven to be ineffective, generated more violence, and exacerbated other existing problems.⁶⁴ Many times these policies violate human rights and are counterproductive to the rule of law, as they erode confidence in democratic institutions by undermining their ability to control these situations.⁶⁵ This type of policy is due, in part, to the lack of an objective analysis of the context and causes of citizen insecurity, as well as social scaremongering and a public debate often focused on emotions and stereotypes.⁶⁶ The Commission stresses that the primary objective of criminal justice with regards to children and adolescents must be rehabilitation; that deprivation of liberty should be used only as a last resort and for the shortest time possible; and that judicial proceedings should be specialized and accessible to children and adolescents.⁶⁷

24. Furthermore, the Commission is concerned about the growing militarization of security forces as a response to the situation of citizen insecurity. In its Report on Citizen Security the Commission observed that armed forces are not properly trained to deal with citizen security; hence the need for an efficient civilian police force, respectful of human rights and able to combat citizen insecurity, crime and violence on the domestic front.⁶⁸

25. In 2014, in a hearing held during the Commission's 150th regular session, the Commission received information on the general situation of human rights in Honduras and was informed of the privatization and militarization of public security forces, along with a lack of modernization and professionalization of the National Police.⁶⁹ Similar information was provided to the Commission during a hearing held at the Commission's 153rd regular session concerning reports of militarization in Guatemala.⁷⁰

⁶³ See IACHR, Press Release No. 98/14, "IACHR Office of the Rapporteur on the Rights of the Child Wraps Up Visit to Uruguay and Speaks Out against Reducing the Age of Criminal Responsibility," September 16, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/098.asp.

⁶⁴ See IACHR, Press Release No. 84/14, "IACHR Calls on States to Implement Social Inclusion Policies for Youth," August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

⁶⁵ See IACHR, Press Release No. 84/14, "IACHR Calls on States to Implement Social Inclusion Policies for Youth," August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

⁶⁶ See IACHR, Press Release No. 84/14, "IACHR Calls on States to Implement Social Inclusion Policies for Youth," August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

⁶⁷ See generally IACHR, Report on Juvenile Justice in the Americas, July 13, 2011, available at: <http://www.oas.org/en/iachr/children/docs/pdf/JuvenileJustice.pdf>. See also IACHR, 150th Period of Regular Sessions, public hearing on Criminal Justice and Human Rights of Children and Adolescents in the Americas, audio and video, available at: <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>.

⁶⁸ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, para. 100, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>. See also IACHR, "Justice and social inclusion: The challenges of democracy in Guatemala," December 29, 2003, para. 113, available in Spanish only at: <http://www.cidh.org/countryrep/Guatemala2003sp/indice.htm>.

⁶⁹ IACHR, Press Release No. 35A/14, "Report on the 150th Session of the IACHR," May 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp. Video of hearings held during the 150th Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>.

⁷⁰ During this hearing, civil society organizations warned the Commission about the dangers to the rule of law and respect for human rights posed by the growing militarization of citizen security forces. This trend, they said, is characterized by the appointment of military retirees to positions that involve making decisions and crafting policy on security, and by the increasing use of the army in citizen security tasks that belong to the police. Moreover, they were especially concerned about the use of states of emergency as mechanisms to repress situations of high social conflict, and reported that members of the army had committed abuses in such situations. The Commission received information regarding complaints of 600 human rights violations, 20 of which pertained to sexual violence. See IACHR, Press Release No. 131A/14, "Report on the 153rd Session of the IACHR," December 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

26. The Commission was also made aware of the use of more militarized and heavily armed security forces to address situations of civil unrest, such as the situation in Ferguson, Missouri, in the United States of America, following the killing of Michael Brown by a police officer, and it issued a press release condemning such measures.⁷¹ The militarization of security forces to maintain or restore order in situations of civil unrest or public protests is also occurring in other States of the region, such as Venezuela, where the State issued Decree No. 1,605 on February 20, 2015, creating the “*Reglamento Orgánico de la Dirección General de Contrainteligencia Militar*” (“Internal Regulations of the General Directorate of Military Counterintelligence”). It has been reported that this decree has created a structure for military intelligence similar to those of past military dictatorships in South America, especially to those that existed under the doctrine of national security, which provided unlimited powers and jurisdiction to security forces to carry out intelligence and counter-intelligence operations in direct subordination to the President of the Republic and resulted in many human rights violations.⁷²

27. In April 2014, in his report on Mexico, the United Nations Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, stated that:

In any country, soldiers involved in policing are notoriously unable to relinquish the military paradigm. Their training often leaves them unsuited for law enforcement. The primary objective of the military is to subdue the enemy through the use of superior force, while the human rights approach, in terms of which all law enforcement operations must be judged, focuses on prevention, arrest, investigation and trial, with force only as the last resort, and lethal force being permissible only to prevent the taking of life. The Special Rapporteur warns that following a military approach to public security risks creating a situation where a civilian population is vulnerable to a wide range of abuses.⁷³

This is also the understanding of the Commission and it again calls for the demilitarization of security forces in countries in the region and reaffirms that policing activities should be carried out by civilian police forces and not by the military or by military police forces. The Commission considers it troubling that many countries in the region have recently adopted or appear to be in the process of adopting a more militarized response to the issue of citizen insecurity.⁷⁴

28. In light of the foregoing, the Commission urges States to adopt comprehensive public policies that recognize the multifaceted and complex nature of insecurity and violence and that can address the structural causes of citizen insecurity.

⁷¹ IACHR, Press Release No. 90/14, “IACHR Expresses Concern over Police Killings of African-American Persons in the United States,” August 22, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/090.asp.

⁷² See Asociación Civil Control Ciudadano, “Maduro oficializa figura del ‘enemigo’ con reforma de inteligencia militar” (“Maduro makes official the figure of the ‘enemy’ with the military intelligence reform”), February 18, 2015, available at: <http://www.controlciudadano.org/noticias/detalle.php?¬id=12669>.

⁷³ United Nations, Human Rights Council, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns,” A/HRC/26/36/Add.1, April 28, 2014, para. 21, available at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Pages/ListReports.aspx>.

⁷⁴ See e.g. IACHR, Press Release No. 146/14, “IACHR Wraps Up Onsite Visit to Honduras”, December 5, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/146.asp; Council on Hemispheric Affairs, “Corrupt Militarization and the Threat to Panamanian Democracy,” October 7, 2013, available at: <http://www.coha.org/corrupt-militarization-and-the-threat-to-panamanian-democracy>; Council on Hemispheric Affairs, “Police Militarization in Ecuador,” January 30, 2015, available at: http://www.coha.org/police-militarization-in-ecuador/?utm_content=buffer7f0d&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer; UOL, “Após polícia matar 16 em 15 dias, Exército ocupa Complexo da Maré, no Rio (“After police kills 16 in 15 days, Army occupies ‘Complexo da Maré’ in Rio”),” April 15, 2014, available at: <http://noticias.uol.com.br/cotidiano/ultimas-noticias/2014/04/05/exercito-inicia-patrolhamento-na-mare-na-manha-deste-sabado.htm>; GLOBO, “Homem morre em confronto com o Exército na Maré, Rio (“Man dies after confrontation with the Army in ‘Maré’, Rio”),” April 12, 2014, available at: <http://g1.globo.com/rio-de-janeiro/noticia/2014/04/homem-morre-em-confronto-com-o-exercito-na-mare-rio.html>; Washington Office on Latin America, “Police Militarization: Similarities between Ferguson and Brazil,” September 29, 2014, available at: <http://www.wola.org/commentary/police-militarization-similarities-between-ferguson-and-brazil>. With regard to the militarization of security forces in Venezuela, see *infra* Chapter IV.B.

29. The Commission notes that one of the concerns and main difficulties faced by the UNODC in preparing its report on homicides was precisely the lack of data collected by countries on many of the elements addressed in that report.⁷⁵ The World Health Organization (WHO) also faced such challenges when preparing its 2014 Global Status Report on Violence Prevention.⁷⁶ Effective policies and prevention strategies benefit from the collection of reliable data and the analysis of homicide and other crime statistics, which deepen the understanding of the factors that contribute to violence and can inform policymakers of how best to direct limited resources towards tackling violent crime.⁷⁷ Disaggregated data pertaining to the victim(s), the perpetrator(s), the relationship, if any, between them, the context and the motivation behind the killing is needed to gain a better understanding of what triggers violent crime, who is most at risk, and the elements that can facilitate homicide, so that preventive and reduction-oriented policies can be better targeted.⁷⁸

30. Due to the importance of data collection, the Commission urges the States in the region to thoroughly study and collect data on the situation of citizen insecurity in their territories by: i) analyzing the geographical distribution of violent crimes and homicides at a sub-national level; ii) analyzing the socio-economic context in which these crimes are committed; iii) analyzing the weapons utilized in their commission; and iv) analyzing victimology and disaggregating the information collected in order to identify persons or groups that may be particularly vulnerable to such crimes. The Commission has already manifested concern over the collection of such data and issued recommendations to address this issue in the context of violence against lesbian, gay, bisexual and trans (LGBT) persons.⁷⁹ To this end, the Commission recognizes certain progress registered during 2014, with respect to Brazil, for example, where the Federal Government has sought to improve the system for collecting information related to homicides linked to sexual orientation or gender identity. In 2014, the Brazilian Ministry of Health began to request information about sexual orientation and gender identity on mandatory notifications of violent deaths. New forms containing this modification are currently being tested in three Brazilian states.⁸⁰ Indeed, in 2013, the IACHR welcomed Brazil's efforts to produce disaggregated data regarding crimes motivated by the victim's actual or perceived sexual orientation or gender identity.⁸¹ This type of effort must be replicated elsewhere in the region and not only in relation to crimes committed against LGBT persons.

⁷⁵ UNODC Report on Homicides, pp. 19, 99-108.

⁷⁶ See World Health Organization, "Global Status Report on Violence Prevention 2014" ("Global Report on Violence"), pp. 20-23, available at: http://www.who.int/violence_injury_prevention/violence/status_report/2014/en/.

⁷⁷ UNODC Report on Homicides, p. 19.

⁷⁸ UNODC Report on Homicides, pp. 100, 101. The WHO also expressed concern over the lack of disaggregated information pertaining to violence. The organization requested that countries provide data on armed violence, gang violence, youth violence, child maltreatment, intimate partner violence, sexual violence and elder abuse and it noted that, of the countries in the Americas, only 29% surveyed youth violence, 67% conducted surveys on intimate partner violence, 43% conducted national surveys on child maltreatment, and 19% conducted a survey on elder abuse. See WHO, Global Report on Violence, pp. 22, 23.

⁷⁹ IACHR, Annex/Press Release No. 153A, "An Overview of Violence against LGBTI Persons in the Americas: A Registry Documenting Acts of Violence between January 1, 2013, and March 31, 2014," December 17, 2014, available in PDF format at: <http://www.oas.org/en/iachr/lgtbi/docs/Annex-Registry-Violence-LGBTI.pdf>. In this respect, the Commission recalls that it has previously expressed concern over the lack of official data produced by OAS Member States to document violence against LGBTI persons, that it has called on all OAS Member States to establish mechanisms to collect data on violence against LGBTI persons, and that it requested that this data be disaggregated by factors such as race and ethnicity to effectively address this type of violence. The IACHR recalls that all OAS Member States have agreed to produce data on homophobic and transphobic violence, with a view to fostering public policies that protect the human rights of lesbians, gays, bisexuals, trans, and intersex persons in OAS General Assembly Resolutions. In this regard, see resolutions on Human Rights, Sexual Orientation and Gender Identity and Expression, AG/RES. 2807 (XLIII-O/13) and AG/RES. 2863 (XLIV-O/14), available at http://www.oas.org/en/sla/dil/docs/AG-RES_2807_XLIII-O-13.pdf and <http://www.oas.org/en/iachr/lgtbi/docs/AG-RES2863-XLIV-O-14eng.pdf>.

⁸⁰ Response to the IACHR Questionnaire on Violence against LGBTI Persons in the Americas submitted by the State of Brazil, received by IACHR Executive Secretariat on 9 October 2014, p.4.

⁸¹ IACHR, "Annex to the Press Release Issued at the Close of the 149th Session," November 8, 2013, available at: http://www.oas.org/en/iachr/media_center/PReleases/2013/083A.asp. Video of hearings held during the 150th Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/default.asp>.

31. As previously noted, national homicide rates are flawed as they do not portray an accurate picture of the citizen insecurity problem in Member States. In fact, they often mask differences that exist at a sub-national level as countries with low or stabilized national averages may still have crucial citizen insecurity issues that need to be addressed and resolved.⁸² In addition, recent trends in the national average may not necessarily reflect the trend in all the sub-national regions of a country.⁸³ According to UNODC, “[a] good example of stability in a country’s national homicide rate disguising disparities in homicide rates within its territory is Brazil, where, although the national homicide rate has changed little over the last 30 years, there have been significant changes within its different states. Homicide rates have declined in the States of Rio de Janeiro and Sao Paulo, but they have risen in other parts of the country, particularly the north and northeast. As homicides in Rio de Janeiro and Sao Paulo States have decreased (by 29 per cent and 11 percent, respectively) from 2007 to 2011, the homicide rate increased by almost 150 percent in Paraiba and by half in Bahia.”⁸⁴ Just as homicide rates vary between the different sub-regions of the Americas, these rates can also vary geographically within a country and an assessment of sub-national homicide rates will indicate to the States the geographical regions of their countries where most homicides are being committed and where measures are most needed.⁸⁵

32. In addition to geographic factors, States must also analyze the context in which homicides and other violent crimes are committed in their countries and in the region in order to implement public policies specifically tailored to address such contexts. This type of assessment requires States to identify risk factors such as the existence of organized crime, armed conflicts, unemployment, poverty and inequality, poor standards of education, and accessibility to firearms that are present in the areas affected by violent crime.⁸⁶

33. For instance, UNODC’s report indicates that the median proportion of organized crime/gang-related homicides is highest in the Americas and that countries in Central America and the Caribbean, such as the Bahamas, Belize, El Salvador and Honduras, show increasing trends regarding this phenomenon.⁸⁷ Moreover, this report shows that firearms are the most prevalent killing mechanism in the Americas, accounting for over 60% of all homicides in the region.⁸⁸ Despite these figures, the WHO reports that only 6% of countries in the world reported having conducted national surveys on gang violence and 11% of countries in the world reported having conducted surveys on armed violence.⁸⁹ Due to the impact of such elements on violent crime and homicide in the Americas, the Commission considers that countries in the region need to pay closer attention to them in order to develop policies and strategies to reverse the existing trends.

⁸² UNODC Report on Homicides, pp. 25, 26.

⁸³ UNODC Report on Homicides, pp. 25, 26.

⁸⁴ UNODC Report on Homicides, pp. 25, 26.

⁸⁵ For instance, UNODC’s report indicates that urban areas tend to have higher homicide rates and the available data shows that the most populous city of several countries in the Americas often have homicide rates higher than the national average, and often by a considerable margin. In this regard, the UNODC Report on Homicides indicates that the homicide rate (per 100,000 persons) of the last available year was: i) 44.2 in Nassau in 2011 as opposed to 34.7 in The Bahamas; ii) 29.1 in Santo Domingo in 2012 as opposed to 22.1 in the Dominican Republic; iii) 40.1 in Port au Prince in 2010 as opposed to 6.8 in Haiti; iv) 50.3 in Kingston in 2011 as opposed to 41.1 in Jamaica; v) 131.6 in Bassaterre in 2011 as opposed to 64.2 in Saint Kitts and Nevis; vi) 105.1 in Belize City in 2011 as opposed to 39.2 in Belize; vii) 17.7 in San José in 2012 as opposed to 8.5 in Costa Rica; viii) 52.5 in San Salvador in 2012 as opposed to 41.2 in El Salvador; ix) 116.6 in Guatemala City in 2010 as opposed to 41.6 in Guatemala; x) 102.2 in Tegucigalpa in 2011 as opposed to 91.4 in Honduras; xi) 18.7 in Managua in 2010 as opposed to 13.5 in Nicaragua; xii) 53.1 in Panama City in 2012 as opposed to 17.2 in Panama; xiii) 8.4 in Montevideo in 2011 as opposed to 5.9 in Uruguay; and xiv) 122.0 in Caracas in 2009 as opposed to 48.9 in Venezuela (Bolivarian Republic of). Some other countries of the Americas also have a national average lower than the average in their most populous city, but were not included in this list because the variation between the city and national average was less than 2 homicides per 100,000 persons. See UNODC Report on Homicides, pp. 125-127 and compare to pp. 145, 146.

⁸⁶ See UNODC Report on Homicides, p. 25.

⁸⁷ UNODC Report on Homicides, pp. 42-44. UNODC alerts that caution is needed in assessing this data since the attribution of homicide to organized crime or gangs depends on national penal legislation, practices by law enforcement agencies and accuracy in compiling statistics. See UNODC Report on Homicides, p. 42, fn. 4.

⁸⁸ UNODC Report on Homicides, pp. 65, 66.

⁸⁹ WHO, Global Report on Violence, p. 22.

34. While the Commission is aware that there are difficulties in linking legal gun ownership to homicide rates⁹⁰ it is also true that certain studies indicate that a strong correlation exists in this regard with respect to intimate partner homicides which disproportionately affect women.⁹¹ The Commission therefore urges States to promote reforms to gun ownership legislation in a manner that will take into consideration the particular risks that women are exposed to by the legal sale of firearms. Such reforms could include more thorough background checks to ensure that men who have a history of violence against women or those who have had or have restraining orders issued against them will find it more difficult to obtain firearms. The firearms legally obtained by such persons may be used to commit acts of violence, including murder, against women and children or used in creating situations that expose these persons to mortal danger.⁹² Moreover, even though there are difficulties in assessing the causal relationship of legal gun ownership and violent crime, the same cannot be said with respect to the illicit trade in small arms, which is a serious problem that requires action from all the States in the region.

35. In addition to focusing on the context and the killing mechanisms, States need to focus their efforts on the actual victims in order to identify the extent to which certain persons or groups are more vulnerable than others. In its Report on Citizen Security the IACHR already recommended that Member States ensure the special standards of protection for those persons or groups that are particularly vulnerable to violence and crime, such as children and adolescents, women, the indigenous population, Afro-descendants, migrants and their families, notwithstanding the obligations that the member states have undertaken to protect and ensure the human rights at stake in the policy on citizen security to all persons subject to their jurisdiction.⁹³ The Commission considers that most States in the region are not properly complying with this recommendation.

36. In this regard, the Commission draws attention to violent crimes committed against LGBT persons in the Americas. In 2014 the Commission continued to receive troubling information on the situation of violence against LGBT persons in the Americas, and the lack of effective measures adopted by States to prevent and respond to such violence, including through comprehensive legislation and public policies. The Commission documented killings and other instances of violence against LGBT persons during a fifteen-month period (between January 1, 2013 and March 31, 2014). Through this Registry of Violence, the Commission found that, during this period, at least 594 persons who were LGBT or were perceived to be LGBT were killed, and 176 were victims of serious non-lethal attacks to their personal integrity apparently related to their sexual orientation, gender identity and/or gender expression in at least 25 OAS Member States, namely Argentina, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, the United States of America, Uruguay and Venezuela. According to the data collected, many of these cases of violence against LGBT persons were committed with verbal violence related to the perceived sexual orientation or gender identity of the victims, which was particularly evident in cases of non-lethal violence. Also, the Commission noted that a large number of cases in this Registry evidence high levels of cruelty and heightened levels of violence based on both the perception of sexual orientation and gender identity/expression.⁹⁴

⁹⁰ In this regard see UNODC Report on Homicides, pp.67-69.

⁹¹ UNODC indicates that 89% of victims of all types of homicide worldwide are males. However, in relation to intimate partner/family-related homicides, two-thirds of victims of this type of homicide are female. See UNODC Report on Homicides, pp. 13, 14, 49-56.

⁹² See e.g. IACHR, Merits Report No. 80/11, Case 12.626 (Jessica Lenahan (Gonzales) et al. v. the United States, July 21, 2011, available at: <http://www.oas.org/en/iachr/decisions/merits.asp>.

⁹³ See IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, Executive Summary, p. ix, para. 9, available at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>.

⁹⁴ See IACHR, Press Release No. 153/14, "IACHR Expresses Concern over Pervasiveness of Violence against LGBTI Persons and Lack of Data Collection by OAS Member States," December 17, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/153.asp. See also, IACHR, Annex/Press Release No. 153A, "An Overview of Violence against LGBTI Persons in the Americas: A Registry Documenting Acts of Violence between January 1, 2013, and March 31, 2014," December 17, 2014, available in PDF format at: <http://www.oas.org/en/iachr/lgtbi/docs/Annex-Registry-Violence-LGBTI.pdf>.

37. The IACHR notes that the majority of OAS Member States do not collect data on violence against LGBT persons. With a few exceptions of State reporting, in collecting the aforementioned data, the IACHR had to resort to other sources for information such as media coverage and reports from civil society organizations. The Commission's Registry of Violence is not exhaustive, but reveals the diverse and pervasive forms of violence experienced by LGBT persons in the Americas.⁹⁵

38. The Commission has also noted with concern that it is mostly younger trans women who are victims of such violence. According to the data collected, 80% of trans persons killed were 35 years of age or younger. The IACHR has indicated that violence against trans persons, particularly trans women, is the result of a combination of factors: exclusion, discrimination and violence within the family, schools, and society at large; lack of recognition of their gender identity; involvement in occupations that puts them at a higher risk for violence; and high criminalization, more specifically, the disproportionate use of criminal processes against members of this group. The criminalization of trans women and other gender non-conforming persons is partly due to the fact that they are often targeted by law enforcement agents, who may act based on prejudice and assume they are criminals; and is also related to discrimination against LGBTI persons in the justice system.⁹⁶

39. During 2014, the Commission and its Chair were able to examine the human rights situation of LGBT persons in the region during visits to Honduras and Colombia in December and October, respectively. Following its visit to Honduras, the IACHR indicated:

Civil society organizations reported a high number of cases in which lesbian, gay, bisexual, and trans persons have been killed in Honduras. They reported that from 2009 to December 1, 2014, 174 violent deaths of LGBT persons were registered in the country (90 gays, 15 lesbians, and 69 trans persons), primarily in the departments of Cortés and Francisco Morazán. "There is no government proposal to prevent violent deaths," one defender of the rights of LGBT persons told the IACHR in Tegucigalpa. For its part, the State indicated that several of such cases involving violent deaths had been prosecuted. However, while the State reported on the investigation into a number of cases, it did not present information on measures to prevent violence against LGBT persons.⁹⁷

At the culmination of its visit to Colombia in October 2014, the IACHR Chair and Rapporteur on the Rights of LGBTI Persons also expressed its concern over killings and other acts of violence against LGBT persons.⁹⁸

40. On the other hand, the Commission recognizes positive measures adopted by some OAS Member States in order to prevent and address the instances of violence based on sexual orientation and gender identity. For example, in May 2014, the IACHR highlighted some of these positive steps taken by Brazil, Chile, Honduras, and Mexico. In that regard, the Commission noted that, in Honduras and the Mexican state of Oaxaca, the government appointed a specialized prosecutor to investigate and prosecute crimes

⁹⁵ See IACHR, Press Release No. 153/14, "IACHR Expresses Concern over Pervasiveness of Violence against LGBTI Persons and Lack of Data Collection by OAS Member States," December 17, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/153.asp. See also, IACHR, Annex/Press Release No. 153A, "An Overview of Violence against LGBTI Persons in the Americas: A Registry Documenting Acts of Violence between January 1, 2013, and March 31, 2014," December 17, 2014, available in PDF format at: <http://www.oas.org/en/iachr/lgtbi/docs/Annex-Registry-Violence-LGBTI.pdf>.

⁹⁶ See IACHR, Annex/Press Release No. 153A, "An Overview of Violence against LGBTI Persons in the Americas: A Registry Documenting Acts of Violence between January 1, 2013, and March 31, 2014," December 17, 2014, available in PDF format at: <http://www.oas.org/en/iachr/lgtbi/docs/Annex-Registry-Violence-LGBTI.pdf>.

⁹⁷ See press release issued at the end of its visit to Honduras and the annex containing preliminary observations. IACHR, Press Release No. 146/14, "IACHR Wraps up Onsite Visit to Honduras," December 5, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/146.asp. IACHR, Annex to Press Release No. 146.A/14, "Preliminary Observations concerning the Human Rights Situation in Honduras," December 5, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/146A.asp.

⁹⁸ IACHR, Press Release "IACHR Chair Concludes Visit to Colombia," October 10, 2014, available at http://www.oas.org/en/iachr/media_center/PReleases/2014/118.asp.

based on sexual orientation and gender identity. The Commission also noted that, in the Brazilian state of Paraná, a prosecution unit specializing in the investigation of crimes committed against LGBT persons was created, inspired by similar existing units in the states of Espírito Santo and Pernambuco, to foster educational programs and promote the formulation of public policies.⁹⁹ Moreover, the IACHR also recognizes and welcomes several positive steps taken by Colombia aimed at preventing and addressing instances of violence against LGBT persons.

41. The Commission also wishes to draw attention to the level of violence committed against women in the region. Through the implementation of its protection mechanisms and the promotion of women's human rights, the IACHR continuously received information on violence against women in 2014, including the troubling trends of violence and impunity. The region still suffers from persistent socio-cultural patterns of discrimination against women, including multiple forms of discrimination against indigenous, afro-descendant, rural, trans women and lesbians,¹⁰⁰ and currently possesses the second highest homicide rate for women in the world.¹⁰¹ An example of the troubling situation of violence against women can be seen in Honduras where violent deaths of women has been trending upward between 2005 and 2012, rising from 175 homicides of women in 2005 to 606 in 2012, an increase of 246.3%.¹⁰² This intersectional discrimination exposes women in the region to vulnerability to human rights violations that undermine citizen security.¹⁰³ In 2014, the President of the IACHR and Rapporteur on the Rights of Women, Tracy Robinson, stated that "violence against women is regrettably an ordinary feature of life throughout the Americas, engrained and epidemic."¹⁰⁴ According to information received about incidents of violence against women in 2014, this violence has taken many different forms, including: high rates of homicide and femicide;¹⁰⁵ "corrective" rape

⁹⁹ *Ámbito Financiero, Inauguran la primera Defensoría LGBT en la Ciudad de Buenos Aires*, December 4, 2014, available at: <http://www.ambito.com/noticia.asp?id=770020>; *Cáscara Amarga, Abrirán la primera Defensoría LGTB en Argentina*, October 30, 2014, available at: <http://www.cascaraamarga.es/politica-lgtb/lgtb-internacional/9920-abriran-la-primera-defensoria-lgtb-en-argentina.html>. See also IACHR, Press Release No. 60/14, "The IACHR Welcomes Recent Developments in OAS Member States to Protect and Promote the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons (LGBTI)," May 20, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/060.asp.

¹⁰⁰ IACHR, Press Release No.140/14, "On the International Day for the Elimination of Violence Against Women, IACHR Urges States to Implement Transformative Measures," November 25, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/140.asp. See also IACHR, Press Release No. 25/14, "On International Women's Day, the IACHR Highlights Deep Concerns Regarding the Protection of the Rights of Women in the Americas," March 8, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/025.asp.

¹⁰¹ UNODC Report on Homicides, p. 28.

¹⁰² See IACHR, 2013 Annual Report, Chapter IV.B, para. 256, available at: <http://www.oas.org/en/iachr/docs/annual/2013/docs-en/AnnualReport-Chap4-Honduras.pdf>.

¹⁰³ IACHR, Press Release No.140/14, "On the International Day for the Elimination of Violence Against Women, IACHR Urges States to Implement Transformative Measures," November 25, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/140.asp. See also IACHR, Press Release No.119/14, "IACHR Urges States to Respect and Guarantee Human rights of Rural Women," October 15, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/119.asp.

¹⁰⁴ IACHR, Press Release No. 140/14, "On the International Day for the Elimination of Violence Against Women, IACHR Urges States to Implement Transformative Measures," November 25, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/140.asp.

¹⁰⁵ IACHR, Press Release No. 146/14, "IACHR Wraps Up Onsite Visit to Honduras, December 5, 2014; IACHR, Press Release No.150/14, IACHR Concludes Visit to Chile," December 11, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/146.asp; IACHR, Press Release No. 03/15, "IACHR Presents Report on Murdered and Missing Indigenous Women in British Columbia, Canada," January 12, 2015, available at: http://www.oas.org/en/iachr/media_center/PReleases/2015/003.asp; IACHR, Annex/Press Release No. 35A/14, "Report on the 150th Session of the IACHR," May 13, 2014, p.21, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp. Video of hearings held during the 150th Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>. See also IACHR, Press Release No. 86/14, "IACHR Wraps UP its 152nd Special Session," August 15, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/086.asp. See also United Nations Committee on the Elimination of Discrimination against Women (CEDAW), "Concluding observations on the combined seventh and eighth periodic reports of Peru," CEDAW/C/PER/CO/7-8, June 30 – July 18, 2014 ("Observations on Peru"), para 17, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPER%2fCO%2f7-8&Lang=en

of trans women and lesbians;¹⁰⁶ violence in the context of armed conflict, including forced displacement and the killing of women human rights defenders;¹⁰⁷ forced sterilization;¹⁰⁸ and institutional violence related to sexual and reproductive rights, including criminalization of abortion, high maternal mortality rates, and discrimination by healthcare professionals.¹⁰⁹

42. The high rates of violence against women coincided with the persistence of impunity and limitations on the right to access to justice, which perpetuated such violence in 2014. The linguistic and economic barriers¹¹⁰ to the exercise of access to justice, as well as the gender-based discrimination perpetrated by judicial officials,¹¹¹ influenced the high rates of impunity in 2014. Additionally, the Rapporteurship emphasizes that the limitations on the access to information on women's legal rights and the processing of their cases prevented women from denouncing violence and remained a barrier to the exercise of their human rights.¹¹²

43. The Commission is also preoccupied with the levels of violent crime committed against children, adolescents and young adults in the region. UNODC's Report on Homicides states that "[t]he 15-29 and 30-44 age groups account for the vast majority of homicides globally, with almost half of all homicide victims aged 15-29 and slightly less than a third aged 30-44." The report goes on to state that "[t]he homicide rate for male victims aged 15-29 in South America and Central America is more than four times the global average rate for that age group" and "[t]he 30-44 age group is ... at higher risk in some countries in Central America, the Caribbean and all sub-regions in Europe."¹¹³ The abundant existing evidence shows that

¹⁰⁶ IACHR, Press Release No. 140/14, "On the International Day for the Elimination of Violence Against Women, IACHR Urges States to Implement Transformative Measures," November 25, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/140.asp; IACHR, Press Release No. 118/14, "IACHR Chair Concludes Visit to Colombia," October 10, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/118.asp.

¹⁰⁷ IACHR, Press Release No. 118/14, "IACHR Chair Concludes Visit to Colombia," October 10, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/118.asp; IACHR, Press Release No. 25/14, "On International Women's Day, The IACHR Highlights Deep Concerns Regarding the Protection of the Rights of Women in the Americas," March 8, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/025.asp. See also CEDAW, Observations on Peru, para 21.

¹⁰⁸ CEDAW, Observations on Peru, para 21.

¹⁰⁹ See Human Rights Watch (HRW), "Submission on the combined eighth and ninth periodic report of Ecuador to the United Nations Committee on the Elimination of Discrimination against women, February 19, 2015," January 20, 2015, available at: <http://www.hrw.org/news/2015/01/20/submission-combined-eighth-and-ninth-periodic-report-ecuador-united-nations-committee>. See also Amnesty International, "On the Brink of Death: Violence against Women and the Abortion Ban in El Salvador," AMR 29/003/2014, September 2014, available at: <http://www.amnestyusa.org/research/reports/on-the-brink-of-death-violence-against-women-and-the-abortion-ban-in-el-salvador>. IACHR, Annex/Press Release No. 35A/14, "Report on the 150th Session of the IACHR," May 13, 2014, pp. 21, 22, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp. Video of hearings held during the 150th Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>. See also IACHR, Press Release No. 86/14, "IACHR Wraps UP its 152nd Special Session," August 15, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/086.asp; IACHR, Annex/Press Release No. 131A/14, "Report on the 153rd Session of the IACHR," December 29, 2014, pp. 16-17, 20, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

¹¹⁰ IACHR, Press Release No. 25/14, "On International Women's Day, The IACHR Highlights Deep Concerns Regarding the Protection of the Rights of Women in the Americas," March 8, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/025.asp. See also CEDAW, Observations on Peru, para 11.

¹¹¹ IACHR, Press Release No. 65/14, "20th Anniversary of Adoption of the Convention of Belém do Pará June 9, 2014," June 9, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/065.asp; See also CEDAW, Observations on Peru, para 19.

¹¹² IACHR, Press Release No. 25/14, "On International Women's Day, The IACHR Highlights Deep Concerns Regarding the Protection of the Rights of Women in the Americas," March 8, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/025.asp; IACHR, Press Release No.119/14, "IACHR Urges States to Respect and Guarantee Human rights of Rural Women," October 15, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/119.asp; IACHR, Press Release No. 65/14, "20th Anniversary of Adoption of the Convention of Belém do Pará June 9, 2014," June 9, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/065.asp; IACHR, Press Release No. 118/14, "IACHR Chair Concludes Visit to Colombia," October 10, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/118.asp.

¹¹³ UNODC Report on Homicides, p. 14. Particular situations in the region highlight the vulnerability of children. For example, in Venezuela, despite claims by the Government that armed groups do not exist in its territory, there are indications that children have

children and adolescents are among those that most suffer from and are most exposed to being victims of violence in its various forms.¹¹⁴ The Commission urges States to promote the eradication of all forms of violence against children and adolescents and any social tolerance of such violence.

44. Similarly, the Commission alerts the countries in the region to the violent crimes being committed against afro-descendants¹¹⁵ and indigenous populations. With regard to violence committed against indigenous populations, the IACHR notes that on September 1, 2014, in the community of Alto Tamaya-Saweto, a group of loggers would have ambushed, tied, shot and dismembered several indigenous leaders Asháninkas Edwin Chota Valera, Jorge Ríos Pérez, Leoncio Quinticima Meléndez and Francisco Pinedo. These persons were on their way to Apiwtxa, on the border with Brazil, to participate in a bi-annual coordination meeting against indiscriminate logging in the region. Violence in the region has increased since indigenous populations began demanding the titles to their land.¹¹⁶ Furthermore, in Peru, acts of violence continue to occur in the context of the opposition to the exploitation of natural resources. The Commission has received information regarding the use of criminal prosecution and the disproportionate use of force against members of indigenous populations that oppose extractive projects. Moreover, the recent reform to the Criminal Code in the form of Law 30,151 could have devastating effects on the indigenous populations in Peru as this law exempts security force agents of criminal responsibility for injuries and deaths caused by the use of force in the performance of their duties.¹¹⁷ In Costa Rica, indigenous populations in Salitre are said to be in grave danger since July 7, 2014, when a group of 200 ranchers assaulted 10 indigenous families. The ranchers entered two of the occupied farms, burned the ranches chased down the indigenous families through the mountains for three days like animals. While doing so they closed the entrance to the territory. While the State informed the Commission that police promptly responded to these incidents, the Commission received information that there were only two responding police officers and that other ranches were burned due to the lack of police presence on the scene.¹¹⁸

45. Better data collection by the States in the terms set out above will allow them to better identify problems of citizen insecurity in their territories and lead to the development of well targeted policies and legislative initiatives to prevent violent crime and homicides in the region.

46. Nevertheless, the Commission is aware that preventive measures can fail and that protective measures are crucial in safeguarding the population and addressing the issue of citizen insecurity. The Commission therefore urges States in the region to improve their protection mechanisms in light of the many deficiencies in the protective services offered by state security forces.

47. In 2014, various recipients of death threats in the region informed state security forces of these threats but no protection or ineffective protection was provided, which ultimately contributed to the

been forcibly recruited and used by non-state actors in border regions. In this regard *see* United Nations, Committee on the Rights of the Child, "Concluding observations on the report submitted by the Bolivarian Republic of Venezuela under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict," CRC/C/OPAC/VEN/CO/1, November 3, 2014, para. 18, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fVEN%2fCO%2f1&Lang=en

¹¹⁴ IACHR, Press Release No. 84/14, "IACHR Calls on States to Implement Social Inclusion Policies for Youth," August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp.

¹¹⁵ For more information regarding violence committed against afro-descendants see *infra*, section on discrimination based on ethnic or racial origin.

¹¹⁶ *See* IACHR, Press Release No. 102/14, "IACHR Condemns Killing of Four Asháninka Indigenous Leaders in the Department of Ucayali, Peru," September 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/102.asp.

¹¹⁷ *See* United Nations, Committee on the Elimination of Racial Discrimination, "Concluding observations on the eighteenth to twenty-first periodic reports of Peru," CERD/C/PER/CO/18-21, September 25, 2014, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fPER%2fCO%2f18-21&Lang=en.

¹¹⁸ *See* IACHR, Press Release No. 131A/14, "Report on the 153rd Session of the IACHR," December 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

death of these persons. Journalists and human rights defenders appear to be those who were most severely impacted by the lack of effective protection in many of the Member States.

48. In 2014 the Commission expressed concern over the deaths of journalists and social media communicators that had previously informed the State security forces that they were receiving threats against their lives.¹¹⁹ The IACHR considers it particularly troubling that one of the persons killed was a beneficiary of precautionary measures granted by the Commission.¹²⁰ The ninth principle of the IACHR Declaration of Principles on Freedom of Expression states: “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 and the Commission urges States in the region to do so.

49. Human rights defenders in the region are exposed to many violations of their rights which include kidnappings, disappearances and killings as a result of their exercise of their right to defend human rights by filing complaints, law suits and grievances. In order to address this problem, many countries in the region have created protection mechanisms. For instance, Colombia has created the “*Programa de protección de defensores de derechos humanos, sindicalistas, periodistas y líderes sociales*” (“Protection Program for human rights defenders, unionists, journalists and social leaders”); Brazil has created the “*Programa Nacional para a Proteção dos Defensores de Direitos Humanos*” (“National Program for the Protection of Human Rights Defenders”); Mexico has created the “*Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas*” (“Mechanism for the Protection of Human Rights Defenders and Journalists”). Other Member States have also created such programs or are in the process of creating them.¹²¹

50. The Commission values initiatives designed to dedicate additional attention to protection needs and recognizes the efforts being made in this regard. These programs, however, have proven to be ineffective at times since the Commission expressed concern over the deaths of human rights defenders in Colombia,¹²² in Honduras¹²³ and in Mexico¹²⁴ in 2014. Even more worrisome is the fact that many of the deaths of persons that had previously denounced death threats occurred to persons who were beneficiaries of precautionary measures granted by the Commission.¹²⁵

¹¹⁹ See IACHR, Press Release No. R122/14, “Office of the Special Rapporteur Condemns Murder of Journalist in Paraguay,” October 17, 2014, available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=964&IID=1>; IACHR, Press Release No. R85/14, “Office of the Special Rapporteur Condemns Murder of Journalist in Colombia,” August 14, 2014, available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=953&IID=1>; IACHR, Press Release No. R39/14, “Office of the Special Rapporteur Condemns Murder of Radio Worker in Honduras,” April 15, 2014, available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=942&IID=1>.

¹²⁰ See IACHR, Press Release No. R39/14, “Office of the Special Rapporteur Condemns Murder of Radio Worker in Honduras,” April 15, 2014, available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=942&IID=1>.

¹²¹ For instance, during the IACHR’s visit to Honduras in 2014, it received information regarding a bill that seeks to provide protection to human rights defenders, journalists and justice operators.

¹²² See IACHR, Press Release No. 103/14, “IACHR Expresses Deep Concern over Threats against Defenders of Human Rights Organizations Working for Peace in Colombia,” September 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/103.asp.

¹²³ See IACHR, Press Release 101/14, “IACHR Condemns Murder of Human Rights Defender in Honduras,” September 17, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/101.asp; IACHR, Press Release No. 62/14, “IACHR Condemns Killing of Human Rights Defender in Honduras,” May 28, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/062.asp;

¹²⁴ IACHR, Press Release No. 149/14, “IACHR Condemns the Assassination of Defenders of the Human Rights of Migrants in Mexico,” December 11, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/149.asp.

¹²⁵ See e.g. IACHR, Press Release No. 62/14, “IACHR Condemns Killing of Human Rights Defender in Honduras,” May 28, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/062.asp. The IACHR granted precautionary measures for the residents of Cerrito Lindo on April 20, 2005, and reiterated the validity of the measures on April 26, 2012. Nevertheless, since 2005 four residents of the community have been killed—all of them beneficiaries of the precautionary measures—and these incidents have not yet been cleared up. See *ibid.* See also IACHR, Press Release No. R39/14, “Office of the Special Rapporteur Condemns Murder of Radio Worker in Honduras,” April 15, 2014, available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=942&IID=1>; IACHR,

51. During the 153rd regular session of the IACHR, the United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst, and the IACHR Rapporteur on the rights of human rights defenders, Commissioner José de Jesús Orozco Henríquez, held a working meeting in which they reiterated their commitment to continue strengthening cooperation between the universal human rights system and the inter-American system to better protect human rights defenders through joint actions. In addition, at the working meeting both Rapporteurs expressed concerns over the persistence of killings, threats, harassment and criminalization of human rights defenders in various countries in the region as well as the lack of adoption of effective measures by States for defenders who are at grave risk.¹²⁶ The threats to and the killings of human rights defenders are particularly troubling to the Commission since not only do acts of violence and other attacks against them affect the guarantees inherent to all persons; they also undermine the essential role defenders play within society and leave all the people on whose behalf they work in a state of defenselessness.

52. Similarly, States in the region need to act to ensure proper protection for justice operators whose work is especially crucial in adequately addressing the issue of citizen insecurity. An example of the importance of their work can be found in the Commission's fourth report on the human rights situation in Colombia, where it highlighted that the efforts of judges, prosecutors and public defenders devoted to protecting human rights and democratic principles have greatly contributed to the peace process in that country. Justice operators play an essential role in ensuring that the rule of law prevails. Specifically, they are the ones who guarantee the right of access to justice. Justice operators enable a complaint to go through the proper channels and, in the case of human rights violations, make it possible to investigate and punish those responsible and to provide reparation to the victims, while ensuring due process of law for anyone who may be subject to the State's punitive power. An assault against a justice operator because of his or her functions is a particularly serious matter, not only because it is assault upon a justice operator's life or physical integrity, but also because it has the effect of intimidating and instilling fear, which can spread to other justice operators, and have a corrosive effect on the administration of justice.

53. Despite the need to protect justice operators, in 2014 the Commission received information regarding threats against and killings of justice operators in the region, including by organized crime. For instance, the National Commission on Human Rights in Honduras, informed the Commission that justice operators were threatened or killed in the country in 2014.¹²⁷ Since 2010, 86 justice operators have been killed in Honduras.¹²⁸ Even in Colombia, where their work has been so important to the peace process, a situation of personal insecurity of justice operators persists, as evidenced by threats they receive and the attacks carried out against them.¹²⁹

Press Release No. 149/14, "IACHR Condemns the Assassination of Defenders of the Human Rights of Migrants in Mexico," December 11, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/149.asp.

¹²⁶ See IACHR, Press Release No. 127/14, "UN and IACHR Rapporteurs Call on States to Protect Human Rights Defenders," October 31, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/127.asp.

¹²⁷ See Proceso, "Asesinan a abogado en Tela, Atlántida" ("Lawyer killed in Tela, Atlántida"), January 17, 2014, available at: <http://www.proceso.hn/component/k2/item/9059.html>; Prensa Libre, "Asesinan a un juez y un abogado en dos hechos de violencia en Honduras" ("Judge and lawyer killed in separate instances of violent crime in Honduras"), March 14, 2014, available at: <http://www.prensalibre.com/internacional/Asesinan-juez-abogado-hechos-de-violencia-Honduras-0-1101489991.html>; El Heraldo, "Comoción por crimen de reconocido abogado en San Pedro Sula" ("Commotion for crime against renown lawyer in San Pedro Sula"), September 18, 2014, available at: <http://www.elheraldo.hn/inicio/749031-332/comoci%C3%B3n-por-crimen-de-reconocido-abogado-en-san-pedro-sula?kw=asesinan%20a%20otro%20abogado%20en%20san%20pedro%20sula>; La Prensa, "Matan a dos fiscales en el norte de Honduras" ("Two prosecutors killed in northern Honduras"), October 10, 2014, available at: <http://www.laprensa.hn/inicio/756809-417/equipos-investigan-crimen-de-dos-fiscales>; La Prensa, "Más de 50 disparos recibió la fiscal" ("Prosecutors shot more than 50 times"), October 12, 2014, available at: <http://www.laprensa.hn/honduras/757096-410/m%C3%A1s-de-50-disparos-recibi%C3%B3-la-fiscal>; El Heraldo, "Aumentan amenazas a muerte contra jueces de lo penal en Honduras" ("Death threats against criminal court judges increase in Honduras"), August 13, 2014, available at: <http://www.elheraldo.hn/inicio/737909-331/aumentan-amenazas-a-muerte-contra-jueces-de-lo-penal-en-honduras>.

¹²⁸ La Prensa, "Conadeh: 86 profesionales del derecho han muerto" ("Conadeh: 86 justice operators have died"), October 24, 2014, available at: <http://www.laprensa.hn/honduras/761238-97/conadeh-86-profesionales-del-derecho-han-muerto>.

¹²⁹ In 2010, a report by the then United Nations Special Rapporteur on independence of judges and lawyers, Gabriela Carina Knaul de Albuquerque e Silva, indicated that over 300 justice operators had been killed in Colombia between 1995 and 2010. That

54. Similarly, the provision of adequate protection and working conditions to members of state security forces is equally important in effectively addressing the issue of citizen insecurity. It is impossible for these persons to provide adequate protection services to the population when they themselves live in fear of being attacked or are forced to work in conditions that place them in unnecessary danger. Information available from some of the Member States shows that the homicide rates of police officers can be considerably higher than the national homicide rate and that these officers may be in even more danger when they are off duty and targeted for execution by organized crime.¹³⁰ For instance, statistics from Brazil show that 191 off-duty police officers were killed in Brazil in 2011, 287 were killed in 2012 and 369 were killed in 2013.¹³¹ In those same years, the number of officers killed in the line of duty was 91 in 2011, 160 in 2012 and 121 in 2013.¹³² Similar information can be found with regard to off-duty officers at risk in Argentina.¹³³

55. As noted above, the collection of data is essential in addressing the issue of citizen insecurity in the region and the Commission has found that very little data is available regarding the death of security force agents. The Commission therefore urges States in the region to investigate such deaths, to study the risk factors to which law enforcement officials are exposed, both in the line of duty and off duty, and to implement measures aimed at safeguarding law enforcement officials so that they may in turn protect the population.

56. On a positive note, the Commission welcomes measures adopted by certain States to improve their protection mechanisms, including through cooperation with international organizations. In this regard, the Commission welcomes the information provided by the Panamanian State that SEPROVIT¹³⁴ has been jointly working with UNODC on project PANT37 in order to support the work of the Prosecutor's Office of Panama in strengthening its institutional capacity to assist and protect victims and witnesses.

57. In addition to the Commission's concerns regarding the efficiency of the protection mechanisms in place in Member States, the Commission is also troubled by the many instances where state

report indicated that the situation had gradually improved in Colombia but that, from 2003 to 2009, 1 magistrate, 6 judges, 12 prosecutors and 334 lawyers had been killed. More recent information presented to the United Nations Human Rights Council in June 2014 by Lawyers for Lawyers and Lawyers' Rights Watch Canada indicates that at least 15 lawyers were killed in Colombia in 2013. Moreover, information provided by the Colombian state in response to the Commission's inquiry on the matter shows that 144 threats were made against public officials of the judiciary branch in 2013. The State also informed the Commission of steps taken to provide better security to justice operators and the Commission takes note of this, but urges the State to continue to take measures to guarantee the safety of justice operators. See United Nations Human Rights Council, "Informe de la Relatora Especial sobre la independencia de los magistrados y abogados, Sra. Gabriela Carina Knaul de Albuquerque e Silva," ("Report of the Special Rapporteur on the independence of judges and lawyers, Ms. Gabriela Carina Knaul de Albuquerque e Silva"), Addendum 2 (Mission to Colombia), A/HRC/14/26/Add.2, April 16, 2010, para. 53, available at: <http://www.ohchr.org/EN/Issues/Judiciary/Pages/Visits.aspx>; Lawyers' Rights Watch Canada and Lawyers for Lawyers, "Oral Statement to the 26th Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC) & Lawyers for Lawyers (L4L), NGOs in special consultative status," June 13, 2014, available at: http://www.lrwc.org/ws/wp-content/uploads/2014/06/Colombia.Murder-of-lawyer-to_HRC_LRWC4L4L.13.06.14.pdf; Lawyers' Rights Watch Canada, "Colombia: failure to fulfill duties in response to attacks on lawyers," Written Statement by Lawyers' Rights Watch Canada to the 26th Session of the Human Rights Council, available at: http://www.lrwc.org/ws/wp-content/uploads/2014/05/Online-Copy-Colombia-Failure-to-fulfill-duties.LRWC_25.May_2014.pdf.

¹³⁰ In Brazil, for example, the national homicide rate in 2012 was 24.2 per 100,000 persons whereas the homicide rate of police officers in that same year was 72.1 per 100,000 officers, nearly three times the national average. See Fórum Brasileiro de Segurança Pública, "7º Anuário Brasileiro de Segurança Pública" ("Seventh Brazilian Annual Report on Public Security"), p. 126, available at: http://www.forumseguranca.org.br/storage/download/anoario_2013-corrigido.pdf.

¹³¹ Fórum Brasileiro de Segurança Pública, "8º Anuário Brasileiro de Segurança Pública" ("Eighth Brazilian Annual Report on Public Security"), p. 36, available at: <http://www.forumseguranca.org.br/storage/download/8Anuariofbbsp.pdf>.

¹³² Fórum Brasileiro de Segurança Pública, "8º Anuário Brasileiro de Segurança Pública" ("Eighth Brazilian Annual Report on Public Security"), p. 36, available at: <http://www.forumseguranca.org.br/storage/download/8Anuariofbbsp.pdf>.

¹³³ In this regard, a study in Argentina concluded that for every four homicides of police officers, three of them occur when the officers are off duty. See La Nación, "Tres de cada cuatro policías son asesinados cuando están de franco," August 11, 2013, available at: <http://www.lanacion.com.ar/1609537-tres-de-cada-cuatro-policias-son-asesinados-cuando-estan-de-franco>.

¹³⁴ Secretaría de Protección a Víctimas, Testigos, Peritos y demás Intervinientes en el Proceso Penal ("Secretariat for the Protection of Victims, Witnesses, Experts, and others involved in Criminal Proceedings").

and private security forces, as well as state agents, are actively involved in human rights violations. It is particularly grave that persons who are entrusted by the population to safeguard their rights, physical integrity and life, end up being the ones who unjustifiably harass, arrest, detain and kill members of the population. In this regard, the Commission notes that information received in 2014 indicated that state and private security forces as well as state officials in the region were alleged to have taken part in forced disappearances,¹³⁵ in the harassment and repression of human rights defenders,¹³⁶ in the harassment and repression of protesters,¹³⁷ and in drug-trafficking activities.¹³⁸

58. The killings and disappearance of students in Iguala, in the state of Guerrero, Mexico, between the night of Friday, September 26 and the early morning of Saturday, September 27, 2014, is a prime example of such situations. The events began when a group of approximately 80 students left the central bus station in the city of Iguala, traveling to the city of Chilpancingo. As of that moment, municipal police officers, allegedly in collusion with assassins tied to organized crime, indiscriminately attacked the students with high-caliber firearms over the course of the following hours. These serious acts of violence, the causes of which have not yet been uncovered, left six dead (three students from the above-mentioned school, one of whom allegedly had visible signs of torture, two soccer players, and a woman), at least 14 students injured, some seriously, and 43 students whose whereabouts are still unknown. The IACHR recalls that in 2011, following a working visit to Mexico, it underscored the fact that the State faces serious challenges related to

¹³⁵ In a public hearing held during the 153rd Period of Regular Sessions, the Commission was informed, for example, that since the year 2000, 43 persons have been forcibly disappeared in the Brazilian state of Goiás, allegedly by state security forces. The Commission was told that state officials are not adequately addressing this issue as the country has yet to enact a law that provides a legal definition for the crime of forced disappearances and attempts to push for thorough investigations have been met by harassment and threats from security forces, including to public defenders. In light of this, no proper investigations have been conducted to solve these cases. In this regard, see IACHR, Annex/Press Release No. 35A/14, "Report on the 153rd Session of the IACHR," December 29, 2014, p. 22, available at: <http://www.oas.org/es/cidh/prensa/docs/Report-153.pdf>. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

¹³⁶ See IACHR, Press Release No. 94/14, "IACHR Expresses Concern over Threats against and Arrests of Campesino Leaders in Bajo Aguán, Honduras," August 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/094.asp. The IACHR expressed concern over a series of violent evictions in the Bajo Aguán region of Honduras that allegedly occurred in the context of the agrarian conflict in the area, as well as over the threats against and arrest of various "campesino" leaders who were beneficiaries of precautionary measures granted by the Commission on May 8, 2014. These acts presumably took place between May and September 2014. As is publicly known, on May 21, 2014, members of the police force and the army as well as private security guards allegedly took part in the violent eviction of the La Trinidad and El Despertar farms in the municipality of Trujillo, Colón. According to a network of national and international organizations monitoring the situation, 112 "campesinos" have allegedly been killed in the past four years in the context of the agrarian conflict affecting the region. The Inter-American Commission has spoken out about the situation in Bajo Aguán on repeated occasions, including in the section on Honduras in Chapter IV of its 2012 and 2013 Annual Reports. The IACHR notes that the situation remains a matter of great concern and on May 8, 2014, it granted precautionary measures in favor of 123 members of the organizations "Movimiento Campesino Recuperación del Aguán" [Peasant Movement for the Recovery of the Aguán] (MOCRA), "Movimiento Campesino Fundación Gregorio Chávez" (MCRGC), "Movimiento Unificado Campesino del Aguán" [Unified Peasant Movement of Aguán] (MUCA), and "Movimiento Auténtico Reivindicador Campesino del Aguán" (MARCA), and requested the Government of Honduras to adopt the necessary measures to guarantee the life and physical integrity of said members. See also IACHR, Press Release No. 54/14, "IACHR Expresses Concern over Attacks on Migrants and Human Rights Defenders by State Agents in Mexico," May 12, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/054.asp. See further, Hearing on the Situation of Human Rights Defenders in Guatemala in IACHR, Press Release No. 131A/14, "Report on the 153rd Session of the IACHR," December 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

¹³⁷ See e.g. IACHR, Press Release No. 13/14, "IACHR Expresses Deep Concern over Acts of Violence in Venezuela and Urges the State to Ensure Democratic Citizen Security," February 14, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/013.asp.

¹³⁸ See e.g. Diario Correo, "Capturan a 6 policías involucrados en Tráfico de Drogas" ("Six police officers captured after being implicated in drug trafficking"), October 2, 2014, available at: <http://diariocorreo.pe/ciudad/capturan-a-6-policias-involucrados-en-traffic-2327/>; Pulzo, "Detenido subcomandante de la Policía del Cauca por proteger cargamento de coca de la mafia" ("Sub commander of the Cauca police force detained for protecting mafia cocaine"), October 31, 2014, available at: <http://www.pulzo.com/nacion/234831-detenido-subcomandante-de-la-policia-del-cauca-por-proteger-cargamento-de-coca-de-la->; Federal Bureau of Investigation, "Nine Law Enforcement Officers Sentenced for Protecting Drug Dealers," August 6, 2014, available at: <http://www.fbi.gov/atlanta/press-releases/2014/nine-law-enforcement-officers-sentenced-for-protecting-drug-dealers>; Folha de São Paulo, "Polícia apura relação de Frank Aguiar co suspeito de tráfico" ("Police investigates the relationship of Frank Aguiar with a suspected drug trafficker"), October 3, 2014, available at: <http://www1.folha.uol.com.br/poder/2014/10/1526460-policia-apura-relacao-de-frank-aguiar-com-suspeito-de-traffic-shtml>; Telesur, "Many Paraguayan Politicians Heavily Linked to Drug Trafficking," October 19, 2014, available at: <http://www.telesurty.net/english/news/Many-Paraguayan-Politicians-Heavily-Linked-to-Drug-Trafficking-20141019-0035.html>.

the growing power of organized crime. It observed that these groups “have highly destructive weapons in their possession and influence within some spheres of the State, both at the local and federal levels.” Additionally, it noted that many criminal acts carried out by these criminal organizations “apparently involved the participation of corrupt elements of the police and State agencies, which reportedly facilitated the commission of serious human rights violations, giving rise to impunity.” This situation reveals a clear deterioration of the rule of law. In light of this situation, the IACHR signed an agreement with the State of Mexico and the representatives of the missing students of Ayotzinapa, which allowed the Commission to designate an Interdisciplinary Group to provide technical assistance to the state of Mexico in the search for the missing students, in the investigation and actions adopted to punish the perpetrators, and in the assistance to the families of the students.¹³⁹

59. Finally, in order to effectively resolve the issue of citizen insecurity, in addition to thoroughly studying the phenomenon of violent crime and providing adequate protection to the population in danger, States must also improve their judicial response to the situations where prevention and protection have failed. States must therefore ensure that thorough investigations are carried out to identify the perpetrators of violent crime and bring them to justice. According to UNODC, for every 100 homicide victims only 53 suspects are identified and only 24 of those are ultimately convicted in the Americas.¹⁴⁰ At the global level, for every 100 homicide victims, 97 suspects are identified and 43 are convicted.¹⁴¹ The poor performance by most Member States in providing a judicial response to homicides is alarming, as is the fact that this situation appears to be getting worse in the Americas as the gap between the number of homicides and the number of convictions has been widening in the region over the last few years.¹⁴²

60. Resolving the problem of citizen insecurity in the region must be one of the main priorities of Member States. This is necessary not only to safeguard the lives of those within the State’s jurisdiction, but also to prevent other human rights issues in the region that result from or are exacerbated by the situation of citizen insecurity, such as the displacement of populations, the flow of unaccompanied migrant children to the United States, the emergence or growth of private security forces,¹⁴³ instances of vigilante justice¹⁴⁴ and

¹³⁹ See IACHR, Press Release No. 117/14, “IACHR Makes an Urgent Call on the Mexican State Regarding the Murder and Disappearance of Students,” October 10, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/117.asp; IACHR, Press Release No. 136/14, “IACHR makes official Technical Cooperation Agreement about Ayotzinapa students in Mexico,” November 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/136.asp.

¹⁴⁰ UNODC Report on Homicides, pp. 93, 94. The Commission notes that there is also a serious issue pertaining to the lack of available data on this specific issue. UNODC’s report indicates that only a limited number of countries in the Americas provided data concerning the police clearance rate and conviction rate for homicides in Member States. The Commission again stresses the need for States in the region to improve their data collection on such issues in order to improve their response to the citizen insecurity situation in the region. See UNODC Report on Homicides, pp. 91-97, figures, 5.2, 5.4, 5.5, 5.7, 5.8, 5.9.

¹⁴¹ UNODC Report on Homicides, p. 93.

¹⁴² UNODC Report on Homicides, p. 95.

¹⁴³ One of the consequences of States’ inability to adequately respond to the situation of citizen insecurity has been the emergence and growth of private security forces that are created by portions of the population to guarantee their safety. In Honduras, for instance, the Commission noted in Chapter IV.B of its 2013 Annual Report that there are said to be 70,000 private security guards in comparison with 14,000 police officers. The Commission considers this trend quite troubling since the members of private security forces are not subjected to the same tests and requirements demanded of state security forces agents. Moreover, the lack of available information regarding the number of private security forces operating in the territories of Member States and the mechanisms in place to monitor them is also of concern to the Commission. These private security force agents do not receive training in human rights standards of policing, which can lead to the commission of human rights violations and it is necessary for Member States to curb and eliminate this trend. On certain occasions, private security forces may be hired by private companies and used to harass and attack human rights defenders that oppose the company’s activities. For instance, in the extractive operations of Exmingua in San Pedro Ayampuc and San José del Golfo, Guatemala, private security forces have been implicated in serious crimes. In this regard, see Amnesty International, “Guatemala: Minería en Guatemala Derechos en Peligro” (“Guatemala: Mining in Guatemala: Rights in Danger”), September 2014, available at: http://amnistia.org.mx/nuevo/wp-content/uploads/2014/09/GUATEMALA_AMR340022014.pdf.

¹⁴⁴ The IACHR is concerned with incidents of vigilante justice in the region. According to publicly available information, there have been at least ten incidents in which neighborhood residents in different parts of Argentina have attacked suspected robbers, leading to the death of one person and serious injuries to others. Acts of vigilante justice have also been carried out in Brazil where, in May 2014, a woman was beaten by a mob in Brazil after rumors were circulated on social media accusing her of practicing black magic on children. She ultimately succumbed to her wounds. Instances of vigilante justice have also reportedly been carried out against minors suspected of being thieves in Brazil. Similar acts have also been carried out in other Members States such as Chile and Mexico, but these acts are

the tendency to prosecute and punish adolescents and young adults more severely, even when they may be especially prone to violence and in dire need of protective and not repressive measures.

Discrimination on the Basis of Nationality

61. In its monitoring work, the Commission has received information on laws, administrative practices and/or judicial decisions in Member States that disproportionately affect the ability of persons or populations of a particular nationality to enjoy the civil, political, economic, social and cultural rights to which they are entitled by law.

62. In December 2013 the Commission conducted a visit to the Dominican Republic and received troubling information concerning grave violations of the right to nationality, to identity and to equal protection without discrimination. The Commission had already pointed out some of these deeply rooted forms of discrimination in the context of an earlier visit in 1997, but these have been greatly exacerbated by Judgment TC 168/2013 of the Constitutional Court.¹⁴⁵ This judgment gave new interpretation as regards the acquisition of nationality by individuals born in the country to foreign parents in transit.¹⁴⁶ Through the ruling, the Constitutional Court retroactively changed the interpretation of “foreigners in transit” in the constitution in effect from 1929 to 2010, effectively denationalizing a broad group of persons previously recognized as citizens. The Commission has stated that the Constitutional Court’s ruling has a discriminatory effect, given that it primarily impacts Dominicans of Haitian descent, who are Afro-descendant persons; strips nationality retroactively; and leads to statelessness when it comes to those individuals who are not considered by any other State to be nationals.¹⁴⁷

63. The Commission recognizes that the determination of who may be recognized as nationals of a State is an issue that falls in principle under States’ domestic jurisdiction, but this authority is not without limits. In the exercise of their discretion, States must ensure equal and effective protection of the law without discrimination and prevent, avoid and reduce statelessness.¹⁴⁸ Moreover, obligations rooted in international human rights law, and recognized by the Inter-American Court of Human Rights (IACtHR or Inter-American

certainly not limited to these few States mentioned. The IACHR urges the States to adopt a comprehensive policy to prevent such attacks, in order to put an end to them. It is of special concern to the Commission that in some of these cases, the victims were adolescents. Also of concern is the stereotypical perception that young people, especially those who come from traditionally excluded segments of society, pose a potential risk to citizen security. The Commission has previously expressed its concern that these perceptions can translate into regressive trends in the area of juvenile justice, as well as control measures that do not strictly adhere to international human rights standards. In this regard, the Commission urges the State, at its different levels, to strengthen the necessary measures to ensure the full exercise of young people’s human rights. See IACHR, Press Release No. 46/14, “IACHR Expresses Concern for Vigilante Attacks in Argentina,” April 24, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/046.asp; Folha de São Paulo, “Espancada após boatos de magia negra, mulher more em Guarujá (“Beaten after rumors of black magic, woman dies in Guarujá”),” May 6, 2014, available at: <http://www1.folha.uol.com.br/fsp/cotidiano/164577-espandada-apos-boatos-sobre-magia-negra-mulher-morre-em-guaruja.shtml>; Estado de São Paulo, “Em Sidrolândia (MS), ladrão é amarrado em poste e espancado (“In Sidrolândia (MS), thief is tied to a light post and beaten”),” February 17, 2014, available at: <http://brasil.estadao.com.br/noticias/geral,em-sidrolandia-ms-ladrao-e-amarrado-em-poste-e-espandado,1131357>; El Universal, “Muere ladrón tras ser linchado en Alcomán (“Thief dies in Alcomán after being lynched”),” November 24, 2014, available at: <http://www.eluniversal.com.mx/ciudad-metropoli/2014/muere-ladron-tras-ser-linchado-en-acolman--1056816.html>; El Universal, “Muere sujeto tras ser linchado por pobladores en Puebla (“Person dies after being lynched by inhabitants in Puebla”),” January 6, 2015, available at: <http://www.eluniversal.com.mx/estados/2015/muere-sujeto-tras-ser-linchado-por-pobladores-en-puebla-1066644.html>; El Desconcierto, “‘Detención ciudadana’ termina en linchamiento y con asaltante muerto en Macul (“‘Citizen detention’ results in a lynching and death of a robber in Macul”),” January 29, 2015, available at: <http://eldesconcierto.cl/detencion-ciudadana-termina-en-linchamiento-y-con-asaltante-muerto-en-macul/>.

¹⁴⁵ IACHR, Press Release No. 97A/13, “Preliminary Observations from the IACHR’s Visit to the Dominican Republic,” December 6, 2013, p. 5, available at: <http://www.oas.org/es/cidh/actividades/visitas/2013RD/Preliminary-Observations-DR-2013.pdf>.

¹⁴⁶ IACHR, Press Release No. 97A/13, “Preliminary Observations from the IACHR’s Visit to the Dominican Republic,” December 6, 2013, p. 6, available at: <http://www.oas.org/es/cidh/actividades/visitas/2013RD/Preliminary-Observations-DR-2013.pdf>.

¹⁴⁷ IACHR, Press Release No. 97A/13, “Preliminary Observations from the IACHR’s Visit to the Dominican Republic,” December 6, 2013, p. 9, available at: <http://www.oas.org/es/cidh/actividades/visitas/2013RD/Preliminary-Observations-DR-2013.pdf>.

¹⁴⁸ IACHR, Press Release No. 97A/13, “Preliminary Observations from the IACHR’s Visit to the Dominican Republic,” December 6, 2013, p. 6, available at: <http://www.oas.org/es/cidh/actividades/visitas/2013RD/Preliminary-Observations-DR-2013.pdf>.

Court) in the case of the *Girls Yean and Bosico v. Dominican Republic*,¹⁴⁹ require that States refrain from applying policies, laws, judgments, or practices that result in people being unable to have access to any nationality.

64. Furthermore, there is an inextricable link between the obligation to respect and guarantee human rights and the principle of equal protection of the law without discrimination. In light of the manner in which the situation in the Dominican Republic has disproportionately affected Dominicans of Haitian descent or perceived to be of Haitian descent, the Commission considers it to be a violation of the right to equal protection without discrimination.¹⁵⁰

65. The Constitutional Court's judgment TC 168/2013 has exacerbated discrimination that has long existed in the Dominican Republic on the basis of race and poverty.¹⁵¹ In 2013, the United Nations Committee for the Elimination of Racial Discrimination noted that multiple levels of discrimination exist in the Dominican Republic. Specifically, it noted the persistence of structural racism and discrimination based on color and national origin, the link between poverty and racism in general, and the "firm denial" by the State of the existence of racial discrimination, which constitutes a critical obstacle in terms of compliance with its international obligations.¹⁵²

66. Since the Commission's visit to the Dominican Republic in December of 2013 the situation has not changed for the better. In fact, the situation appears to have deteriorated as the Constitutional Court, on November 4, 2014, rendered its Judgment TC/0256/14, which declared unconstitutional the instrument accepting the jurisdiction of the IACtHR, which was deposited with the Organization of American States (OAS) on March 25, 1999. The Inter-American Court has issued four judgments against the Dominican Republic, of which three concerned the subject of discrimination against persons of Haitian descent. The Commission is of the view that the Constitutional Court's decision represents an obstacle to the State's compliance with the recommendations of the IACHR, the decisions of the IACtHR, the standards of the inter-American system, and with its obligation to end such forms of discrimination.

67. This view is supported by the Dominican government's statement of October 23, 2014, in which it indicated that it was rejecting the judgment delivered by the IACtHR on August 28, 2014, in the Case of Expelled Dominicans and Haitians *v. Dominican Republic*. The kinds of violations addressed in this judgment have been monitored by the Commission for more than two decades through visits, country reports, hearings, precautionary measures, petitions, and cases and this is one of three judgments rendered by the IACtHR regarding discrimination against Dominicans of Haitian descent. The Dominican government's rejection of the August 28 judgment of the Inter-American Court took place in a context in which the Dominican Republic has failed to comply with the recommendations of the IACHR, decisions of the IACtHR and human rights standards of the inter-American system, particularly those related to human rights violations that result from structural discrimination against persons of Haitian descent who live in the Dominican Republic.

68. The Commission is profoundly concerned by the statements of the Dominican government and with the recent decisions of the Constitutional Court. In some statements the Dominican State expressed its commitment to the inter-American system, but its failure to recognize its human rights obligations, which

¹⁴⁹ See generally IACtHR, *Girls Yean and Bosico v. Dominican Republic*, Judgment, September 8, 2005, available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

¹⁵⁰ IACHR, Press Release No. 97A/13, "Preliminary Observations from the IACHR's Visit to the Dominican Republic," December 6, 2013, p. 5, available at: <http://www.oas.org/es/cidh/actividades/visitas/2013RD/Preliminary-Observations-DR-2013.pdf>.

¹⁵¹ IACHR, Press Release No. 97A/13, "Preliminary Observations from the IACHR's Visit to the Dominican Republic," December 6, 2013, p. 12, available at: <http://www.oas.org/es/cidh/actividades/visitas/2013RD/Preliminary-Observations-DR-2013.pdf>.

¹⁵² IACHR, Press Release No. 97A/13, "Preliminary Observations from the IACHR's Visit to the Dominican Republic," December 6, 2013, p. 12, available at: <http://www.oas.org/es/cidh/actividades/visitas/2013RD/Preliminary-Observations-DR-2013.pdf>. See also United Nations Committee for the Elimination of Racial Discrimination, "Concluding observations on the thirteenth and fourteenth periodic reports of the Dominican Republic, adopted by the Committee at its eighty-second session (11 February–1 March 2012)," CERD/C/DOM/CO/13-14, April 19, 2013, available at: <http://www.refworld.org/publisher/CERD...51ee44e64.0.html>.

it accepted voluntarily through sovereign decisions and actions, contradicts its stated commitment and undermines the international human rights protections of those under the Dominican State's jurisdiction.¹⁵³ The Commission calls upon the State to use its best efforts to comply in good faith with its regional human rights obligations. Moreover, the Commission emphasizes that the Constitutional Court's decision has absolutely no basis in international law and can thus have no future effect given that the American Convention on Human Rights does not provide a mechanism to withdraw acceptance of the Inter-American Court's contentious jurisdiction once given, short of denouncing the American Convention as a whole.¹⁵⁴

69. Moreover, the Commission has recently received information regarding discrimination against Haitian migrant workers in the Dominican Republic. In a public hearing held during the IACHR's 153rd period of regular sessions on the Human Rights Situation of Migrant Workers and their Families in the Dominican Republic, the Commission was informed of the poor living conditions and violations of labor rights of the *braceros*, which is the word used to identify Haitian migrants who work in the sugarcane fields. During the hearing the Commission received information on the violation of the economic, social, and cultural rights of these migrant workers.¹⁵⁵

70. The Commission is also monitoring immigration laws, policies and practices in other countries in the region. In this regard, the Commission notes that The Bahamas has been implementing immigration policies that disproportionately affect persons of Haitian descent.¹⁵⁶ The Commission has called upon The Bahamas to review its treatment of migrants and their families and particularly the use of immigrant detention in reportedly substandard conditions.

Discrimination on the Basis of Ethnic and Racial Origin

71. In the area of racial justice, in 2014 the Commission was informed of laws, administrative practices and/or judicial decisions in Member States that disproportionately affect the ability of persons or populations of a particular ethnic or racial origin to enjoy the civil, political, economic, social and cultural rights to which they are entitled by law. In this section the Commission addresses specific situations in Member States that exemplify the issue of racial and ethnic discrimination and which the Commission considers to be particularly troublesome.

72. In a hearing held during the 150th regular period of sessions, the Commission was informed of the impact of Stand Your Ground laws on minorities in the United States.¹⁵⁷ According to the information

¹⁵³ IACHR, Press Release No. 130/14, "IACHR Condemns Judgment of the Constitutional Court of the Dominican Republic," November 6, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/130.asp.

¹⁵⁴ See IACHR, Press Release No. 130/14, "IACHR Condemns Judgment of the Constitutional Court of the Dominican Republic," November 6, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/130.asp. The American Convention does not establish the possibility that a State that continues to be a party to the treaty can release itself from the jurisdiction of the Inter-American Court. That is the interpretation of the Inter-American Court itself, which is responsible for determining the scope of its own jurisdiction. As the Inter-American Court has stated, absent an express provision, interpreting the American Convention as limiting the scope of the Court's jurisdiction would run contrary to the object and purpose of international human rights protections. *Ibidem*.

¹⁵⁵ See IACHR, 153rd Period of Regular Sessions, Public hearing on Human Rights Situation of Migrant Workers and their Families in the Dominican Republic, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

¹⁵⁶ See e.g. Telesur, "Thousands Deported under New Bahamas Immigration Laws," November 17, 2014, available at: <http://www.telesurtv.net/english/news/Thousands-Deported-under-New-Bahamas-Immigration-Laws-20141117-0007.html>; Panam Post, "Bahamas New Immigration Policy Could Render Thousands Stateless," November 19, 2014, available at: <http://panamapost.com/panam-staff/2014/11/19/bahamas-new-immigration-policy-could-render-thousands-stateless/>; The New York Times, "Immigration Rules in Bahamas Sweep Up Haitians," January 30, 2015, available at: <http://www.nytimes.com/2015/01/31/world/haitians-are-swept-up-as-bahamas-tightens-immigration-rules.html>.

¹⁵⁷ IACHR, Press Release No. 35A/14, "Report on the 150th Session of the IACHR," May 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp. See also 150th Period of Regular Sessions, public hearing on Stand Your Ground Laws and their Impact on Minorities, audio and video available at <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>.

received, these laws extend immunity from criminal prosecution or civil suits to persons who use deadly force in self-defense beyond the home, without imposing a duty to retreat.¹⁵⁸

73. According to the information received, these laws negatively and disproportionately affect African Americans and other racial and ethnic minorities since they are often applied in an inconsistent and discriminatory manner, promoting bias against African-American victims and legitimizing a “shoot first” mindset based on perceptions and prejudices.¹⁵⁹ Such laws are said to disproportionately affect teenagers of African descent and place them in grave danger due to the widespread perception of their supposed “dangerousness.” During the hearing, presentations and testimonies were received from NGOs such as the NAACP, as well as persons and/or families of persons affected by these laws. In her presentation before the IACHR, Dr. Niaz Kasravi, (Director of NAACP’s Criminal Justice Department) explained that 34 states now have Stand Your Ground laws, since Florida first enacted such a law in 2005. Dr. Kasravi stated that these laws are applied in a racially biased manner, and simply make it easier for people to kill others with impunity. In this regard, she referred to a study that demonstrated that, in the case of African Americans killed by white persons invoking the Stand Your Ground law, 34% of the killings are deemed justifiable, while the proportion is 3% when circumstances are reversed. Sabrina Fulton, the mother of Trayvon Martin,¹⁶⁰ and Ronald Davis, the father of Jordan Davis,¹⁶¹ also provided testimony to illustrate the impact of Stand Your Ground laws.

74. Moreover, the Commission was informed that individuals who tend to use a Stand Your Ground defense, such as survivors of domestic violence, are not necessarily those who are able to access the protections afforded by the law, especially when they are women of African descent. In this regard, the Commission received testimony from Aleta Alston-Toure (of the Free Marissa Now Mobilization Campaign) who provided information on the case of Marissa Alexander. According to her information, in 2010 Ms. Alexander fired a single warning shot at her husband following his assault on her. During her trial for aggravated assault, Ms. Alexander’s claim of self-defense based on Florida’s Stand Your Ground law was rejected, and she was ultimately sentenced to a mandatory term of imprisonment.

75. Not only do Stand Your Ground laws appear to negatively and disproportionately affect African Americans and other racial and ethnic minorities, but they also appear to increase the problem of public insecurity as the Commission was informed that the number of homicides has actually increased in those states that have implemented such laws. According to Dr. Kasravi, general homicide rates increased by 7% to 9% in Stand Your Ground states, while “justifiable” homicides have increased by more than 50% in the second half of the last decade.

76. During the hearing, the Government of the United States informed the Commission that Stand Your Ground laws have become a matter of concern, but that the federal nature of the United States makes it difficult for the federal government to comment on specific state laws. However, the State disclosed that the U.S. Commission on Civil Rights is currently reviewing Stand Your Ground laws and that the Department of Justice would act upon its recommendations. With regard to the state of Florida, the United

¹⁵⁸ IACHR, Press Release No. 35A/14, “Report on the 150th Session of the IACHR,” May 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp. See also 150th Period of Regular Sessions, public hearing on Stand Your Ground Laws and their Impact on Minorities, audio and video available at <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>.

¹⁵⁹ See 150th Period of Regular Sessions, public hearing on Stand Your Ground Laws and their Impact on Minorities, audio and video available at <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>.

¹⁶⁰ Trayvon Benjamin Martin, a 17-year-old African American from Miami Gardens, Florida who was fatally shot by George Zimmerman on February 26, 2012. Martin was shot in a neighborhood in Sanford, Florida, after being followed by Zimmerman. Zimmerman was charged with second degree murder, but was eventually acquitted in July 2013, based largely on Florida’s Stand-Your-Ground law.

¹⁶¹ On November 23, 2012, Jordan Russell Davis, a 17-year-old African-American high school student, was fatally shot by Michael David Dunn at a gas station in Jacksonville, Florida, following an incident in which Dunn asked Davis and his companions to turn down the loud music that was being played in the vehicle in which Davis was a passenger. Dunn relied on Florida’s Stand Your Ground law, but was eventually convicted of first degree murder (on retrial) in October 2014.

States government indicated that the U.S. Civil Rights Commission and the FBI continue to evaluate the situation, with a view to determining whether federal prosecution is appropriate over and above state trials.

77. During 2014, the Commission also considered the impact of racial profiling as practiced by various police forces in the United States. The Commission had the opportunity to receive information on this issue during a specially convened *ex proprio motu* hearing that took place during the 153rd regular period of sessions. During the hearing, Hilary Shelton of the NAACP Washington Bureau noted that racial profiling is a common tactic among many law enforcement agencies, and that many NAACP units report receiving several complaints of racial profiling from its constituents each year. He observed that the prevalence of racial profiling is startling, given its proven inefficacy as a law enforcement tool. Mr. Shelton described racial profiling as “the practice of law enforcement agents or agencies relying on race, ethnicity, national origin or religion as a pretext for traffic stops or otherwise detaining them on streets, airports, highways, byways and the like.” In this respect, Mr. Shelton remarked that the associated practice of “stop and frisk” primarily targets African Americans and Latinos. Mr. Shelton also noted that subsequent law enforcement activities (following the initial investigatory procedure) are also influenced or determined by considerations of race, ethnicity, national origin, or religion. At the hearing, the government of the United States acknowledged that racial profiling by law enforcement agencies is a major issue, but affirmed that over the past five years, the Department of Justice has undertaken over 20 investigations into various police departments to address possible unconstitutional practices. The State indicated that it has found patterns of racial and ethnic profiling in some police department, but has initiated a series of reforms to change this.

78. Recent information has highlighted that even African-American law enforcement agents may be the victims of racial profiling by their peers when they are off duty and out of uniform.¹⁶² The officers said this included being pulled over for no reason, having their heads slammed against their cars, getting guns brandished in their faces, being thrown into prison vans and experiencing stop and frisks while shopping.¹⁶³ The majority of the officers said they had been pulled over multiple times while driving and five had had guns pulled on them.¹⁶⁴

79. The IACHR is pleased with the initiatives of the United States to identify where racial profiling is a problem and with the implementation of measures to resolve this problem. However, much work is still needed to eliminate racial profiling practices and to build a sense of trust between the community and law enforcement agents. The Commission therefore urges this State and others in the region to continue and broaden studies being undertaken and measures being implemented in order to eliminate racial profiling.

80. The Commission is aware of other instances in the region where persons of a specific ethnic or racial origin have been unable to fully enjoy their civil, political, economic, social and cultural rights. In some countries, violations of the human rights of persons of a specific ethnic or racial origin arise from structural racism and discrimination. For example, Ms. Gay McDougall, the United Nations Independent Expert on minority issues, issued a statement following her visit to Colombia in 2010 where she noted that the legacy of slavery continues to have a profound impact on the lives of “Afro-Colombians, Blacks, Raizal and Palenquero communities.”¹⁶⁵ Afro-Colombians have historically been unable to fully enjoy their economic, social and cultural rights in light of their economic situation and the resulting social segregation. According to a report by the United Nations Development Programme (UNDP), Afro-Colombians appear to be

¹⁶² See Reuters, “Off duty, black cops in New York feel threat from fellow police,” December 23, 2014, available at: <http://www.reuters.com/article/2014/12/23/us-usa-police-nypd-race-insight-idUSKBN0K11EV20141223>.

¹⁶³ See Reuters, “Off duty, black cops in New York feel threat from fellow police,” December 23, 2014, available at: <http://www.reuters.com/article/2014/12/23/us-usa-police-nypd-race-insight-idUSKBN0K11EV20141223>.

¹⁶⁴ See Reuters, “Off duty, black cops in New York feel threat from fellow police,” December 23, 2014, available at: <http://www.reuters.com/article/2014/12/23/us-usa-police-nypd-race-insight-idUSKBN0K11EV20141223>.

¹⁶⁵ United Nations Office of the High Commissioner for Human Rights, “Statement by the United Nations Independent Expert on minority issues, Ms. Gay McDougall, on the conclusion of her official visit to Colombia, 1 to 12 February 2010,” available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9821&>.

disproportionately affected by poverty¹⁶⁶ and their households, when compared to the rest of the population, have the worst living conditions and access to public services.¹⁶⁷ The UNDP report indicates that 28.8% of Afro-Colombians in rural areas and 16.0% in urban areas live with an income of approximately US\$ 1.25 per day.¹⁶⁸ Additionally, around 48% of Afro-Colombians reportedly do not have health insurance.¹⁶⁹ Furthermore, the forced displacement of many Afro-Colombian persons, caused by armed conflict or the implementation of megaprojects, is a structural problem which disproportionately impacts Afro-Colombians, and which has negative effects on their living conditions.¹⁷⁰ Further, discrimination against police officers of African descent has also been reported within Colombian law enforcement as have instances of racial profiling against civilians.¹⁷¹

81. The Commission has also received information regarding the particular vulnerability of persons of specific ethnic or racial origin to violent crime in the region. In a public hearing held during the 153rd regular period of sessions, the IACHR received information regarding the situation of violence against Creole and Garifuna populations, particularly women, adolescents, and children, in Guatemala, Honduras, and Nicaragua.¹⁷² The region's Creole and Garifuna populations are reportedly confronted with different forms of violence—verbal, psychological, physical, sexual, and gender-based—as a result of discrimination and social exclusion, and this violence often goes unpunished.¹⁷³ According to the information received, violence against children is a particularly widespread problem as one study showed that 44 percent of victims of sexual offenses were under the age of 14, but only about 5 percent of crimes of sexual violence are reported due to stigma and distrust in law enforcement and the judicial system.¹⁷⁴ During the hearing, the Commission

¹⁶⁶ Colombia Reports, “UN documents inequality suffered by Afro-Colombians,” November 22, 2011, available at: <http://colombiareports.co/un-documents-the-inequality-suffered-by-afro-colombians/>. See also UNDP, “Situación socioeconómica de la población afrocolombiana en el marco de los Objetivos de Desarrollo del Milenio (“The Socio-economic Situation of the Afro-Colombian in the Framework of the Millennium Development Goals”),” 2010, available at: http://www.afrodescendientes-undp.org/FCKeditor_files/File/AFRO_COLOMBIA.pdf.

¹⁶⁷ UNDP, “Situación socioeconómica de la población afrocolombiana en el marco de los Objetivos de Desarrollo del Milenio (“The Socio-economic Situation of the Afro-Colombian in the Framework of the Millennium Development Goals”),” 2010, available at: http://www.afrodescendientes-undp.org/FCKeditor_files/File/AFRO_COLOMBIA.pdf.

¹⁶⁸ UNDP, “Situación socioeconómica de la población afrocolombiana en el marco de los Objetivos de Desarrollo del Milenio (“The Socio-economic Situation of the Afro-Colombian in the Framework of the Millennium Development Goals”),” 2010, available at: http://www.afrodescendientes-undp.org/FCKeditor_files/File/AFRO_COLOMBIA.pdf.

¹⁶⁹ UNDP, “Situación socioeconómica de la población afrocolombiana en el marco de los Objetivos de Desarrollo del Milenio (“The Socio-economic Situation of the Afro-Colombian in the Framework of the Millennium Development Goals”),” 2010, available at: http://www.afrodescendientes-undp.org/FCKeditor_files/File/AFRO_COLOMBIA.pdf.

¹⁷⁰ Programa de Justicia Global y Derechos Humanos de la Universidad de los Andes, “El desplazamiento forzado de los afrocolombianos: Evaluación del cumplimiento del Gobierno colombiano del auto 005 de la Corte Constitucional (“The forced displacement of Afro-Colombians: An evaluation of the Colombian government’s compliance with decision 005 of the Constitutional Court”),” November, 2010, available at: http://www.odracial.org/files/r2_actividades_recursos/fi_name_archivo.267.pdf; See also Colombian Constitutional Court, Decision 005/09, January 26, 2009, available at: <http://www.corteconstitucional.gov.co/relatoria/autos/2009/a004-09.htm>.

¹⁷¹ Voz del Pueblo Lationamericano, “Comunicado de solidaridad con Jonatan Martínez, víctima de discriminación racial” (“Statement of solidarity with Jonatan Martínez, victim of racial discrimination”), July 8, 2014, available at: <https://vozpueblo.com.wordpress.com/2014/07/08/comunicado-de-solidaridad-con-jonatan-martinez-victima-de-discriminacion-racial/>; El Tiempo, “Solo hasta el 2024 habría un general afro: organización Chao Racismo” (“Not until 2024 would there be a general of African descent: Chao Racism Organization”), September 5, 2014, available at: <http://www.eltiempo.com/colombia/cali/denuncia-de-discriminacion-racial-en-la-policia-14486335>

¹⁷² IACHR, Press Release No. 131A/14, “Report on the 153rd Session of the IACHR,” December 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

¹⁷³ IACHR, Press Release No. 131A/14, “Report on the 153rd Session of the IACHR,” December 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

¹⁷⁴ IACHR, Press Release No. 131A/14, “Report on the 153rd Session of the IACHR,” December 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

was told that it was difficult to obtain concrete data on many of these issues due to the unavailability of information disaggregated by key variables such as sex, race, ethnicity, and age.¹⁷⁵

82. Similarly, in Brazil, 30,000 adolescents and young adults between the ages of 15 and 29 were killed in 2012, 77% of whom were of African descent.¹⁷⁶ From 2002 to 2010, Brazil registered 418,414 homicide victims, 65% of whom were of African descent.¹⁷⁷ During the past decade, homicides among white persons have decreased 24% in the country, while homicides amongst persons of African descent have increased 40%.¹⁷⁸ Likewise, in Colombia, Afro-Colombians appear to be the ones suffering most from the levels of violence related to the armed conflict as they often reside in regions of economic and strategic importance affected by the conflict and drug trafficking, making them highly vulnerable to political violence.¹⁷⁹ Human Rights Watch has noted that Afro-Colombian areas of the country continue to be battered by the Revolutionary Armed Forces of Colombia.¹⁸⁰

83. In 2014, the IACHR had the opportunity to consider information on the impact of mass incarceration on people of color. Information on this issue was received during a specially convened *ex proprio motu* hearing that took place during the 153rd regular period of sessions. Barbara Arnwine of the Lawyers Committee for Civil Rights Under Law explained that the United States has a prison population of about 2.3 million, which is disproportionately made up of persons of color. During the same hearing, the State confirmed this status quo, noting that this situation constitutes a drain on both precious resources and human capital. Carter Stewart, U.S. Attorney for the Southern District of Ohio, recognized that the United States disproportionately imprisons people of color and affirmed that the U.S. Attorney General is committed to addressing these disparities in the criminal justice system. In this regard, he mentioned the creation of a Racial Disparities Working Group and the “Smart on Crime Program” in which the Department of Justice, among other initiatives, modified charging policies in the case of defendants accused of certain nonviolent low-level drug offenses and established community service measures as alternatives to incarceration.

84. The Commission has affirmed that all persons, regardless of race or ethnicity, are entitled to respect for their fundamental rights, including the right to life.¹⁸¹ This obligation mandates State law enforcement agents to exercise restraint in the manner in which they interact with citizens, and to refrain from the excessive or disproportionate use of lethal force when effecting an arrest or otherwise engaging with citizens.¹⁸² The Commission has noticed a disturbing pattern of excessive force on the part of police officers towards African Americans and other persons of color. In the United States, for instance, media

¹⁷⁵ IACHR, Press Release No. 131A/14, “Report on the 153rd Session of the IACHR,” December 29, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/131A.asp. Video of hearings held during the 153rd Period of Regular Sessions available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

¹⁷⁶ Amnesty International, “Young, Black, Alive: Breaking the silence on Brazil’s soaring youth homicide rate,” November 26, 2014, available at: <http://blog.amnestyusa.org/americas/young-black-alive-breaking-the-silence-on-brazils-soaring-youth-homicide-rate/>.

¹⁷⁷ Carta Capital, “No Brasil, duas a cada três vítimas de homicídios são negras” (“In Brazil, two of every three homicide victims are Afro-descendants”), August 19, 2013, available at: <http://www.cartacapital.com.br/blogs/speriferia/no-brasil-duas-a-cada-tres-vitimas-de-homicidios-sao-negras-9080.html>.

¹⁷⁸ NPR, “In Brazil, Race Is A Matter Of Life And Violent Death,” November 9, 2014, available at: <http://www.npr.org/blogs/parallels/2014/11/09/362356878/in-brazil-race-is-a-matter-of-life-and-violent-death>.

¹⁷⁹ See e.g. Lawyers Without Borders, “Colombia - Victims of the conflict: Access to Justice for Indigenous Communities and Other Victims of the Conflict,” available at: <http://www.asfcanada.ca/en/lwbc-in-action/lwbc-programmes/4/colombia-project>; USAID, “Afro-Colombian Strategy,” available at: http://pdf.usaid.gov/pdf_docs/PDACC232.pdf; Washington Office on Latin America, “Hostages in Our Own Territories: Afro-Colombian Rights under Siege in Chocó,” April 27, 2012, available at: http://www.wola.org/commentary/hostages_in_our_own_territories.

¹⁸⁰ HRW, “Colombia: FARC Battering Afro-Colombian Areas: Atrocities by Guerrillas, Criminal Groups Go Unpunished,” July 30, 2014, available at: <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>.

¹⁸¹ IACHR, Press Release No. 90/14, “IACHR Expresses Concern over Police Killings of African-American Persons in the United States,” August 22, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/090.asp.

¹⁸² IACHR, Press Release No. 90/14, “IACHR Expresses Concern over Police Killings of African-American Persons in the United States,” August 22, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/090.asp.

reports indicate that white police officers are 21 times more likely to kill an African-American man than a white man.¹⁸³ Similarly, in the state of Sao Paulo, Brazil, police kill suspects of African descent at a rate three times higher than white suspects.¹⁸⁴

85. In 2014, the Commission was made aware of the deaths of several African Americans at the hands of security forces in the United States and it expressed alarm over separate incidents that led to the deaths of unarmed African-Americans Eric Garner and Michael Brown, at the hands of the police in New York City, New York, and Ferguson, Missouri, respectively.¹⁸⁵ Investigations into both deaths were conducted by U.S. authorities and two grand juries were convened to assess the evidence and determine whether to indict the officers responsible for the deaths. On November 24, 2014, the St. Louis County prosecutor announced that a grand jury decided not to indict the officer responsible for the shooting of Mr. Brown and on December 3, 2014, the grand jury convened to assess the evidence in the investigation into Mr. Garner's death in New York City decided not to indict the officer responsible for applying the chokehold on Mr. Garner. The federal investigation carried out into the death of Mr. Brown did not result in charges being filed against the police officer responsible for his death¹⁸⁶ while the federal investigation into the death of Mr. Garner is still under way and expected to last several months.¹⁸⁷

86. Following the decision of the grand jury in the case of Mr. Brown, U.N. High Commissioner for Human Rights Zeid Ra'ad Al Hussein said that U.S. authorities should review how race-related issues affect law enforcement and justice to tackle a "deep and festering" mistrust in some sectors of the population. Commissioner Al Hussein said he could not comment on whether a grand jury's acquittal of a white police officer in the fatal shooting of an unarmed African-American teenager conformed with international human rights law because he did not have all the details, but stated that he is "nevertheless, [...] deeply concerned at the disproportionate number of young African Americans who die in encounters with police officers, as well as the disproportionate number of African Americans in U.S. prisons and the disproportionate number of African Americans on Death Row."¹⁸⁸

87. The Commission received information from the Government of the United States that Federal law prohibits the use of excessive force by any law enforcement officer against any individual in the United States, including members of racial and ethnic minorities, and undocumented migrants crossing U.S. borders.¹⁸⁹ The State indicated that since 2009 it has intensified its enforcement of these laws. Victims of police brutality may seek legal remedies, such as criminal punishment of the perpetrator or civil damages. The States also indicated that the Department of Justice has successfully prosecuted law enforcement officers and public officials where sufficient evidence indicates that they willfully violated a person's constitutional rights.

¹⁸³ The Washington Post, "What Rudy Giuliani gets wrong about the deaths of young black men," November 24, 2014, available at: <http://www.washingtonpost.com/blogs/the-fix/wp/2014/11/24/what-rudy-giuliani-gets-wrong-about-the-deaths-of-young-black-men/>.

¹⁸⁴ Globo, "Taxa de negros mortos pela polícia de SP é 3 vezes a de brancos, diz estudo" ("Study says rate of killings of Afro-descendants by police in Sao Paulo is three times the rate of killings of white persons"), March 26, 2014, available at: <http://g1.globo.com/sao-paulo/noticia/2014/03/taxa-de-negros-mortos-pela-policia-de-sp-e-3-vezes-de-brancos-diz-estudo.html>.

¹⁸⁵ IACHR, Press Release No. 90/14, "IACHR Expresses Concern over Police Killings of African-American Persons in the United States," August 22, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/090.asp.

¹⁸⁶ The Washington Post, "Justice Department clears Ferguson police officer in civil rights probe," March 4, 2015, available at: http://www.washingtonpost.com/world/national-security/justice-dept-review-finds-pattern-of-racial-bias-among-ferguson-police/2015/03/03/27535390-c1c7-11e4-9271-610273846239_story.html.

¹⁸⁷ ABC News, "FBI Probe Into Eric Garner Death 'Will Take Months,'" December 8, 2014, available at: <http://abcnews.go.com/US/fbi-probe-eric-garner-death-months/story?id=27453847>.

¹⁸⁸ United Nations News Centre, "UN rights chief concerned over 'disproportionate' killings of African-Americans by US police," November 25, 2014, available at: <http://www.un.org/apps/news/story.asp?NewsID=49444>. See also United Nations Office of the High Commissioner for Human Rights, "Zeid urges restraint, and determined effort to root out institutionalized discrimination in wake of U.S. Ferguson verdict," November 25, 2014, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15342&LangID=E>.

¹⁸⁹ See *eg* the Pattern or Practice of Police Misconduct provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14141, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d.

88. The Commission takes note of these efforts and urges the State to intensify them. The Commission underlines that the use of deadly force by police officers requires an investigation carried out with due diligence, in order to ensure clarification of all circumstances and corresponding responsibility. The Commission will continue to monitor actions by the Federal state and local government to prevent and respond to cases such as these.

State Compliance with Recommendations of the Inter-American Commission and Decisions of the Inter-American Court of Human Rights

89. The IACHR calls upon the OAS Member States to intensify their efforts to comply with the Commission's recommendations and with the decisions of the Inter-American Court. As a result of the commitment they have freely undertaken, Member States possess an obligation under international law to comply with the recommendations of the Commission and with the decisions of the Inter-American Court for those States that have accepted its jurisdiction. Such compliance is essential in order to fully guarantee and promote the human rights contained in the many treaties of the inter-American system.

90. The IACHR has already noted the lack of compliance of the Dominican Republic with the recommendations of the Commission, the decisions of the Inter-American Court and with the human rights standards of the inter-American system above. Due to the gravity of that situation, the IACHR reiterates that it is imperative that the Dominican Republic comply with the recommendations of the Commission, the decisions of the Inter-American Court and with the human rights standards of the inter-American system and cease implementing policies and practices that result in discrimination against persons that are descendants or appear to be descendants of Haitians.

91. In addition, several examples of compliance and non-compliance with the Commission's recommendations and with decisions of the Inter-American Court occurred in 2014 with respect to precautionary and provisional measures granted by the Inter-American Commission and Court, the right to truth, and accountability for human rights violations.

92. In 2014, the Commission was made aware of various instances of non-compliance with precautionary and provisional measures granted in exceptional circumstances to guarantee the life and physical integrity of persons deprived of liberty in the Americas. For example, with respect to Brazil, in December 2013 the Commission granted precautionary measures in favor of persons deprived of liberty at the Penitentiary Complex of Pedrinhas and requested the State to, among other things, adopt the necessary measures to ensure the life and physical integrity of the inmates.¹⁹⁰ However, in light of the lack of compliance by the State and additional deaths of inmates,¹⁹¹ in September 2014, the Commission referred the matter to the Inter-American Court and requested that it grant provisional measures in favor of the persons deprived of liberty at this facility; a request granted in November 2014.¹⁹² Similarly, in March 2014, in light of the lack of compliance by the Brazilian state with precautionary measures granted in August 2011 in favor of persons deprived of liberty at Professor Aníbal Bruno Prison,¹⁹³ the Commission also requested the Inter-

¹⁹⁰ See IACHR, Resolution 11/2013, Precautionary Measure 367-13, "Matter of Persons Deprived of Liberty at the Penitentiary Complex of Pedrinhas regarding Brazil," December 16, 2013, para. 15, available at: [http://www.oas.org/en/iachr/decisions/pdf/Resolution11-13\(MC-367-13\).pdf](http://www.oas.org/en/iachr/decisions/pdf/Resolution11-13(MC-367-13).pdf)

¹⁹¹ See e.g. Globo, "Veja a cronologia de fugas, mortes e rebeliões no Complexo de Pedrinhas" ("See the chronology of deaths, escapes and rebellions at Pedrinhas Complex"), September 18, 2014, available at: <http://g1.globo.com/ma/maranhao/noticia/2014/09/veja-cronologia-de-fugas-mortes-e-rebelioes-no-complexo-de-pedrinhas.html>; Conectas Direitos Humanos, "Another 12 dead in Pedrinhas," July 29, 2014, available at: <http://www.conectas.org/en/actions/justice/news/25234-another-12-dead-in-pedrinhas>.

¹⁹² Inter-American Court, Matter of the Penitentiary Complex of Pedrinhas regarding Brazil, Order of Inter-American Court of Human Rights of November 14, 2014, available at: http://www.corteidh.or.cr/docs/medidas/pedrinhas_se_01.pdf (only in Spanish and Portuguese).

¹⁹³ See precautionary measure PM 199/11 (People deprived of their freedom at Professor Aníbal Bruno Prison, Brazil) granted in 2011 at <http://www.oas.org/en/iachr/decisions/precautionary.asp>.

American Court to grant the inmates provisional measures to ensure their lives, personal integrity and health; a request granted by the Court in May 2014.¹⁹⁴ In December 2013 the Commission also granted precautionary measures in favor of the inmates of the Central Penitentiary of Porto Alegre and requested the State to, *inter alia*, take measures to guarantee the lives and well-being of the inmates at this facility.¹⁹⁵

93. The necessity of precautionary and provisional measures to address such issues in Brazil arises from the State's prior lack of compliance with the human rights standards of the inter-American system concerning the protection of persons deprived of liberty. Nevertheless, the Commission is aware that this problem is hardly limited to the Brazilian state. For example, in 2014 the Commission granted precautionary measures in favor of two persons deprived of liberty in Cuba and El Salvador as a result of the lack of compliance of these States with the human rights standards of the inter-American system concerning the detention of persons with disabilities.¹⁹⁶ The IACHR reiterates that States hold a special position as guarantors of the rights of persons deprived of liberty. Consequently, confinement entails a specific and essential commitment of States to ensure the lives and safety of inmates. The duty to ensure means that States must implement the measures needed in order to prevent situations of risk.

94. The Commission also wishes to draw attention to the lack of compliance of the United States with precautionary measures granted in favor of death row inmates. In 2014, the Commission granted precautionary measures in favor of Messrs. Charles Warner, John Winfield, Ramiro Hernández Llanas, and Russell Bucklew, and urged the United States to suspend their execution.¹⁹⁷ The United States did not comply with the precautionary measures granted in favor of Messrs. Warner, Winfield, and Llanas and carried out their executions in 2014 and early 2015.¹⁹⁸ Similarly, in 2014 the State carried out the execution of Mr. Edgard Tamayo Arias who had been a beneficiary of a precautionary measure granted by the Commission in 2012.¹⁹⁹

95. On the other hand, the Commission takes note of positive measures taken by Colombia to comply with precautionary measure PM 374/13 granted in favor of Gustavo Petro, Mayor of the city of Bogotá. The Commission found that the information presented by the requesting party and by the State demonstrated, *prima facie*, a serious and urgent situation involving the political rights of Mr. Petro, elected by popular vote as Mayor of Bogotá and currently in office, as the implementation of the effects of the decision removing him from office and ruling him ineligible to exercise his political rights could render ineffective an

¹⁹⁴ Inter-American Court, Matter of the Penitentiary Complex of Curado regarding Brazil, Order of the Inter-American Court of Human Rights of May 22, 2014 available at: http://www.corteidh.or.cr/docs/medidas/curado_se_01.pdf (only in Spanish and Portuguese).

¹⁹⁵ IACHR, Resolution 14/2013, Precautionary Measure 8-13, "Matter of Persons Deprived of Liberty at the Central Penitentiary of Porto Alegre regarding Brazil," December 30, 2013, para. 16, available at: [http://www.oas.org/en/iachr/decisions/pdf/Resolution14-13\(MC-8-13\).pdf](http://www.oas.org/en/iachr/decisions/pdf/Resolution14-13(MC-8-13).pdf).

¹⁹⁶ See IACHR, Resolution 27/2014, Precautionary Measure 442-12, "William Alberto Pérez Jerez, El Salvador," October 1, 2014, available at: <http://www.oas.org/en/iachr/decisions/precautionary.asp>; IACHR, Resolution 24/2014, Precautionary Measure 307-14, "Matter of Julio César Cano Molina, Cuba," September 10, 2014, available at: <http://www.oas.org/en/iachr/decisions/precautionary.asp>.

¹⁹⁷ See IACHR, Press Release No. 36/14, "IACHR Urges United States to Suspend Execution of Ramiro Hernández Llanas," April 8, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/036.asp; IACHR, Press Release No. 61/2014, "IACHR Urges United States to Suspend Execution of Russell Bucklew and Charles Warner," May 20, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/061.asp; IACHR, Press Release No. 66/14, "IACHR Urges United States to Suspend Execution of John Winfield," June 11, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/066.asp. See also IACHR, Press Release 04/14, "IACHR Urges United States to Suspend Execution of Charles Warner in Oklahoma," January 15, 2015, available at: http://www.oas.org/en/iachr/media_center/PReleases/2015/004.asp.

¹⁹⁸ See IACHR, Press Release No. 37/14, "IACHR Condemns Execution of Ramiro Hernandez Llanas in the United States," April 11, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/037.asp; IACHR, Press Release No. 69/14, "IACHR Condemns Execution of John Winfield in the United States," June 23, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/069.asp; IACHR, Press Release No. 05/15, "IACHR Condemns Execution of Charles Warner in Oklahoma," January 21, 2015, available at: http://www.oas.org/en/iachr/media_center/PReleases/2015/005.asp.

¹⁹⁹ See IACHR, Press Release No. 06/14, "IACHR Condemns Execution of Edgar Tamayo Arias in the United States," January 27, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/006.asp.

eventual decision on the petition presented on his behalf. Accordingly, the Commission requested that the State of Colombia immediately suspend the effects of the decision of December 9, 2013 by the Attorney General's Office, so as to ensure that Mr. Petro could exercise his political rights and complete his term as Mayor of Bogotá, for which he was elected on October 30, 2011, until the IACHR has ruled on the respective individual petition. Ultimately, Gustavo Petro was reinstated in his position by virtue of the decision of the Superior Tribunal of Bogota of April 2014, followed by precautionary measures ordered by the State Council of Colombia in May 2014. In a public statement regarding the matter of Mr. Petro, Luis Ernesto Vargas Silva, President of the Constitutional Court of Colombia, highlighted that precautionary measures of the IACHR are binding and must be complied with. The President of the Constitutional Court added that all rights are equally important and that the jurisprudence of that Court has been consistent regarding the binding nature of IACHR precautionary measures. The Inter-American Commission welcomes the institutional response of Colombia, which has resulted in the effectiveness of its precautionary measures in the case of Gustavo Petro.

96. As noted above, the Commission has also been monitoring the matter of the investigation of and accountability for grave human rights violations in the region during this past year. With many States in the region facing enormous challenges in safeguarding the rights of thousands of victims after periods of dictatorship, internal armed conflict, and situations involving widespread violence, the IACHR presented its report on the Right to Truth in the Americas in late 2014.²⁰⁰ In its report, the Commission noted that a lack of access to information about what had happened was a common pattern in many countries in the region during the military dictatorships and that, in some countries, concealing information was a deliberate policy of the State and even a "tactic of war."²⁰¹ In this context, the report examines States' obligations with regard to the goal of guaranteeing the right to the truth in the face of grave human rights violations. The report refers specifically to the progress made on this front and the challenges that remain in different countries in the region.

97. With respect to the right to truth, the Commission wishes to highlight several positive events that occurred in Member States in 2014. In this regard, the Commission notes the decision issued by the Haitian Court of Appeals in Port-au-Prince on February 20, 2014, in which it ordered the investigation of the serious human rights violations committed under the regime of Jean-Claude Duvalier.²⁰² The Court of Appeals concluded that international law is part of Haitian domestic law and that, therefore, statutes of limitation do not apply to crimes against humanity. The serious and systematic human rights violations committed under the regime of Jean-Claude Duvalier were documented by the Inter-American Commission in its Report on the Situation of Human Rights in Haiti, published in 1979 as well as individual cases and other monitoring. In May 2011, after the return of Jean-Claude Duvalier to Haiti, the IACHR issued a statement on the duty of the Haitian State to investigate those violations and pointed out that the torture, extrajudicial executions and forced disappearances committed during the regime of Jean-Claude Duvalier are crimes against humanity that, as such, are subject neither to a statute of limitations nor to amnesty laws. The Commission has already stated that the decision of the Court of Appeals in Port-au-Prince represents a fundamental step in the strengthening of the rule of law and in restoring confidence in the Haitian justice system.²⁰³ Following this decision, and a hearing held during the IACHR's 150th regular period of sessions, the Commission noted that the lack of access to official files, in some cases held by the Haitian Government

²⁰⁰ IACHR, Press Release No. 143/14, "IACHR presents Report on the Right to Truth in the Americas," November 27, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/143.asp.

²⁰¹ IACHR, Press Release No. 143/14, "IACHR presents Report on the Right to Truth in the Americas," November 27, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/143.asp.

²⁰² After the return of Jean-Claude Duvalier to Haiti in January 2011, a group of victims filed criminal complaints against the former president for life for alleged human rights violations committed under his regime. On January 27, 2012, the investigating judge declared that the statute of limitations had run out for the crimes related to human rights violations and decided that Duvalier would stand trial for the crime of embezzlement of public funds. On appeal, it was ordered that the investigation of human rights violations proceed. In this regard, see IACHR, Press Release No. 24/14, "IACHR Welcomes Decision of the Haitian Court of Appeals to Investigate Serious Human Rights Violations Committed under the Regime of Jean-Claude Duvalier," February 28, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/024.asp.

²⁰³ IACHR, Press Release No. 24/14, "IACHR Welcomes Decision of the Haitian Court of Appeals to Investigate Serious Human Rights Violations Committed under the Regime of Jean-Claude Duvalier," February 28, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/024.asp.

and in others by foreign Governments, is an obstacle for justice in the human rights violations committed under the Duvalier regime and it urged those Governments to open their archives and grant access to all files that might help in the search for justice.²⁰⁴

98. The Commission also wishes to highlight the final report of the Brazilian Truth Commission issued in December 2014. The fight against grave human rights violations and the publication of the Brazilian Truth Commission's findings contribute to the strengthening of the democratic State and provide a voice and hope to victims and their families. Mindful that, in the case of victims of human rights violations and their families, access to the truth about what occurred is one form of reparation, the IACHR recognizes Brazil's contribution and efforts to guaranteeing the right to the truth.

99. Similarly, the Commission wishes to underscore the Argentine State's contribution to promoting the right to truth by handing over the newly discovered records of its military dictatorship to the IACHR. On September 16, 2014, the Minister of Defense of Argentina, Agustin Rossi, presented certain records of the dictatorship which ruled Argentina between 1976 and 1983. These records summarized the contents of the meetings held by the military junta in charge of the Government. These documents have immeasurable historical and legal value. They reflect a policy of seeking the truth, which is inspiring and valuable.

100. Recent reports also indicate that a Truth and Justice Commission may soon be created in Uruguay by the newly elected President, Mr. Tabaré Vázquez.²⁰⁵ The Commission welcomes this announcement and it urges the State of Uruguay to follow through on this proposal with the resources and access to information that will be required.

101. Access to official information is of crucial importance. In a hearing held during the 150th regular period of sessions, the Commission received information regarding the challenges to the work of the Truth Commission of the State of Guerrero, Mexico. According to the information received, the Guerrero Truth Commission, which investigates human rights violations committed during what is known as the Dirty War, has faced obstacles in carrying out its mandate, primarily related to the lack of access to information. The information received in the hearing concerned limitations regarding access to documents considered "classified," as well as to files that have allegedly been hidden or altered.

102. Moreover, while the Commission welcomes developments regarding the promotion of the right to truth by some Member States, it notes that accountability and access to justice for grave human rights violations committed during military dictatorships in the past continue to be a problem. The Commission's report on the Right to Truth in the Americas stresses that amnesty laws that obstruct the investigation of grave human rights violations are absolutely incompatible with human rights principles, regardless of the nature of such laws or when they were adopted. Likewise, in accordance with consolidated jurisprudence of the inter-American system on human rights, the non-applicability of statutes of limitation to crimes against humanity is an imperative norm of international law with which States must comply. It is therefore necessary that, in addition to investigating past human rights violations, States also provide accountability for such violations, which is key to fighting impunity and to promoting and preserving justice.

103. With respect to accountability, the Commission received information that victims still face barriers in accessing justice in various States of the Americas. In Brazil, for instance, an amnesty law continues to be an obstacle for accountability. This not only illustrates a lack of compliance with human rights standards of the inter-American system, but also demonstrates a specific failure to comply with the

²⁰⁴ IACHR, Press Release No. 48/14, "IACHR Calls on Member States to Open their Archives on the Human Rights Violations Committed under the Regime of Jean-Claude Duvalier," May 5, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/048.asp.

²⁰⁵ El País, "Vázquez: Falta información; hay que buscarla porque en algún lado está" ("Vázquez: Information is missing; it is necessary to look for it because it has to be somewhere"), February 13, 2015, available at: <http://www.elpais.com.uy/informacion/vazquez-presento-comision-justicia.html>.

Inter-American Court's decision in the *Case of Gomes Lund et al. v. Brazil*.²⁰⁶ In addition, the lack of incorporation of the criminal offense of forced disappearances into domestic law continues to create obstacles to access justice since it forces authorities to attempt to prosecute such crimes under different offenses which are subject to statutes of limitation under Brazilian law. Not only does this perpetuate impunity through the application of statutes of limitation, but it also fails to accurately reflect the grave human rights violations that occurred during the military dictatorship in that country, denying victims and society the right to truth.

104. Other countries in the region, such as Colombia, have already incorporated the criminal offense of forced disappearances into their domestic legal system, which has led to other positive measures. For example, in Colombia, the National Commission for the Search of Disappeared Persons (CNBD) has been created.²⁰⁷ The IACHR has been informed by the Government of Colombia that any person who believes that someone has been a victim of forced disappearances can access the CNBD through a request filed before any judicial authority without having to wait for the person to be missing for a certain amount of time before filing the request. Furthermore, the IACHR was told that once the mechanism has been activated, public officials have 24 hours to initiate all the necessary measures to find the disappeared person. The IACHR was informed that public officials cannot refuse to undertake the measures requested or ordered on the basis that a person must be missing for a determined period of time in order to legally be considered missing. Moreover, family members of the person that has allegedly been the victim of a forced disappearance can follow the work of CNBD and may even be authorized to participate in the measures carried out whenever their participation does not obstruct the work of CNBD. The IACHR considers such initiatives by the Colombian government to be very positive. Not only has the State recognized the problem of forced disappearances in the region by incorporating the offense into its domestic legal system, but it has also implemented measures that recognize that forced disappearances continue to occur today and that they must be quickly investigated. The Commission urges the state of Colombia to continue to address this issue and find ways to perfect existing mechanisms and to create new mechanisms whenever needed.

105. Along these lines, Guatemala reported on its attempt to create a mechanism to establish the whereabouts of victims of forced disappearances. A bill that would create the National Commission for the Search of Persons, Victims of Forced Disappearances and other Forms of Disappearances has been under Congress's scrutiny for several years.²⁰⁸ The Commission also welcomes this initiative and urges the state of Guatemala to continue to make all efforts necessary to pass this bill.

106. The Commission is also aware of obstacles to access to justice in Chile where the United Nations Human Rights Committee has indicated that, despite advances in the investigation, prosecution and sanction of grave human rights violations committed in the past in Chile, the "gradual statutes of limitation" or "semi statutes of limitation" contained in Article 103 of the Chilean Criminal Code is an obstacle for accountability as it determines the reduction or mitigation of sentences.²⁰⁹ Moreover, the Commission notes that despite the decision of the Salvadoran Supreme Court of Justice of September 26, 2000, and the commitment expressed by El Salvador regarding the repeal of its amnesty law of 1993, the law continues to be in effect and is an obstacle to justice. Also, despite advances by the Salvadoran State in implementing the recommendations of the Commission issued in Case 10.287 (Las Hojas Massacre) and the decision of the Inter-American Court in the Case of El Mozote Massacre, reparations and restitution to victims have yet to be fully effectuated.²¹⁰

²⁰⁶ See generally Inter-American Court, "Case of Gomes Lund et al. ('Guerrilha do Araguaia') v. Brazil," November 24, 2010, available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_219_ing.pdf.

²⁰⁷ Comisión Nacional de Búsqueda de personas Desaparecidas (<http://www.comisiondebusqueda.com/joomlacobpd/>).

²⁰⁸ Comisión Nacional de Búsqueda de Personas, *Víctimas de la Desaparición Forzada y otras Formas de Desaparición*.

²⁰⁹ See United Nations, Human Rights Committee, "Concluding observations on the sixth periodic report of Chile," CCPR/C/CHL/CO/6, August 13, 2014, para. 8, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCHL%2fCO%2f6&Lang=es.

²¹⁰ See United Nations, Committee on the Elimination of Racial Discrimination, "Concluding observations on the combined sixteenth and seventeenth periodic reports of El Salvador," CERD/C/SLV/CO/16-17, September 25, 2014, para. 14, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fSLV%2fCO%2f16-17&Lang=en

107. Furthermore, in May 2014 the Commission also expressed concern over impunity for grave human rights violations committed in the past in Guatemala.²¹¹ The Commission noted that the Constitution of Guatemala itself establishes, in Article 46, the general principle according to which human rights treaties and conventions that have been accepted and ratified by Guatemala take precedence over domestic law. For its part, Article 68 of the American Convention establishes the obligation to comply with the judgments of the Inter-American Court. In May of 2014, the Inter-American Court held a hearing to monitor compliance by Guatemala with eleven judgments (Blake, “Street Children” (Villagran Morales), Bámaca Velásquez, Mack Chang, Maritza Urrutia, Plan de Sánchez Massacre, Molina Thiessen, Carpio Nicolle et al., Tiu Tojín, “Las Dos Erres” Massacre and Chitay cases). The purpose of this hearing, as the Court announced, was to receive updated and detailed information on reparations and the obligation to investigate, establish the facts, prosecute, and punish those responsible. Despite the emblematic nature of these cases and the time passed since the various judgments, the obligation to investigate, prosecute, and punish those responsible has not yet been fulfilled by Guatemala. Moreover, the State has consistently refused to provide updated information on compliance with the recommendations of the IACHR.

108. In May 2014 the IACHR expressed concern with Resolution 03-2014 adopted by Guatemala’s Congress, which, in referring to the prosecution of Efraín Ríos Montt, states that “it is legally not viable that the elements that constitute the crimes mentioned could have happened in Guatemala, principally with regard to the existence in our homeland of a genocide during the internal armed conflict.”²¹² The declaration further observes that the investigation and punishment for the grave human rights violations committed in this context create “conditions contrary to peace” and “prevent definitive national reconciliation.”²¹³ Moreover, the first line of its text explicitly refers to the trial which started in 2013 against retired military officers Efraín Ríos Montt and Mauricio Rodríguez Sánchez, and directly urges the judiciary to render justice “in a way that this justice would produce peace.” It is very troubling that this Resolution makes specific reference to the Ríos Montt genocide trial indicating that the required elements of that crime have not been met in Guatemala and provides indications as to how the judiciary should rule in such cases. The Inter-American Commission considers that a declaration of this nature, in the current context, does not constitute a constructive step, in contrast with the efforts made by various State institutions to investigate and punish grave human rights violations and to fight against impunity and urges the State to respect the principle of separation of powers, an essential condition of judicial independence, and allow justice to take its course without interference.

109. Later in 2014, during the IACHR’s 153rd regular period of sessions, the Commission held a hearing on access to justice and the legacy of the armed conflict in Guatemala where the Commission received additional troubling information regarding the obstacles to access justice in Guatemala. It is of particular concern to the IACHR that there are still outstanding warrants for the arrest of individuals accused of grave crimes committed during the armed conflict. Such is the case with Col. José Antonio Solares, who would have been involved in the Community of Río Negro Massacre and who, despite an arrest warrant against him, remains at large and continues to receive monthly pension payments from the State. The Commission considers it to be imperative that the State take the concrete and critical measures necessary to comply with its fundamental obligations under international law.

110. Also with regards to accountability for human rights violations, the Commission wishes to highlight some positive and negative developments that occurred in 2014 in relation to the use of military jurisdiction. As a positive development, the Commission wishes to highlight the approval by the Mexican Congress of reforms to the Code of Military Justice restricting the scope of military jurisdiction. Under these

²¹¹ See IACHR, Press Release No. 58/14, “IACHR Urges Guatemala to Continue Complying with its International Obligations and Fighting against Impunity,” May 16, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/058.asp.

²¹² See IACHR, Press Release No. 58/14, “IACHR Urges Guatemala to Continue Complying with its International Obligations and Fighting against Impunity,” May 16, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/058.asp.

²¹³ See IACHR, Press Release No. 58/14, “IACHR Urges Guatemala to Continue Complying with its International Obligations and Fighting against Impunity,” May 16, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/058.asp.

reforms, cases involving human rights violations committed by members of the military against civilians will now be tried exclusively by the civilian justice system and not by military courts. The IACHR welcomes this reform as an important step in the protection of fundamental rights in Mexico and in the fulfillment of the State's international human rights obligations, primarily regarding guarantees of the right to truth, justice, and reparation for victims and their family members. Both the Inter-American Commission and Court have established that Mexico must carry out appropriate legislative reforms to the Code of Military Justice to make it compatible with international human rights standards. In its judgments, the Inter-American Court has indicated that "[i]n a democratic State of law, the military criminal jurisdiction shall have a restrictive and exceptional scope and be directed toward the protection of special juridical interests, related to the tasks characteristic of the military forces." The IACHR recognizes the important advance represented in these reforms.

111. On the other hand, the Commission's 2014 visits to Honduras and Chile revealed that their continued application of the military justice system to human rights violations contravened international standards.²¹⁴ In a hearing held during the IACHR's 153rd regular period of sessions, the Commission was also informed of a series of legislative bills that seek to expand the scope of the military jurisdiction that are currently being analyzed in Colombia.

112. The Commission is also concerned with reports of torture in the region and it has already urged States in the region to take decisive action to prevent torture.²¹⁵ The IACHR has specified that an essential aspect of the right to personal integrity is the absolute prohibition of torture, a peremptory norm of international law creating *erga omnes* obligations. According to principles of international law, the right to humane treatment cannot be suspended under any circumstance. International law establishes its non-derogable nature in time of war, public danger or other emergency that threatens the independence or security of the State, without any exceptions. The Commission has considered that this peremptory prohibition of all forms of torture is the corollary of the duty of the State to treat every person deprived of liberty humanely and with respect for his or her dignity.

113. The IACHR has emphasized the need for each State's highest authorities to send a clear message of complete rejection of torture and other cruel, inhuman and degrading treatment, and to ensure that this sort of behavior is eliminated from all security and law enforcement agencies. Additionally, the Commission has called on all members of the OAS to ratify the United Nation's Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and has urged those that have to effectively implement a national mechanism for prevention, assuring that it has enough resources, independence and institutional support to effectively fulfill its duties. It is of the utmost importance that States in the region strengthen their work with regional and international mechanisms to prevent torture and to implement the orders and recommendations issued by supervisory bodies with a view to consolidating the national systems for protection. At the same time, the Commission wishes to commend those States that have ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and have already implemented national mechanisms for prevention.

114. With regard to torture, the Commission is particularly concerned by the practices and policies adopted by the Central Intelligence Agency (CIA) of the United States during the interrogation of suspected terrorists. For many years the Commission has closely followed the situation of detainees at Guantanamo Bay. Recently, on October 9, 2014, the United States Senate Intelligence Committee issued a report on the program carried out by the CIA to detain and interrogate persons suspected of terrorist acts

²¹⁴ IACHR, Press Release No. 150/14, "IACHR Concludes Visit to Chile," December 11, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/150.asp; IACHR, Press Release No. 146/14, "IACHR Wraps Up Onsite Visit to Honduras," December 5, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/146.asp.

²¹⁵ IACHR, Press Release No. 71/14, "IACHR Urges States to Take Decisive Actions to Prevent Torture," June 26, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/071.asp.

after the attacks of September 11, 2001.²¹⁶ Senate Intelligence Committee Chairperson Dianne Feinstein issued a statement in which she expressed that “CIA personnel, aided by two outside contractors, decided to initiate a program of indefinite secret detention and the use of brutal interrogation in violation of U.S. law, treaty obligations and our values.”²¹⁷

115. On the occasion of the release of the Senate Intelligence Committee Report, the Inter-American Commission reiterated its calls on the United States to carry out a full investigation in order to clarify the facts, and prosecute and punish all persons within its jurisdiction responsible for acts of torture or other cruel, inhuman or degrading treatment or punishment; and to provide integral reparations to the victims, including restitution, compensation, rehabilitation, satisfaction and measures of non-repetition, pursuant to international standards.²¹⁸ The Commission remains deeply concerned by the absence of any accountability on the part of State agents who perpetrated or acquiesced in this torture.

Migrants

116. The Commission has closely monitored the situation of migrants in the Americas during 2014 and is deeply concerned with the many human rights violations that have been committed against them. In the context of regional migration, the Commission has been particularly concerned with human rights violations committed against children and adolescents in recent years and 2014 was no exception. The effect of the citizen insecurity situation on the migration or forced displacement of children, adolescents and youth is particularly worrisome to the Commission and it urges States to redouble their efforts to tackle the root causes of violence and insecurity and to promote policies that enable social inclusion and overcoming the underlying profound inequities and lack of equal opportunities for youth. These are the situations that contribute to the problem and force thousands of adolescents and children to migrate.²¹⁹

²¹⁶ Senate Select Committee on Intelligence, “Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program,” approved December 13, 2012, updated for Release April 3, 2014, Declassification Revisions December 3, 2014 (“Senate Report on CIA”), available at: <http://www.intelligence.senate.gov/study2014/sscistudy1.pdf>.

²¹⁷ Senate Report on CIA, Foreword, p. 2.

²¹⁸ IACHR, Press Release No. 152/14, “IACHR Calls on the United States to Investigate and Punish Acts of Torture Established in the Senate Intelligence Committee Report,” December 12, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/152.asp.

²¹⁹ In recent years, the IACHR, through its various mechanisms, has documented with concern the increasing number of persons, including children, fleeing various forms of violence in countries of the Northern Triangle of Central America – El Salvador, Guatemala and Honduras – and Mexico. This violence, along with other factors, such as poverty, discrimination, and inequality, has led to the current state of humanitarian crises in the region. Some of the most dramatic spikes seen yet in the number of arrivals of unaccompanied children and families to the United States occurred between October 1, 2013 and September 30, 2014 (“U.S. fiscal year 2014”). According to official data, during U.S. fiscal year 2014, the U.S. Border Patrol apprehended a total of 68,541 unaccompanied children and 68,445 families, which represented a 77% increase in the number of arrivals of unaccompanied children and a 361% increase in families over fiscal year 2013. The majority of the arrivals of unaccompanied children and families were to the U.S. southwest border and particularly to the Rio Grande Valley of the state of Texas. A recent report released by UNHCR, entitled *Children on the Run*, found that of children surveyed from Mexico and Central America who were in an irregular migratory situation in the United States, 58% indicated that they were “forcibly displaced” due to: violence by organized armed criminal actors, including drug cartels and gangs; domestic abuse; and in the case of Mexico, forced recruitment into human smuggling networks. In addition, the Commission notes that the level of violence in the region is not only having an impact on international migration. In a public hearing held during the IACHR’s 153rd Period of Regular Sessions, UN Special Rapporteur Chaloka Beyani stated that, at the end of 2013, there were more than 6 million displaced persons in the countries of the Americas as a result of armed conflict, criminal violence, and human rights violations. Many of the internally displaced end up in urban areas, where they remain at risk of being found by the same criminal organizations that forced them into displacement. Moreover, they face multiple obstacles and forms of discrimination when they try to access education, health, and employment. At the hearing the Special Rapporteur called on the States of the Americas to consider the experience of other regions and develop a binding regional instrument for the protection of the human rights of internally displaced persons. In its report on Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico, the Commission describes the situation of internally displaced persons in Mexico and notes that the context of violence has meant that more and more people have been forced to uproot themselves within the country. The lack of official information as to how extensive internal displacement may be shows how invisible the problem is. Nongovernmental organizations have estimated that there are more than 160,000 internally displaced persons in Mexico. See IACHR, 153rd Period of Regular Sessions, Public hearing on the Human Rights Situation of Refugees and Asylum Seekers in the Americas: 30th Anniversary of the Cartagena Declaration Situation of Human Rights of Migrant Children, Families and Refugees in the Americas, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>; IACHR, Press Release No. 88/14, “IACHR Publishes Report: ‘Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,’” August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp; IACHR, Press Release No. 67/14, “: IACHR

117. During the 153rd regular period of sessions of the IACHR, public hearings were held concerning the human rights situation of migrant and refugee children and families in the United States and in the Americas.²²⁰ These hearings followed the Commission's visit to the U.S. southern border as part of its ongoing efforts to monitor and report on the human rights situation of migrant and refugee children and families in the United States.

118. In these hearings, the Commission received further information on the practice of the United States of detaining children with their mothers; the lack of qualified, properly trained staff to attend to these families in U.S. immigrant detention centers; violations of the right of migrant children and families to request and receive asylum; and expedited deportation proceedings, in many cases, without the deportees having had access to legal representation.²²¹ The Commission also received information regarding the humanitarian crisis and the lack of a State institutional framework, effective policies, and inter-institutional coordination of preventive measures conducive to the holistic protection of children and adolescents.

119. During another hearing held during the 153rd regular period of sessions on Migrant Detention and Alternative Measures in the Americas, which was requested by more than 160 civil society organizations, and also included the participation of the UNHCR, the Commission received troubling information regarding the issue of immigrant detention.²²² At the hearing, the Commission received troubling information from civil society organizations pointing to a disturbing increase in automatic, widespread detention in some countries in the region; the punitive nature of this type of deprivation of liberty; and the lack of guarantees for due process and judicial review in cases involving migrant detentions. Another matter of concern, they said, involves a lack of transparency and an absence of monitoring of detention centers by civil society or by government or international human rights agencies, which often leads to migrants being subject to inhumane conditions or abuse during their detention, which can last months or even years. Besides the impact on personal liberty, petitioners stressed the negative impact of migrant detention on the safety of those detained, particularly those in vulnerable situations such as children, families, victims of human trafficking, asylum seekers, refugees, and stateless persons.

120. Following a visit to the United States southern border, the Commission expressed concern over the use of a widespread regime of immigration detention as a vast majority of families are being automatically detained under the custody of Immigration and Customs Enforcement.²²³ The Commission noted with concern that there is no substantive difference or criteria used to determine the families that will be released on bond or on recognizance to a sponsor other than the capacity of the family immigration

Expresses Deep Concern on the Situation of Children Migrants Arriving to the United States," June 20, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/067.asp; IACHR, Press Release No. 84/14, "IACHR Calls on States to Implement Social Inclusion Policies for Youth," August 13, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/084.asp; IACHR, 153rd Period of Regular Sessions, Public hearing on the Human Rights Situation of Refugees and Asylum Seekers in the Americas: 30th Anniversary of the Cartagena Declaration Situation of Human Rights of Migrant Children, Families and Refugees in the Americas, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>. Information on the impact of organized crime and armed group on the displacement of populations in the region of the Americas and its sub-regions, as well as in countries of the region, can also be found on the website of the United Nations High Commissioner for Refugees (UNHCR). See e.g. UNHCR, "2015 UNHCR regional operations profile - Americas," available at: <http://www.unhcr.org/pages/4a02da6e6.html>; UNHCR, "2015 UNHCR subregional operations profile - Latin America," available at: <http://www.unhcr.org/pages/49e45be46.html>.

²²⁰ See IACHR, 153rd Period of Regular Sessions, Human Rights Situation of Migrant and Refugee Children and Families in the United States; and IACHR, 153rd Period of Regular Sessions, Situation of Human Rights of Migrant Children, Families and Refugees in the Americas, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

²²¹ See IACHR, 153rd Period of Regular Sessions, Human Rights Situation of Migrant and Refugee Children and Families in the United States, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>

²²² See IACHR, 153rd Period of Sessions, Public hearing on Migrant Detention and Alternative Measures in the Americas, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

²²³ IACHR, Press Release No. 110/14, "IACHR Wraps Up Visit to the United States of America," October 2, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/110.asp.

detention centers to accommodate new families.²²⁴ The IACHR expressed regret that the United States plans to expand its detention facilities and detainee capacity by 2,400 additional beds in the new facility being constructed in Dilley, Texas.²²⁵ The Commission is also deeply concerned about other aspects of immigrant detention in the United States. In this regard, the Commission has observed with concern that families who are detained following their processing at a border station or a port of entry are generally maintained in detention for the duration of their immigration proceedings, even where a positive credible fear determination has been made by an asylum official. The Commission understands that families are regularly being denied bond or the bond amount is set extremely high, to amounts of \$15,000 or more, such that those who may qualify to leave are unable to do so. Another major concern is that of access to legal representation and information on U.S. immigration proceedings. The Commission notes that there is a shortage of lawyers who are willing and able to provide legal representation at low or no cost to the families detained, and likewise notes the difficulties expressed by organizations and individual attorneys who represent detained families in entering the center and being able to bring in with them tools such as phones and computers in order to work more efficiently on cases. Another of the Commission's principal concerns regarding families is that of the conditions of the detention, and how the fact of being detained may aggravate the consequences of violence or trauma from which many are fleeing, and generate further trauma for the detained families.²²⁶

121. The IACHR has also noted concerns with regard to the use of immigrant detention in Mexico and it has received troubling information from UNHCR that in several Caribbean countries, irregular migrants, including asylum-seekers, remain in detention for prolonged and even indefinite periods of time. According to UNHCR, the majority of these States have no formal arrangements to address the situation of detained persons with specific protection needs, or to refer them to the competent authorities or to UNHCR.²²⁷

122. The Commission has also received troubling information from Human Rights Watch (HRW) detailing how policies in the United States aimed at deterring migration through criminal prosecutions for some federal immigration crimes have been raising serious human rights concerns.²²⁸ According to HRW, illegal entry, the misdemeanor of entering the country without authorization, and illegal reentry, the felony of reentering the country after deportation, are now the most prosecuted federal crimes in the United States, and disproportionately affect noncitizens seeking to rejoin their families in the United States after a prior deportation. The Commission considers the criminalization of immigration violations to be of great concern.

123. International human rights law regards the deprivation of liberty as an exceptional measure. In the criminal context, it may be imposed following an individualized assessment of the need, with due regard for alternatives, when necessary. In the immigration context, the standard of exceptionality must be even higher, as immigration violations are not or should not be criminal, but administrative in nature. As the Commission has consistently indicated, the principle of exceptionality governing the deprivation of liberty in the immigration context "carries even more weight when children are involved. Only in the most extreme cases could such a measure be justified."²²⁹ Child migrants must, first and foremost, be considered children

²²⁴ IACHR, Press Release No. 110/14, "IACHR Wraps Up Visit to the United States of America," October 2, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/110.asp.

²²⁵ IACHR, Press Release No. 110/14, "IACHR Wraps Up Visit to the United States of America," October 2, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/110.asp.

²²⁶ See IACHR, Press Release No. 110/14, "IACHR Wraps Up Visit to the United States of America," October 2, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/110.asp.

²²⁷ The IACHR report on Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico found that the moment Mexican authorities come into contact with a migrant, asylum seeker, refugee, or other person in need of international protection, immigration detention is the rule rather than the exception. In this regard, see IACHR, Press Release No. 88/14, "IACHR Publishes Report: 'Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,'" August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp.

²²⁸ In this regard, see Human Rights Watch, "Turning Migrants Into Criminals: The Harmful Impact Of US Border Prosecutions," May 22, 2013, available at: <http://www.hrw.org/reports/2013/05/22/turning-migrants-criminals-0>.

²²⁹ IACHR, "Report on Immigration in the United States: Detention and Due Process," OEA/Ser.L/V/II., Doc. 78/10, December 30, 2010, para. 51, available at: <https://www.oas.org/en/iachr/migrants/docs/pdf/Migrants2011.pdf>.

and require special protection, as recognized in international human rights law. Child migrants find themselves in situations that gravely endanger their basic rights, such as their right to life and humane treatment, as they are often victims of abuse and exploitation throughout the entire journey. Under international standards, measures other than detention must be adopted in the best interests of migrant children, with full respect for all their human rights, including the right to seek asylum or refuge. Finally, the Commission has also indicated that States have an obligation to ensure that places where migrant persons are detained are monitored independently, so as to prevent other human rights violations.

124. In light of the foregoing, the Commission strongly recommends that all States in the region cease the detention of migrants as a general policy and that they only apply such a harsh measure after assessing each case individually and determining that there is indeed a need to deprive that person of his or her liberty. Detention is a disproportionate measure in many, if not most cases, and programs that emphasize alternatives to detention provide a more balanced way for States to ensure compliance with immigration laws. In the exceptional event that detention is justified, it must be carried out in conditions that are civil and non-punitive in nature.

125. During the hearing on the Situation of Human Rights of Migrant Children, Families and Refugees in the Americas, the Commission was also informed of the negative effects of criminalization and a militarized response to migration.²³⁰

126. In Mexico, in April 2014, an attack was allegedly carried out by State agents against 300 migrant persons who were subsequently detained in the Mexican state of Tabasco.²³¹ It was reported that attacks were also carried out against Friar Tomás González, Friar Aurelio Montero, and Rubén Figueroa, defenders of migrants' human rights and beneficiaries of Precautionary Measures 273/11, granted by the IACHR on April 19, 2013.²³² According to the information available, during an immigration control operation, a large number of migrants were struck and insulted by State agents. Human rights organizations reported that they had a difficult time gaining access to the holding center where the migrants were detained.²³³ Along these lines, the IACHR's report on Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico took into account concrete, consistent indications that many of the serious violations of migrants' rights in Mexico occur in a context of abuse of authority by State agents who belong to the National Institute of Migration or the various police forces.²³⁴

127. Militarized response to migration has also resulted in deaths of migrants in the United States. From January 2010 to February 2014, at least 28 persons have reportedly died in incidents with agents of the U.S. Customs and Border Protection Agency of the United States of America (CBP).²³⁵ As reported by human rights organizations, of these incidents, 27 persons have died as a result of the use of lethal force and one person died after not receiving medical attention.²³⁶ Most of these deaths have occurred in confrontations between migrants and U.S. officials responsible for immigration control on the border

²³⁰ See IACHR, 153rd Period of Regular Sessions, Situation of Human Rights of Migrant Children, Families and Refugees in the Americas, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

²³¹ See IACHR, Press Release No. 54/14, "IACHR Expresses Concern over Attacks on Migrants and Human Rights Defenders by State Agents in Mexico," May 12, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/054.asp.

²³² See IACHR, Press Release No. 54/14, "IACHR Expresses Concern over Attacks on Migrants and Human Rights Defenders by State Agents in Mexico," May 12, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/054.asp.

²³³ See IACHR, Press Release No. 54/14, "IACHR Expresses Concern over Attacks on Migrants and Human Rights Defenders by State Agents in Mexico," May 12, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/054.asp.

²³⁴ IACHR, Press Release No. 88/14, "IACHR Publishes Report: 'Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,'" August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp.

²³⁵ See IACHR, Press Release No. 18/14, "The IACHR Expresses Deep Concern Over the Deaths of Migrants Caused by the U.S. Border Patrol," February 24, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/018.asp.

²³⁶ See IACHR, Press Release No. 18/14, "The IACHR Expresses Deep Concern Over the Deaths of Migrants Caused by the U.S. Border Patrol," February 24, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/018.asp.

between the United States of America and Mexico.²³⁷ According to the monitoring of human rights organizations, nine persons who were killed were accused of throwing rocks towards state agents, who then responded with the use of lethal force.²³⁸

128. In the view of the Commission, direct cooperation to address the causes of migration rather than deterrence measures, and the adoption of measures to facilitate regular migration, especially in cases of family reunification, are needed to reduce the risks to which migrants are exposed and to fully guarantee their human rights. Indeed, in December 2014, the U.N. Special Rapporteur on the human rights of migrants, Mr. François Crépeau, the Chair of the U.N. Committee on the Protection of the Rights of Migrant Workers and Members of Their Families, Mr. Francisco Carrión Mena, the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants of the African Commission on Human and Peoples' Rights, Ms. Maya Sahli Fadel, and the Rapporteur on the Rights of Migrants of the Inter-American Commission on Human Rights, Mr. Felipe González Morales called upon the need for open, safe and regular migration channels for the more than 232 million migrants throughout the world, 20 percent of whom are estimated to be in an irregular situation.²³⁹ These experts stressed that a lack of reasonable avenues for regular migration often leads migrants to sacrifice their dignity, safety and even their lives while seeking to reach their destination.

129. Furthermore, Ms. Maya Sahli Fadel stated that the overall effect of restrictive State immigration policies has been to put migrants at greater risk and render them more vulnerable to human rights abuses and violations.²⁴⁰ Mr. Francisco Carrión Mena stated that “[c]riminalizing people for crossing or attempting to cross borders does nothing to tackle the causes of irregular migration, but contributes instead to rising intolerance, xenophobia and the social exclusion of migrants.”²⁴¹

130. Restrictive immigration policies also influence the path taken by many migrants, which are often perilous. In 2014, the IACHR published a report titled “Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,” which addresses the situation of migrant persons and others in the context of the movement of people in Mexico, as well as the situation of those who defend migrants’ human rights. This report discusses cases involving abuses and crimes committed against migrants by drug trafficking organizations and organized crime. These include massacres of dozens of migrant persons, massive abductions of migrants in transit through Mexico and acts of sexual violence against migrants.²⁴² The report includes personal testimonies of survivors of these situations, as well as of people whose relatives disappeared *en route* to the United States and the various hurdles they face as they try to find their loved ones.²⁴³

131. The increase in criminal violence in recent years in Mexico has had a particular impact on people in transit, who are in a vulnerable situation and are victimized. This has posed very complex challenges for the Mexican State and the situation calls for the State to take every measure necessary to safeguard the security of persons within its jurisdiction. The lack of a citizen security policy specifically

²³⁷ See IACHR, Press Release No. 18/14, “The IACHR Expresses Deep Concern Over the Deaths of Migrants Caused by the U.S. Border Patrol,” February 24, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/018.asp.

²³⁸ See IACHR, Press Release No. 18/14, “The IACHR Expresses Deep Concern Over the Deaths of Migrants Caused by the U.S. Border Patrol,” February 24, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/018.asp.

²³⁹ See IACHR, Press Release No. 155/14, “Open, Safe and Regular Migration Channels Crucial to Stop Human Rights Violations against Migrants,” December 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/155.asp.

²⁴⁰ See IACHR, Press Release No. 155/14, “Open, Safe and Regular Migration Channels Crucial to Stop Human Rights Violations against Migrants,” December 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/155.asp.

²⁴¹ See IACHR, Press Release No. 155/14, “Open, Safe and Regular Migration Channels Crucial to Stop Human Rights Violations against Migrants,” December 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/155.asp.

²⁴² IACHR, Press Release No. 88/14, “IACHR Publishes Report: ‘Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,’” August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp.

²⁴³ IACHR, Press Release No. 88/14, “IACHR Publishes Report: ‘Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,’” August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp.

geared to preventing, protecting, and prosecuting crimes committed against migrants is a serious problem that must be urgently addressed.²⁴⁴

132. At the same time, the Commission recognizes that the Mexican State has made important legislative advances in the area of human rights of migrants. In this regard, the Commission draws attention to a 2008 decree that decriminalized undocumented persons' entry into Mexican territory, as well as the General Population Act of 2010, under which human rights complaints or claims seeking justice must be addressed, regardless of the immigration status of the person filing them. Along these lines, the Commission also recognizes the importance of the 2011 Law on Refugees and Additional Protection and the 2011 Immigration Act, as well as the National Registry of Missing or Disappeared Persons Act and the 2012 General Law to Prevent, Punish, and Eradicate Crimes Associated with Human Trafficking and for Protection and Assistance to the Victims of These Crimes.²⁴⁵ The IACHR also appreciates the statements made by representatives of Mexico on the need to break the existing dichotomy between the human rights protection that Mexico seeks for Mexican migrants abroad and the protection that Mexican authorities provide to migrants from other countries who are either living in or are in transit through Mexico.²⁴⁶

133. Deterrent migration policies adopted by States in the region are also contributing to the death of migrants who are forced to travel through more perilous routes in order to reach their destination. In this regard, the Commission notes the increase of maritime incidents involving boats carrying migrants in the Caribbean Sea during 2013.²⁴⁷ These tragic incidents have caused the deaths and disappearances of many migrants. The victims of these incidents, which include men, women and children, are mostly migrants from Haiti, Cuba, Dominican Republic and other countries of the Caribbean and South America. UNHCR has indicated that, in 2014, the Caribbean Protection Unit recorded a total of 152 maritime incidents in the Caribbean involving at least 5,215 persons originating from at least 10 countries. The top three nationalities represented were Haitian (at least 3,076 persons), Cuban (at least 1,395 persons) and Dominican (at least 395 persons). In total, 25 persons were reported deceased and 48 persons were reported missing at sea. These numbers reflect an 11% increase in reported interdictions in the Caribbean since 2013, when at least 4,680 persons were identified, and may be even higher.²⁴⁸ Asylum seekers who have shared their experiences with UNHCR reported that, after having paid large sums of money for passage, they were left to flounder in small boats at sea or landed on uninhabited islands or were otherwise confronted with violence and threats to life.

134. Ms. Maya Sahli Fadel, Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants of the African Commission on Human and Peoples' Rights has stated that "[a]lthough ... focus ... has been on the Mediterranean, thousands also die every year trying to navigate the Caribbean Seas or the Indian Ocean, or cross the deserts and rivers of the Americas."²⁴⁹ Given the mixed migration flows that are evident in the region and in order to respond appropriately to the increasing number of people fleeing their home countries by sea as a result of various forms of violence or in search of better living conditions, the Commission calls upon all States that carry out operations of search, rescue and interception of migrants at sea to establish appropriate measures to identify persons who may be refugees or who, due to their

²⁴⁴ IACHR, Press Release No. 88/14, "IACHR Publishes Report: 'Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,'" August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp.

²⁴⁵ IACHR, Press Release No. 88/14, "IACHR Publishes Report: 'Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,'" August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp.

²⁴⁶ IACHR, Press Release No. 88/14, "IACHR Publishes Report: 'Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,'" August 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/088.asp.

²⁴⁷ IACHR, Press Release No. 55/14, "IACHR Expresses Deep Concern over Deaths and Disappearances of Migrants in Shipwrecks in the Caribbean Sea," May 14, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/055.asp.

²⁴⁸ According to UNHCR, the maritime monitoring conducted by UNHCR's Caribbean Protection Unit is based on publicly available information and is subject to severe underreporting. In the absence of a comprehensive data collection system, the actual dimensions of the problem are likely to be even higher than suggested.

²⁴⁹ See IACHR, Press Release No. 155/14, "Open, Safe and Regular Migration Channels Crucial to Stop Human Rights Violations against Migrants," December 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/155.asp.

vulnerable condition, may have special protection needs, such as migrant children. The IACHR also urges States to establish mechanisms at national and regional levels to allow for the prompt identification of migrants aboard these vessels, including the identification of the remains of those who died, as well as to inform their families about their status and whereabouts.

135. The Commission has also received information regarding the dangers of land migration routes in the border region of Chile and Peru. According to the Chilean government, antipersonnel landmines buried in places such as non-authorized locations, such as migration routes or irregular entry points, have injured or killed people who have tried to enter the country in an irregular manner. However, the government of Chile has reported that, after each incident, it orders an investigation to determine the cause of the event and the immigration status of the persons injured, who are taken to a hospital. In addition, the Commission has been informed that Chile is currently conducting a national demining program, through which it had eliminated, by 2014, about 85,000 of the 181,814 units that were planted along its borders during the years 1973 and 1990, and thus prevent further accidents at the border. The Commission considers the demining program to be crucial in eliminating the risks the mines pose to migrants and it commends the State for such efforts. However, in light of the large amount of mines that are still buried in non-authorized locations, the Commission urges the State to intensify these efforts to fully guarantee the life and physical integrity of migrants.

136. In addition, through its monitoring in the region, the Commission has observed that, in recent years, in addition to the traditional forms of persecution and situations, such as armed conflicts, generalized violence, violations of human rights, new situations, such as violence caused by organized crime, natural disasters or those caused by humans, large-scale development projects or violence based on gender identity or sexual orientation are also forcing thousands of persons to flee their countries. According to figures of the United Nations High Commissioner for Refugees, at the end of 2013, there were 514,796 refugees, 291,164 persons in refugee-like situations and 130,299 asylum-seekers in the Americas.²⁵⁰ According to UNHCR, persons in refugee-like situations include groups of persons who are outside their country or territory of origin and who face protection risks similar to those of refugees, but for whom refugee status has, for practical or other reasons, not been ascertained.²⁵¹ These forms of persecution and violence have brought about mixed migratory flows in the region, including persons from outside the Americas. Many of these persons require international protection. The dynamics of forced migration require an approach that guarantees the international protection of the human rights of the persons who are fleeing situations of risk.

137. Despite the need for added protection, the Commission has noticed a decline in the rates of recognition of refugee status in some countries of the region. The Commission has also noticed that there are still countries in the region that have not adopted norms and procedures that ensure the effective enjoyment of the right to seek and receive asylum or the principle of *non-refoulement*. Other challenges that the IACHR has identified relate to the fact that some countries of the region lack qualified persons to manage the refugee status determination process, especially in the case of children and adolescents, tight deadlines to apply for the recognition of refugee status, and undue delays in resolving claims.

138. The Commission has received information that this situation in the countries of the Caribbean region is particularly troubling. According to UNHCR, the states and territories in the Caribbean are source, destination and transit countries for tens of thousands of migrants each year. The region also produces refugees and is a transit gateway for refugees and asylum-seekers trying to reach North America

²⁵⁰ See IACHR, Press Release No. 68/14, "World Refugee Day: IACHR Emphasizes the Importance of the Right to Seek and Receive Asylum," June 20, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/068.asp. See also IACHR, 153rd Period of Regular Sessions, Public hearing on the Human Rights Situation of Refugees and Asylum Seekers in the Americas: 30th Anniversary of the Cartagena Declaration Situation of Human Rights of Migrant Children, Families and Refugees in the Americas, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

²⁵¹ See IACHR, Press Release No. 68/14, "World Refugee Day: IACHR Emphasizes the Importance of the Right to Seek and Receive Asylum," June 20, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/068.asp. See also IACHR, 153rd Period of Regular Sessions, Public hearing on the Human Rights Situation of Refugees and Asylum Seekers in the Americas: 30th Anniversary of the Cartagena Declaration Situation of Human Rights of Migrant Children, Families and Refugees in the Americas, audio and video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/153/default.asp>.

within larger groups of migrants by land, air and sea (often through smuggling networks). In addition to the asylum applications lodged by persons originating from within the region of the Americas, the number of persons coming from other regions in the world, in particular from North Africa and the Middle East, is clearly on the rise. In 2014, a total of 363 new asylum-seekers were registered in the region.

139. According to UNHCR, the largest number of asylum-seekers was registered in Trinidad and Tobago, where 184 persons applied for asylum in 2014. This represents a 27% increase compared to the number of new arrivals registered in 2013 regionally and a 195% increase in the number of new arrivals in Trinidad and Tobago in 2013. The growing number of arrivals is reportedly placing a strain on the limited resources and capacities available.

140. Despite the increased migration in the Caribbean region, the region is characterized by the absence of a legislative or policy framework for the protection of refugees and stateless persons. There is also a scarcity of adequate reception mechanisms to respond to the specific needs of (unaccompanied) children, women-at-risk, older persons or persons with health problems or disabilities. The IACHR stresses the importance of the right to seek and receive asylum and the principle of *non-refoulement* as human rights that the States of the region must ensure for those persons who have been forced to flee persecution and violence.

141. UNHCR has also indicated several positive developments and good practices in the Caribbean region. According to the information received, all but four Caribbean states have signed the 1951 Convention and all but five have signed the 1967 Convention. Belize, the Dominican Republic and The Cayman Islands have adopted enabling legislation. In addition, Jamaica and Trinidad and Tobago have adopted a specific and comprehensive refugee policy. The Bahamas, Belize, the Dominican Republic and Jamaica have established and/or reactivated national mechanisms to determine refugee status and Trinidad and Tobago is in the process of developing refugee status determination procedures and setting up an Inter-ministerial Eligibility Commission.

142. Another positive development in the region has been the measures taken by Brazil and Uruguay to provide a humanitarian response to the crisis experienced by refugees from the conflict in Syria. According to the United Nations High Commissioner for Refugees, as a result of the war in Syria, 6.5 million people have been forcibly displaced internally and more than 3 million have fled the country, creating the largest population of refugees worldwide. According to publicly available information, Uruguay has committed to receiving 120 Syrian refugees and on October 9, 2014, then President of Uruguay José Mujica led the government delegation that received the first group of Syrian refugees, which comprised 42 people from five families, including 33 children. Uruguay was the first Latin American country to carry out a program of resettlement of Syrian refugees since the war began in Syria and the Commission commends the country for this initiative. For its part, the Brazilian government has planned to grant humanitarian visas for people who have been forcibly displaced by the armed conflict in Syria. According to official data, as of July 2014, the Brazilian consulates in the Middle-East had granted 4,189 humanitarian visas and during the past two years, Brazil has recognized as refugees 1,512 people from Syria.²⁵²

143. The IACHR also notes that countries from Latin America and the Caribbean met in Brasília, Brazil, in December 2014, on the occasion of the 30th anniversary of the Cartagena Declaration on Refugees, to discuss collaborative efforts to maintain the highest standards of protection for refugees and internally displaced persons at the regional and international level and to implement solutions to the problem of statelessness in the region. Their commitment to these goals was registered in the Brazil Declaration (A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean) and in its Plan of Action (A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity).²⁵³

²⁵² See IACHR, Press Release No. 126/14, "IACHR Welcomes the Measures Taken by Uruguay and Brazil for the Protection of Syrian Refugees," October 24, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/126.asp.

²⁵³ Both documents can be found at <http://www.refworld.org/docid/5487065b4.html>.

144. The Brazil Declaration and its Plan of Action recognize the new realities in Latin America and the Caribbean which force persons to flee situations of risk or persecution in search of protection. As a response, States have developed new strategies to expand local integration opportunities, resettlement, voluntary repatriation and regional programs for migrant workers. States have also committed to the eradication of statelessness in the region by 2024. The IACHR calls on the Member States of the OAS to implement the plan of action in a manner that will have a positive impact on effectively guaranteeing the human rights of asylum seekers, refugees, internally displaced and stateless persons. Similarly, it urges States to establish, at the national level, mechanisms to evaluate and follow through with the implementation of the Plan of Action.

145. The full and proper integration of asylum seekers and refugees in countries of asylum is also a challenge for the protection of the human rights of these persons. The right to work is not always a reality due to the existence of patterns of discrimination and xenophobia affecting these people. Asylum seekers and refugees may also encounter many difficulties when attempting to assert their economic, social and cultural rights, such as access to public education and to health services or the right to decent and adequate housing. These situations must be corrected in order to truly recognize as subjects of human rights those persons who are in greatest need of protection, namely asylum seekers and refugees.

146. In this regard, the Commission also applauds the measures taken by Brazil and Uruguay to integrate refugees into their societies. For example, the Uruguayan government has adopted a series of measures in order for the Syrian refugees to receive housing, medical care, Spanish lessons, an introduction to the culture and customs of Uruguay, and job training. Also, families will have a technical support team during their first two years in Uruguay, including at least one social worker and a psychologist. Furthermore, in anticipation of the integration of girls and boys into the Uruguayan educational system, teachers, students and parents were given prior information about cultural diversity, language differences and lifestyles.²⁵⁴ In Brazil, it has been reported that migrants who live in extreme poverty in the city of Sao Paulo will be included in the “Bolsa Família,” a conditional cash transfer program that provides 77 Brazilian reais, roughly 27 U.S. dollars, per month to participants.²⁵⁵ It is estimated that this measure will positively affect between 15 and 50 thousand migrants and it is expected to be applied nationwide in the future.²⁵⁶ The Commission welcomes Brazil’s Ministry of Social Development’s interpretation of the country’s Foreigner’s Statute which recognizes that migrants have the same rights afforded to Brazilians by law and under the country’s constitution.²⁵⁷

147. Finally, the Commission calls on States in the region to implement measures that will normalize the immigration status of irregular migrants in order for them to fully exercise their civil, political, economic, social and cultural rights. Migrants’ contributions to development in their host countries frequently comes at a human cost, especially for those in an irregular situation who are often constrained by circumstances to perform tasks at whatever financial, physical or even psychological cost.²⁵⁸

²⁵⁴ See IACHR, Press Release No. 126/14, “IACHR Welcomes the Measures Taken by Uruguay and Brazil for the Protection of Syrian Refugees,” October 24, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/126.asp.

²⁵⁵ O Globo, “Prefeitura de São Paulo inclui estrangeiros no programa Bolsa Família” (“The city of Sao Paulo includes foreigners in the ‘Bolsa Família’ program”), December 4, 2014, available at: <http://oglobo.globo.com/brasil/prefeitura-de-sao-paulo-inclui-estrangeiros-no-programa-bolsa-familia-14733605>. The importance of the “Bolsa Família” program in reducing extreme poverty in Brazil has been recognized by several international organizations such as the World Bank and the United Nations and it has influenced or led to similar programs being adopted elsewhere in the world. See e.g. World Bank, “Bolsa Família: Brazil’s Quiet Revolution,” November 4, 2014, available at: <http://www.worldbank.org/en/news/opinion/2013/11/04/bolsa-familia-Brazil-quiet-revolution>; The Economist, “How to get children out of jobs and into school,” July 29, 2014, available at: <http://www.economist.com/node/16690887>.

²⁵⁶ O Globo, “Prefeitura de São Paulo inclui estrangeiros no programa Bolsa Família” (“The city of Sao Paulo includes foreigners in the ‘Bolsa Família’ program”), December 4, 2014, available at: <http://oglobo.globo.com/brasil/prefeitura-de-sao-paulo-inclui-estrangeiros-no-programa-bolsa-familia-14733605>.

²⁵⁷ O Globo, “Prefeitura de São Paulo inclui estrangeiros no programa Bolsa Família” (“The city of Sao Paulo includes foreigners in the ‘Bolsa Família’ program”), December 4, 2014, available at: <http://oglobo.globo.com/brasil/prefeitura-de-sao-paulo-inclui-estrangeiros-no-programa-bolsa-familia-14733605>.

²⁵⁸ See IACHR, Press Release No. 155/14, “Open, Safe and Regular Migration Channels Crucial to Stop Human Rights Violations against Migrants,” December 18, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/155.asp.

148. One positive development regarding the regularization of irregular migrants in 2014 has been the executive action on immigration announced by President Barack Obama of the United States of America on November 20, 2014. This executive action has the potential to protect nearly four million persons of the 11.2 million persons in an irregular migratory situation from deportation. While the Commission is cognizant that this measure has a limited scope and that its implementation has been blocked pending the outcome of lawsuits brought by a group of states, it would represent a step in the right direction as the regularization of migrants is an effective way to reduce their vulnerability.²⁵⁹ The Commission therefore urges the United States to continue to strive for the approval and implementation of this executive action.

²⁵⁹ See IACHR, Press Release No. 142/14, “The Inter-American Commission on Human Rights (IACHR) welcomes the executive action on immigration announced by President Barack Obama of the United States of America on November 20, 2014,” November 26, 2014, available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/142.asp.