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## Public hearings held during the 171st Period of Sessions

### Attached to press release 38/19

Washington, D.C. - The Inter-American Commission on Human Rights (IACHR) held its 171st Period of Sessions on February 7-16, 2019 in Sucre, Bolivia. During those sessions, the IACHR held 24 hearings, 22 of them public and the remaining two private, as requested by the requesting parties. Those hearings addressed both regional matters and human rights issues concerning 12 countries: Chile, Haiti, Brazil, Argentina, Colombia, Guatemala, El Salvador, Honduras, Mexico, Nicaragua, Peru and Venezuela. Videos and photos of those hearings are available on YouTube and Flickr.

Public hearings are summarized below, in chronological order.

### Maintenance and upkeep of sites, memorials, archives, museums and remembrance spaces in the region

The requesting organizations denounced an increase in vandalism against remembrance spaces and growing restrictions in access to archives that are crucial for processes to attain justice. In that context, they asked the IACHR to take measures to protect remembrance sites and, in particular, to draft a document about remembrance principles, to create a regional monitoring center and to develop an early warning system. The regional representative for South America of the Office of the UN High Commissioner for Human Rights (OHCHR) said she was concerned about acts of vandalism and persecution against people with ties to sites for the preservation of memory. The Commission announced plans for public consultations to debate a draft on remembrance policies, and asked the requesting organizations to report cases where remembrance sites and people linked to their preservation might be at risk, and also to share best practices around the region.

### Constitutional reform in Mexico

The requesting organizations noted that judicial independence in Mexico is under threat from various bills and constitutional reform plans aimed at reducing the wages and social security benefits of State employees, increasing the list of crimes for which pretrial detention would be directly applicable, and electing judges of the Supreme Court of Justice of the Nation by a popular vote. The State noted that such initiatives are allegedly part of the country's democratic life, that they are aimed at all State powers, not just the judiciary, and that they are still being debated by legislators. Further, the State noted that all debates at the legislature are based on respect for human rights and for Mexico's international obligations, which ensures an appropriate design of institutions that respect the independence, efficacy and control of judicial proceedings while preserving the autonomy of different State powers. The Commission stressed the importance of strengthening judicial mechanisms to fight corruption and of respecting the principle of progressivity and non-regression in terms of economic and social rights.

### Situation in environmental “sacrifice zones” and the consequences of industrial activity for the right to health in Chile

The requesting organizations noted that certain areas in Chile (like Puchuncaví, in the Valparaíso province) have a high concentration of environmental pollutants produced by various local industries, which affects the soil, the air and sources of water. They reported precarious living conditions which they thought could be avoided if the State took concrete action to protect the rights to life, health and the environment. Specifically, they requested constant follow-up and monitoring of such activities by the State, implementing regulations in accordance with international standards and demanding an

environmental impact assessment of all activities in the area. The State admitted that it was aware of complex problems in the areas indicated by civil society, and noted that such problems were being handled at various levels of the State.

### **Allegations of impunity and violence against women in Haiti**

The requesting organizations noted that, in 2016-2017, 29% of all women aged 15-29 had suffered physical violence, while 12% had suffered sexual violence, 5% had suffered an act of sexual violence over the past 12 months, and 34% had been victims of an act of violence by their partner. Victims of such violence live in fear and suffer the consequences of such acts their whole lives. The insufficient response of State officials remains a hurdle in victims' access to justice. The requesting organizations stressed the trivialization of violence against women and discrepancies between the number of reports on violence and the number of such cases that are taken before the courts, so such events usually go completely unpunished. The requesting organizations noted that 4% of the national budget is devoted to health, and they stressed the lack of respect for women's sexual and reproductive rights in Haiti.

Those organizations asked that the State be reminded of its duties to protect women's rights, including its obligation to protect them from discrimination; to ensure that women who are victims of violence have access to impartial justice, without discrimination; to implement an action plan to combat violence against women; to allocate a budget for the justice system to be able to function adequately; to establish a system to gather and process data on such violence; to increase the number of women in the police and in teaching; and to raise awareness of women's rights among the population. The IACHR expressed its concern about the State's absence from the hearing and about the situation regarding women's rights in Haiti. The Commission said it would conduct a working visit to further investigate these issues on February 27-28.

### **Indigenous peoples' human rights situation in Brazil**

The requesting party noted that Brazil's indigenous peoples face various human rights violations, including trespassing into their territory; the lack of demarcation of indigenous land and the failure to grant indigenous communities titles for such land; persecution and violence against their leaders and human rights defenders; and a lack of protection for indigenous peoples in voluntary isolation. Further, they reported institutional changes under the new government that affect the interests of indigenous peoples, and noted that the current president said in his campaign that he would demarcate no indigenous land during his mandate. The State stressed the government's commitment to the situation of indigenous peoples, and noted that it is already taking varied measures focused on such groups. Further, the State noted that several indigenous persons have been included among the government's highest officials, and that the institutional changes that have been implemented seek to promote the development of indigenous peoples. The Commission stressed its concern about structural issues regarding such communities, as seen during the visit and stressed at the hearing—including the demarcation of indigenous land, the time requirement condition, the institutional weakening of the Fundação Nacional do Índio (FUNAI), as well as threats, attacks and harassment against indigenous leaders and defenders. The IACHR welcomed the appointment of high government officials who are indigenous persons. It invited both parties to keep providing the IACHR with information about indigenous peoples' human rights situation in Brazil.

### **Human rights situation of Quilombola communities in Brazil**

Civil society organizations asked for constitutional guarantees to be enforced regarding the regularization of Quilombola territories and the implementation of public policies in Quilombola communities. They

alerted of a lack of political will for land titling and of the gradual reduction in the budget allocated for such land titling and for public policies targeting Quilombola communities. They warned that institutional changes under the new government impact such communities. They stressed that protecting such territories is extremely important to preserve those communities and their well-being. And they highlighted the need for more employment opportunities that respect the local culture, better access to education so children can develop within their own cultural heritage, and effective protection for Quilombola women from the systematic discrimination they suffer. The Brazilian State said it is working to promote equality among the Brazilian people, specifically including Quilombola communities.

The State said administrative reform seeks to optimize structures to address land issues in the country. The IACHR thanked the State for the information it provided and stressed the matters of concern that were noted during the visit and heard again at the hearing, including land titling and integral community development. The Commission stressed the importance of developing prior consultation processes ahead of any action affecting such communities, and of progressively moving toward enforcing the rights of those communities, in compliance with the Brazilian State's international obligations.

### **Reports of school violence against LGBTI children and adolescents in Peru**

At the hearing on school violence against children and adolescents in Peru, the requesting organizations reported the violence faced by LGBTI children and adolescents in the school context. In particular, those organizations reported that violence based on sexual orientation and gender identity involves a higher incidence of insults, assaults and humiliation than cases of generic violence. They also reported higher school dropout rates and lower academic performance rates among victims of violence based on sexual orientation and gender identity, who are also more likely to consume alcohol and drugs, according to the reports that were put forward.

Another cause for concern is the displacement of transsexual children and adolescents who hail from parts of the country other than its capital. The requesting organizations said the State's response legitimizes discrimination. As an example, they cited that the State withdrew gender identity as a protected category in non-discrimination mandates included in the national basic education curriculum. The requesting organizations further denounced State inaction, given that national human rights and childhood action plans do not specifically mention LGBTI children and adolescents. The State acknowledged the problem and said it was open to address it. It noted that the National Human Rights Plan includes the design and implementation of policies in favor of groups who require special protection, including LGBTI persons.

Further, it said that a 2018 decree provides for specific action to combat school violence. Regarding the national basic education curriculum, the State noted that various stakeholders have filed writs of amparo to contest the document based on the exercise of constitutional rights, and that the issue is set to be settled by internal judicial channels. The State also expressed the need for people to use complaint channels, so complaint data can serve as inputs to plan appropriate public policies to address each kind of rights violation. The IACHR was glad that the State had admitted the problem and appeared willing to address it. Further, the Commission highlighted the issue's intersectionality and the importance of collaboration between the education sector and institutions in the system to comprehensively protect the rights of children and adolescents. The IACHR also stressed the Inter-American Court's main arguments, detailed in Advisory Opinion 24/17 on gender identity, equality and non-discrimination of same-sex couples.

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### **Situation of human rights defenders and integral protection policy in Peru**

The organizations who requested the hearing said that a crisis was ongoing in Peru concerning the right to defend human rights, and they warned that at least 121 defenders had been murdered since 2011, three of them in 2019. They further noted other risk factors for human rights defenders, such as stigmatization and criminalization. In this context, those organizations said that there are currently about 900 cases of criminalization. The requesting organizations voiced the need to urgently approve the Defender Protection Protocol developed by the Department of Human Rights, and they stressed that it is a fundamental first step to advance toward an integral public protection policy.

The State noted the progress that has been made on this subject. Among others, its representatives highlighted the inclusion of human rights defenders in the National Human Rights Plan, in order to adopt public policy in their favor. Concerning the Protocol, the State said that it is being drafted. The State stressed its commitment to establishing a national mechanism for the protection of human rights defenders. The Commission highlighted the importance of such a Protocol and saluted progress made toward its adoption. The IACHR expressed an interest in being informed of the contents of that Protocol, and stressed that it needs to address the risks faced by defenders and to implement protection measures with a differentiated approach.

### **General human rights situation in Nicaragua**

Participant organizations informed the Commission about various patterns of illegal, arbitrary arrests, temporary forced disappearances, torture and other forms of ill-treatment, violations of due process and criminalization of human rights defenders. According to those organizations, more than 300 people were killed between the start of the crisis and February 10, 2019, while 1,531 illegal arrests and 756 deprivations of liberty had also been recorded. The most common crimes with which suspects had been charged in the context of the crisis were terrorism, illegal possession and carrying of a weapon, organized crime, torture and murder. The requesting party further noted that civil society organizations were not able to do their work effectively, for fear of losing their legal status or being criminalized. Finally, they requested the return of IACHR mechanisms to the country. The IACHR expressed its disappointment with the State's absence from the public hearing and stressed the need to reverse the serious situation affecting political prisoners and other detainees in Nicaragua. The Commission further commended participant organizations for their courage.

### **Allegations of torture and cruel, inhuman and degrading treatment in psychiatric hospitals in Argentina**

The requesting organizations alleged that persons who are institutionalized in psychiatric hospitals in Argentina suffer serious violations of their human rights, including overcrowding, physical and sexual abuse, and electroconvulsive therapies. Further, they noted that the State lacks community services that could enable persons with disabilities to live in their communities. According to those organizations, all that violates the National Mental Health Act and the applicable international standards. The State acknowledged poor conditions in psychiatric hospitals and stressed its will to set up community services to protect those patients' rights. In particular, it expressed its commitment to moving further toward compliance with the National Mental Health Act and to gradually closing psychiatric institutions. The Commission expressed its wish to visit the country, in order to verify the situation of patients at such institutions. The IACHR called on civil society to notify the State of any serious situations that endanger the lives and integrity of institutionalized patients, so the State might respond immediately and effectively.

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## **Rights of migrant Venezuelan children around the region**

The organizations who requested the hearing alerted about the humanitarian emergency in Venezuela, which has led 3 million Venezuelans to forcibly leave their country and has particularly affected children and adolescents. National human rights institutions in Colombia, Peru and Ecuador, as well as the Latin American network known as REDLAMYC, have highlighted those children's difficult access to their rights, including their economic, social and cultural rights; the discrimination and xenophobia they face; the poor institutional capacity to address their problems and the lack of training and awareness among public officials concerning their situation; and instances where they are sent back or rejected at various borders. Further, the requesting organizations denounced the risk of statelessness those children face in countries that have not regulated *ius soli*, like Colombia, and demands for official documents that threaten family unity in countries like Ecuador.

Those organizations requested: i) an IACHR visit to various Venezuelan borders; ii) cross-border protocols to provide integral protection to migrant children and adolescents; iii) guarantees that protect the child's best interests and their participation in any proceedings affecting them; iv) efforts to prevent discrimination and xenophobia and to protect children's economic, social and cultural rights. UNICEF has warned about the lack of reliable statistics, the vulnerability of children and adolescents and their lack of official documents, and their temporary regular status, as well as the risks that they might be recruited by gangs or suffer sexual or labor exploitation. The Commission stressed the need for children and adolescents to be the focus of any actions adopted concerning them, and called for their rights—including their economic, social and cultural rights—to be protected.

## **Best practices to prevent, investigate and protect human rights defenders in the region (at the relevant State's own initiative)**

The civil society organizations and representatives of national human rights institutions who took part in the hearing presented to the Commission examples of good practices and comparative analyses concerning efforts to prevent and investigate attacks on human rights defenders in the region and to protect those defenders. Among others, they expressed the need for States to explicitly recognize the important work done by defenders and to differentiate their considerations by gender, sexual identity, ethnic group, etc. The Regional Office of the United Nations High Commissioner for Human Rights took part in the hearing and noted networking efforts among defenders, to exchange information and strategies for action. The Commission expressed the need for States to end stigmatization against defenders, as a prevention method, and identified as a major protection challenge going forward the need to make sure that the relevant policies not only protect defenders but also enable them to do their work freely.

## **Trade-union freedom and labor rights in Venezuela**

The requesting organizations expressed their concern about violations of labor and trade-union rights committed by the Venezuelan State. Those organizations noted that the minimum wage does not provide for the needs of workers and their families. They added that the State is using the justice system to criminalize trade-union leaders who are critical of government policy. Those organizations further noted that the State interferes with trade unions when it refuses to recognize dissident trade-union leaders, which has consequences for their ability to take part in collective bargaining processes. The State highlighted its efforts to increase the minimum wage so workers' purchasing power remains constant, and its representatives stressed that they do not interfere with decisions concerning worker representatives. Finally, the IACHR expressed its concern about the situation of working women and highlighted the fact that labor and trade-union rights are fundamental rights under the inter-American system, as well as the importance of monitoring such rights to ensure their enforcement.



## **General human rights situation in Venezuela**

The requesting civil society organizations denounced an increase in State violence and repression of demonstrations held since January 10, 2019, and listed many murders, executions and arrests of demonstrators. Petitioners further noted that 2018 presented the second-highest number of violations of the right to freedom of expression in the last 17 years, and they accused the State of implementing policies—aimed at preventing the circulation of reliable information—that promote censorship and hinder reporting, including arrests of journalists. Those organizations noted the serious humanitarian emergency that is ongoing in Venezuela since 2014 and its impact on food security, triggered by hyperinflation, poor access to and availability of food products, and the lack of policies to ensure that the population has access to basic food.

Similarly, concerning the health sector, they noted that the hospital system has deteriorated, so many services are paralyzed and there is a shortage of medication, particularly for patients with chronic diseases. Those organizations mentioned a differentiated impact on the right to education, with collapsing physical and educational structures, a lack of official data and students who are forced to give up their studies. The State noted the negative impact of unilateral coercive measures adopted against the country and highlighted their effect on the enjoyment of human rights, especially among particularly vulnerable groups including women, children and adolescents, older persons and the sick. The State stressed the impact of unilateral measures adopted by other countries against Venezuela on the population's enjoyment of its basic rights. The State informed the Commission of coup attempts staged by the National Assembly and threats to use military force issued by other States. It denounced that such moves make it impossible to protect Venezuelans' rights. Finally, the State stressed that its government is taking all measures necessary to ensure the well-being of its people, especially concerning education, which the government regards as a particularly important public policy space.

The IACHR noted that it has been closely following the general human rights situation in Venezuela and stressed the serious shortages and lack of access concerning basic rights to food and health, as well as the fact that millions of people are being forced to leave the country in such a scenario. The Commission further called for an end to State repression of protests and of freedom of expression. The IACHR stressed its concern about the current context and once again requested the State's authorization to conduct an *in loco* visit to the country soon, in order to garner more information about the situation regarding human rights in Venezuela.

## **Trials and Amnesty Act in El Salvador**

The organizations who requested the hearing noted that, while El Salvador's Supreme Court ruled in 2016 that the country's Amnesty Act was unconstitutional, no substantial progress has been made to ensure transitional justice in the country. Those organizations acknowledged the creation of a specialist group of public prosecutors to investigate crimes committed during the country's armed conflict, but they complained that the group lacks resources to function properly. They also denounced the lack of a State strategy to provide comprehensive reparations to the victims of armed conflict, as well as the lack of access to information held in military archives. The State expressed its will to provide reparations to the victims of armed conflict. In 2013, it issued an executive decree that puts forward a compensation program. The State further noted that CONABÚSQUEDA was created in 2017, in the context of the historical debt owed to victims of forced disappearances during the armed conflict. The IACHR expressed its concern about some victims' lack of access to military archives, along with the will to keep monitoring and cooperating with El Salvador's transitional justice.

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### **Situation of sexual and reproductive rights in Honduras**

The organizations who requested the hearing explained the vulnerability of women, girls and adolescents in Honduras concerning their access to specialized reproductive health, with various obstacles that prevent their full enjoyment of their sexual and reproductive rights. In particular, those organizations stressed the lack of sexual education, the fact that the emergency contraceptive pill remains illegal and that abortion is entirely criminalized. They noted the structural context of violence and impunity in the country and its differentiated effect on women and girls, particularly in femicide and sexual violence cases. Those organizations denounced the lack of a sufficient budget and of public policies to protect the sexual and reproductive rights of women and girls.

The State shared information about its Human Rights Policy and Action Plans, which incorporate the recommendations of international organizations to apply them to the country's own inclusive policies. The State added that such plans include measures to ensure respect for women's sexual and reproductive rights, based on a completeness principle. It further referred to prevention measures for cases of sexual abuse. The IACHR stressed its concern about the context of sexual violence faced by women, girls and teenagers in the country and about the impunity that shrouds such events, as well as about the need to update Honduras' health policies to incorporate the State's international obligation to ensure and protect the sexual and reproductive rights of women, girls and adolescents in accordance with the applicable inter-American standards. In particular, the IACHR stressed obligations concerning prevention and comprehensive sexuality education for women and men, as well as the need to integrate a diverse gender perspective that includes the needs of all women, including lesbian, bisexual, transsexual and intersex (LBTI) women.

### **Situation of women who are deprived of their liberty in Nicaragua**

This hearing was private, as requested by petitioners.

### **Situation of defenders of indigenous peoples in Colombia**

The requesting organizations expressed their concern about the violence faced by defenders of the human rights of indigenous peoples in Colombia, and about the systemic discrimination of Afro-descendant and indigenous communities in the country. Those organizations noted that defenders are constantly subjected to intimidation by drug traffickers or paramilitaries, and that many such cases end in deaths. They noted that, during 2018, 43% of all violent deaths in the country directly involved defenders of indigenous peoples and Afro-descendant communities, and that there have already been seven such homicide cases in 2019. Those organizations also stressed the mass community displacements caused by territorial disputes and by attacks by drug gangs and paramilitary groups.

The State described various measures it had taken to protect the rights of indigenous peoples. It noted that it is working on a differentiated approach to provide individual and collective protection, and pointed out that a Specific Protocol is in place to assess the risks faced by indigenous persons. The State also said that it had identified five factors that affect ethnic minorities: more intense competition for domination and control of various criminal businesses including illegal mining; the slow stabilization of spaces where the FARC rebel group was once dominant; the expansion of illegal crops; the persistent activity of illegal armed groups; and a diversification of organized crime interests. The IACHR noted that, given the magnitude of the problem, it is essential to identify attackers and to take direct, effective action on the issue. The Commission further proposed setting up channels for cooperation between the State and civil society, to ensure that the lives and cultural legacy of indigenous peoples are protected.

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## **Complaints about forced disappearances in Colombia**

Petitioners said that there are thousands of forced disappearance cases in Colombia. They complained that State institutions lack a specific public policy to coordinate the work of institutions that deal with this issue, although the country has substantial national regulations in place on the subject. In particular, those organizations expressed their concern about the following aspects: the situation in many cemeteries, that lack morgues and adequate sanitation facilities; slow, revictimizing burial procedures in the course of investigations to identify bodies; and a lack of financial resources for this kind of work. The Colombian State noted that a Commission to Search for Missing Persons had been set up, as well as a record of bodies of missing persons. A Unit to Search for Missing Persons had also been set up. The Commission stressed the need to coordinate the search for missing persons between the National Attorney General's Office and the Unit to Search for Missing Persons. Finally, civil society organizations and the State expressed their will to work together on a public policy that coordinates the work of various institutions.

## **Constitutional reform and human rights in Cuba**

This hearing was private, as requested by petitioners.

## **Corruption and human rights: the role of Latin America's justice systems**

Civil society organizations noted that the corruption phenomenon is widespread and includes bribery, buying judges, influence peddling for the designation of various authorities, judicial control, stigmatization campaigns and a failure to protect honest persons, among other issues. Those organizations specifically mentioned the cases of Mexico, Guatemala, Panama, El Salvador, Colombia, Peru and Venezuela. The IACHR was asked to make a decision concerning due process to appoint, protect and remove public officials; to assess the criteria to implement precautionary measures regarding officials who are in charge of corruption cases; to assess the option of creating a corruption and human rights rapporteurship; and to consider major interferences with the justice system as a serious factor when classifying countries in its annual report. The Commission thanked civil society for its input toward the thematic report it is working on, set to be released in 2019, and noted that Resolution 1/18 was a first step in the process of gathering standards on the issue.

## **Allegations of restrictions and retaliation concerning academic freedom and university autonomy in the region**

The requesting organizations mentioned several issues linked to academic freedom and university autonomy concerning several States in the region. In this context, they stressed universities' role as hubs for critical thinking and as spaces to strengthen democracy. Those organizations further noted that there have been various attacks on the academic community, along with several retaliation measures against demonstrations staged by academic sectors that have led to arbitrary arrests, a criminalization of protests and even murders of students. The requesting organizations further stressed the existence of mechanisms and strategies to restrict university autonomy, which have affected both the right to education and also academic freedom and freedom of thought and expression. Finally, they highlighted the need to take measures against sexual violence in university contexts and to apply international standards to *inter-Americanize* the right to academic freedom and university autonomy.

The IACHR noted the importance of that hearing and announced the creation of a university network to assist the inter-American system in monitoring and promotion efforts. Rapporteur Edison Lanza commended the "long history of fighting for university autonomy" in the region and stressed the



Rapporteurship's support for the requesting organizations, encouraging them to "contribute conceptual inputs" to the development of "standards concerning the right to think freely." Rapporteur Soledad García Muñoz noted that she rejects "how much our students and teachers are suffering in the region." She expressed her special interest "in education concerning human rights," and said that "the idea of an IACHR resolution would give a huge boost to such an urgent, sad issue, which reminds us of times when people sought to control the minds of freethinkers." Finally, the IACHR's President, Commissioner Esmeralda Arosemena de Troitiño, stressed the importance of "identifying standards concerning academic freedom and university autonomy and independence" and of understanding university as "a driver for thinking and critical voices."

#### **PM 412-17 Residents evicted and displaced from the Laguna Larga community, Guatemala**

The hearing addressed the situation concerning the precautionary measure granted on September 8, 2017 in favor of evicted and displaced residents of the Laguna Larga community in Guatemala. At the hearing, the requesting party noted that the "humanitarian crisis" is still ongoing. The requesting party said that the State is not providing adequate support to address the risks faced by those families, and that it is not considering the differentiated impact of the crisis on certain groups. The State explained the actions that have been taken to address the risks and to implement the precautionary measure in favor of its beneficiaries. In particular, the State reported on a proposed land purchase in favor of the beneficiaries.

#### **Human rights situation concerning domestic workers in the region**

The requesting organizations put forward figures that indicate that there are 19 million domestic workers in Latin America and that most of them face situations involving economic, sexual and obstetric violence, as well as various forms of ethnic-racial discrimination linked to their migrant status and their sexual orientation and gender identity. Those organizations expressed their concern about the vulnerability of girls and adolescents who are subjected to exploitation and to various forms of modern slavery in the region, and also about the specific situation of Afro-descendant, indigenous and migrant women as the main vulnerable groups in this context.

Participant organizations stressed the weakness or lack of comprehensive legal frameworks and social protection programs in Latin American and Caribbean countries, which make this group more vulnerable. In particular, those organizations highlighted the need to develop protection frameworks that enforce the right of all female domestic workers to maternity leave, access to health, education and housing services, and retirement benefits. Further, they stressed the importance of ensuring that States ratify and enforce Convention 189 of the International Labour Organization (ILO) and broadly implement the obligations imposed on them by the Convention of Belém do Pará in a way that extends to domestic workers.

The Commission specifically commended the fact that the organizations who requested the hearing raised this issue. The IACHR highlighted the importance of ensuring that States adopt public policies that establish social protection mechanisms for women who are domestic workers, particularly affirmative action. Finally, they stressed the importance of being able to enforce economic and social rights before the courts.