

Country Report
HONDURAS

IACHR Inter-American
Commission on
Human Rights

Situation of Human Rights in Honduras



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EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

1. In this report, the Inter-American Commission on Human Rights (IACHR, Commission or Inter-American Commission) addresses the human rights situation in Honduras, with emphasis on the post-electoral conflict, citizen security, administration of justice, freedom of expression, the situation of economic, social, cultural and environmental rights. It also analyzes in particular the situation of groups and persons of special concern, including women; children and adolescents; lesbian, gay, bisexual, trans and intersex (LGBTI) persons; human rights defenders and justice operators; persons deprived of liberty; indigenous peoples, Afro-descendants and Garifuna communities; internally displaced persons; as well as migrants, asylum-seekers and other persons in the context of human mobility. It also offers recommendations to assist the Honduran State in strengthening its efforts to protect and guarantee human rights in the country.
2. In recent years, the IACHR has been monitoring the human rights situation in Honduras through different monitoring mechanisms. These include thematic and country hearings, the system of cases and petitions, the system of precautionary measures, requests for information, visits by rapporteurs, among others. In its country report on the situation of human rights in Honduras issued in 2015, the IACHR noted the existence of structural issues that have affected the enjoyment of human rights of its inhabitants for decades. It also indicated that since the 2009 coup d'état, there have been violations of rights that have seriously affected the Honduran population, the effects or repercussions of which have persisted and have made the situation in the country more complex. During its on-site visit in 2018, the IACHR noted the persistence of structural problems such as poverty, inequality and discrimination, corruption, institutional weakness and impunity.
3. The IACHR appreciates the measures adopted by the State of Honduras to address some of the situations described in the report. In particular, it recognizes the creation of the Secretariat of State in the Office of Human Rights in order to promote and implement the Public Policy and National Plan of Action on Human Rights. It also welcomes the creation and implementation of the System of Recommendations of Honduras (SIMOREH) in order to follow up on the recommendations made to the State of Honduras by the various international and regional mechanisms for the protection of human rights. It also recognizes the adoption of the Police Career Act and the efforts made to reduce the overall homicide rate and to strengthen and professionalize the police. It also recognizes the establishment of the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, as well as the expressed commitment to continue strengthening the National Protection Mechanism.

4. The IACHR also takes note of the Honduran State's recognition of the existence of a situation of internal displacement in its territory, as well as the criminalization of the crime of internal displacement under article 248 of the new Criminal Code and the creation of the Directorate for the Protection of Persons Internally Displaced by Violence. It also highlights efforts to strengthen the care of returned migrants. In addition, the Commission appreciates the measures taken by the State to guarantee the rights of persons deprived of their liberty, such as the increase in the budget in 2017, the processes initiated to identify persons subject to pre-release benefits, the establishment of electronic surveillance as an alternative to pretrial detention, and carrying out virtual hearings.
5. The 2017 electoral process and the context of violence that followed the elections, which included the disproportionate use of public force and the lack of progress in investigations to date, together with information pointing to a growing concentration of the Executive Branch over the Legislative and Judicial branches, has repercussions on the lack of citizen trust in public and political institutions. In addition, inequality and the lack of opportunities for broad sectors of the population -consisting mostly of young people- are rooted in a system that, according to the testimonies gathered, benefits a few who have relations with high spheres of political and economic power. These situations disproportionately affect people in vulnerable situations, which generate clear inequality and impacts on the effective enjoyment of their human rights.
6. The Inter-American Commission has been monitoring for years the high levels of citizen insecurity in Honduras and its effects on the effective enjoyment of human rights. The State recognizes that in the last decade it has been one of the most violent countries in the world, and that drug trafficking and organized crime are factors generating violence, which have infiltrated several State institutions. During its visit to the country in 2018, the IACHR continued to receive information on the intervention of the military police, the militarization of the penitentiary function and its involvement in civic and educational training, such as the program for children and adolescents "Guardianes de la Patria", which was referred to by the IACHR in its 2015 report. Likewise, the army performs security functions in areas where there are land conflicts, such as Bajo Aguán, a situation that the IACHR continues to monitor. Although the State indicated that the cessation of military support in public security tasks will be progressive and that in several municipalities of the country there is no presence of the Military Police of Public Order (PMOP), the IACHR reiterates that the maintenance of public order and citizen security should be primarily reserved for civilian police forces; and that according to inter-American jurisprudence when the army participates in security tasks, it should be extraordinarily, subordinated and complementary, regulated and supervised.
7. The IACHR encountered critical levels of impunity and inadequate and insufficient attention to victims and their families. The lack of access to justice has created a situation of structural impunity that has the effect of perpetuating and, in certain cases, favoring the repetition of serious human rights violations. Civil society organizations informed the IACHR of the existence of what they consider to be "selective justice", which on the one hand, acts late without offering an effective response in relation to human rights violations, and, on the other hand, would act in

favor of the interests of various actors linked to public, political, and business power. Likewise, challenges persist that weaken the guarantee of independence and impartiality, such as the lack of sufficient guarantees of independence of the oversight bodies of judges. This is due to the fact that the Supreme Court's excessive control continues to prevail both in the system of appointment and removal of judges.

8. The Commission emphasizes that in order for there to be full enjoyment of human rights, it is essential for Honduras to advance in its democratic institutional process, guarantee a genuine separation of powers and strengthen the rule of law. In this context, it is crucial that citizens regain confidence in their State institutions. To this end, the State must take decisive measures in the administration of justice and in the fight against impunity and corruption, as well as in reforms to the electoral system in accordance with the international recommendations drawn up to that end. Likewise, the State must ensure a real and effective transformation for the eradication of the situation of poverty, exclusion and structural inequality that persist in the country, which impact on the exercise and enjoyment of human rights, especially of those groups at particular risk. This requires the adoption of effective measures in accordance with applicable international standards. In this context, the IACHR makes a series of recommendations to the State of Honduras.

CHAPTER 1
INTRODUCTION

INTRODUCTION

9. As part of its function of promoting and monitoring human rights, the IACHR has continuously monitored the human rights situation in Honduras. In a communication dated November 10, 2017, the IACHR forwarded to the State of Honduras ("Honduras," "Honduran State," "State") a copy of the draft Report Chapter IV.B Honduras, approved by the Commission in accordance with its Rules of Procedure.¹ It also informed the State of the possibility that it might extend an invitation to the IACHR to make an on-site visit to the country in 2018 in order to analyze the human rights situation. If the visit was completed and a country report prepared, the IACHR indicated that it would not include the State in Chapter IV of the 2017 Annual Report. On November 15, 2017, the State of Honduras invited the IACHR to visit Honduras to analyze the human rights situation in the country. On January 9, 2018, the Honduran State confirmed the on-site visit to Honduras on the dates proposed by the IACHR.
10. The IACHR conducted its visit between July 30 and August 3, 2018. The IACHR observed on the ground the human rights situation in relation to issues related to the post-electoral conflict, justice, citizen security, administration of justice, freedom of expression, inequality, poverty, and the situation of economic, social, cultural, and environmental rights. The Commission also received information on the particular situation of groups and persons of special concern, including women; children and adolescents; lesbian, gay, bisexual, trans and intersex (LGBTI) persons; human rights defenders and justice operators; persons deprived of liberty; indigenous peoples, Afro-descendants and Garifuna communities; internally displaced persons; as well as migrants, asylum seekers, and other persons in the context of human mobility.
11. The IACHR delegation in charge of the visit was led by First Vice-President, Esmeralda Arosemena de Troitiño; Second Vice-President, Luis Ernesto Vargas Silva; Commissioners Flavia Piovesan and Antonia Urrejola; and Commissioner Joel Hernández García. The delegation also included Paulo Abrão, Executive Secretary of the Commission; María Claudia Pulido, Deputy Executive Secretary for Monitoring,

¹ Between 2009 and 2012, the IACHR decided to include Honduras in Chapter IV of its Annual Report, pursuant to Rule 59.1.h. of its Rules of Procedure, because it considered that its situation fell within the applicable criteria. Honduras was again included in chapter IV of its 2013 Annual Report because it considered that the information received regarding human rights was within the framework of Article 59, paragraph 6.d. of the IACHR's Rules of Procedure, which entered into force on August 13, 2013. In December 2014, at the invitation of the Honduran State, the IACHR conducted an on-site visit to verify the human rights situation in the country. The Commission approved the country report "Situation of Human Rights in Honduras" in December 2015 and offered recommendations to the State of Honduras in order to assist in strengthening its efforts to protect and guarantee human rights in the country. In accordance with the Rules of Procedure, through Chapter V of its 2016 Annual Report, the IACHR followed up on the measures adopted to comply with the recommendations made in its country report.

Promotion and Technical Cooperation in Human Rights; Marisol Blanchard Vera, Chief of the Office of the Executive Secretary; Edison Lanza, Special Rapporteur for Freedom of Expression; Soledad García Muñoz, Special Rapporteur for Economic, Social, Cultural and Environmental Rights (REDESCA), and technical specialists from the Executive Secretariat.

12. During its visit, the Commission delegation met with the President of the Republic and the highest authorities of the three branches of Government, as well as officials of autonomous bodies. It also held meetings with representatives and organizations of civil society, victims of human rights violations, relatives of victims, human rights defenders, indigenous organizations and authorities, international organizations, academics, journalists and representatives of the private sector. As part of the visit, the IACHR also made unrestricted visits to various regions of the country, including Tegucigalpa, San Pedro Sula, Tela, Puerto Lempira, and Bajo Aguán. It also visited the following detention centers for persons deprived of liberty: the First Infantry Battalion of the Armed Forces of Honduras, in the Municipality of the Central District, city of Tegucigalpa; the Third Infantry Battalion, in Naco, Cortés; the National Penitentiary for Women of Social Adaptation; the “Renaciendo” Pedagogical Center, in the village of Támara; and the National Penitentiary of Choluteca, in Trinidad, Choluteca.
13. The Commission thanks President Juan Orlando Hernández and his Government for the openness to international scrutiny that resulted in the invitation to make this visit and in a frank, open, and constructive dialogue with the IACHR at the highest level. The IACHR also recognizes and is particularly grateful for the information provided by the State, as well as by civil society organizations. The Commission highlights the efforts made by the victims of human rights violations and their families to courageously present testimonies and denunciations, both in writing and in person. The Commission also appreciates the cooperation of the National Office of the Organization of American States in Honduras, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and the United Nations Development Program (UNDP).
14. In preparing this report, the Commission compiled, analyzed and systematized information on the human rights situation in Honduras in recent years, particularly since its last visit to the country in 2015. As part of this work, the IACHR made use of information received before, during, and after this visit, ex officio investigations, inputs from the various mechanisms available to the IACHR, such as public hearings, working meetings, requests for information under Article 41 of the American Convention, and precautionary measures; press releases; decisions and recommendations from specialized international bodies, among others.
15. On July 1, 2019, the IACHR transmitted to the State of Honduras a copy of the preliminary draft of this report, and requested to submit its observations in accordance with its Rules of Procedure. On August 6, 2019, the IACHR received the

information from the State, which, insofar as it was pertinent, was incorporated into this final version approved by the IACHR on August, 27, 2019.²

16. During the visit, the IACHR noted the persistence of a series of structural problems previously identified through its monitoring work. These include high levels of poverty, inequality and exclusion, which have a particular impact on women, indigenous peoples and people of African descent, children and adolescents, LGBTI persons, migrants and persons deprived of their liberty. In addition, inequality and the lack of opportunities for broad sectors of the population - mostly young people - are rooted in a system that, according to the testimonies gathered, benefits a few who have relations with high spheres of political and economic power. These situations disproportionately affect people in vulnerable situations, which generate clear inequality and impacts on the effective enjoyment of their human rights.
17. Furthermore, despite the efforts made by the State in this area, high levels of violence persist in the country, affecting the above-mentioned groups and in particular the young population, as well as journalists and media workers. Similarly, the IACHR is concerned about the serious situation of violence faced by human rights defenders in Honduras, in particular defenders of the environment, land and territory. Faced with this situation, institutional fragility, structural impunity, corruption, and the political crisis that occurred during the 2017 electoral process, have repercussions on the lack of trust that a sector of the citizenry has in public and political institutions. This is despite the efforts of the State identified in this report.
18. Therefore, and in the same spirit of cooperation with which the Honduran State received the delegation during the visit, the Commission hopes that this report will contribute to improving the human rights situation of all persons in Honduras. To that end, the IACHR urges the State to continue and deepen its efforts to comply with the recommendations made in this report, and to maintain an open, respectful and constant dialogue with the Inter-American Commission, other international human rights organizations, and civil society.
19. The first chapter of the report analyses democratic institutions and the rule of law in the country, addressing post-electoral conflict, citizen security, the administration of justice and freedom of expression. Chapter II deals with issues of inequality, poverty and exclusion, analyzing the situation of economic, social, cultural and environmental rights. Chapter III assesses the human rights situation of groups of particular concern to the IACHR. Finally, in chapter IV, the Commission summarizes its conclusions and formulates a series of recommendations to the State.

² Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019.

CHAPTER 2

DEMOCRATIC INSTITUTIONS
AND THE RULE OF LAW

DEMOCRATIC INSTITUTIONS AND THE RULE OF LAW

20. The Inter-American Commission has stressed the importance of a State maintaining stable democratic institutions and the rule of law for the effective protection and promotion of human rights.³ In its 2015 country report on the situation of human rights in Honduras, the IACHR noted the existence of structural issues that have affected the enjoyment of human rights by its inhabitants for decades. It also indicated that since the 2009 coup d'état, there have been violations of rights that have seriously affected the Honduran population, whose effects or repercussions have persisted and have made the situation in the country more complex.⁴
21. The Commission acknowledges the creation of the Secretariat of State in the Office of Human Rights that began to operate in January 2018, in order to promote and implement the Public Policy and National Plan of Action on Human Rights. It is important that the Secretariat be provided with the material and human resources necessary for its proper function. It also appreciates the creation and implementation of the System of Recommendations of Honduras (SIMOREH) in order to follow up on the recommendations made to the State of Honduras by the various international and regional mechanisms for the protection of human rights.
22. In recent years, the IACHR has received consistent information from civil society pointing to a growing concentration of Executive power over legislative and judicial powers. As an example, the IACHR highlights the composition of the National Defense and Security Council (CNDS), created in 2011.⁵ The Council is made up of the President of the Republic, who presides over it, as well as the President of the Supreme Court of Justice, the Attorney General, the Secretary of State in the Office of Security, and the Secretary of State in the Office of National Defense. This Council is "the highest permanent body in charge of guiding, designing and supervising general policies on Security, National Defense and Intelligence".⁶ The Commission received testimonies from victims and civil society organizations that expressed that state institutions are co-opted by the Executive.⁷ In this regard, in its 2015 country report, the Commission pointed out that concentrating decision-making power in a body presided over by the Executive in which judicial authorities also participate through joint action, as happens in the CNDS, could give rise to questions about the independence and autonomy of the Judicial Branch to properly investigate

³ IACHR, [Resolution 1/18](#), Corruption and Human Rights, March 16, 2018, p. 5.

⁴ IACHR, [Situation of Human Rights in Honduras](#), OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 17.

⁵ Decree 239-2011, Special Law of the National Defense and Security Council Published in La Gaceta, Official Journal of the Republic of Honduras, December 12, 2011.

⁶ Decree 239-2011, Special Law of the National Defense and Security Council Published in La Gaceta, Official Journal of the Republic of Honduras, December 12, 2011, art. 2.

⁷ Meeting with civil society organizations on citizen security, July 29, 2018, Tegucigalpa.

and sanction.⁸ The IACHR reiterates the importance that the regulations governing the CNDS be reviewed, given that they promote the concentration of power in the Executive and can weaken the independence of judicial institutions.

23. In addition, the Commission noted weaknesses in the institutional regulations in Honduras that call into question the autonomy of public authorities in the country. The process of electing the Attorney General in 2018 illustrated this weakness and the need to regulate the applicable regulations. The Commission was informed that the process of electing the Attorney General was marked by a lack of transparency.⁹ On June 29, the National Congress voted with 88 votes in favor, 38 against, one abstention and one deputy who did not vote, for the re-election of Prosecutor Óscar Chinchilla, despite the fact that he was not on the list of finalists submitted by the proposing board in accordance with the Public Prosecutor's Office Act.¹⁰ Daniel Sibrián, who was on the nominating board's list, was elected to the post of deputy prosecutor.¹¹ The Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras pointed to the lack of compliance with applicable constitutional norms, and said this could weaken the Public Prosecutor's Office by calling into question its adherence to norms in its appointment processes. This type of situation prevents the population from regaining confidence in public institutions, to the detriment of the rule of law.
24. In the following section, the IACHR develops the post-electoral conflict. In this regard, the IACHR was informed about the establishment of a political dialogue in order to overcome the political crisis caused by allegations of electoral fraud and the acts of violence that occurred in the context of subsequent protests. According to public available information, on August 28, 2018 and after several months of negotiations, the Government and three of the main political parties signed the "Commitment for Honduras" with the support of mediation and facilitation by the United Nations.¹²
25. Under this commitment, the parties agreed on minimum agreements to move forward in a dialogue consisting of four working groups: (1) the facts of the 2017 electoral process and presidential re-election; (2) the Human Rights Committee; (3)

⁸ IACHR, *Situation of Human Rights in Honduras*, OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 219.

⁹ The Public Prosecutor's Office Act provides for a "proposing board" to present to the National Congress a list of candidates for the post of Attorney General, from among whom Congress must vote. According to the information available to the IACHR, on June 26, 2018, and in accordance with these regulations, the "proposing board" presented to Congress a list of five final candidates. Decree Number 228-93, Ley del Ministerio Público, Article 22. "The Attorney General of the Republic and the Deputy Attorney General will be elected by the National Congress, with the favorable vote of two thirds of all its members, from a list of five candidates presented by a Proposing Board convened and presided over by the President of the Supreme Court of Justice and also composed of a magistrate of the Supreme Court of Justice appointed by the plenary of the same, the Rector of one of the Universities operating in the country, a representative of the Honduran Bar Association designated by its Board of Directors and the National Commissioner for Human Rights."

¹⁰ Article 23 of the Public Prosecutor's Office Act provides that the Attorney General of the Republic and the Deputy Attorney General "shall hold office for five (5) years, and may only be re-elected for a new term". The possibility of re-election does not seem to expressly disregard the requirements of Article 22 of the same Law.

¹¹ CEJIL, Report (2017-2018) to be used as an input in the framework of the next on-site visit to Honduras (July 30 to August 4, 2018), p. 12.

¹² United Nations, *Commitment for Honduras. Reconciliation to Transform*.

the constitutional reforms and strengthening of the rule of law; and (4) the electoral reforms committee. In this regard, the Commission regrets that the Dialogue ended on 11 December without reaching agreements¹³ and that, as a consequence, the causes that generated the political crisis remain unresolved¹⁴.

26. In addition, the IACHR takes note of a proposal for electoral reforms that the GS/OAS, through the Department for Electoral Cooperation and Observation (DECO) of the Secretariat for the Strengthening of Democracy (SFD), submitted in December 2018 to the National Congress of the Republic. In this context, on January 24, 2019, the National Congress of Honduras approved the constitutional reform that creates the National Electoral Council and the Electoral Justice Tribunal.¹⁵ The President of the National Congress again requested the support of the OAS in order to collaborate in the processing of the reforms to the secondary electoral laws. Based on the above, the OAS General Secretariat and its group of experts have proposed to the President of the Congress the presence of a team in the country for a period of two months in order to support the coordination of technical work and drafting of legal opinions to be submitted to Congress. The IACHR hopes that this process will be able to address one of the major concerns raised to the IACHR during its visit to the country by broad sectors of the Honduran population regarding the electoral system.

A. Post-Electoral Conflict

27. In this section, the IACHR analyzes the context of violence that followed the November 2017 electoral process from a human rights perspective. The Commission's approach is based on the contributions received from the victims who were injured and the families of the victims who lost their lives. It also analyzes information provided by the State and civil society organizations. As detailed in this section, the information received indicates that a disproportionate use of public force was observed, as well as the lack of progress in the investigations of the alleged violations. The information gathered during the visit shows institutional fragility and a growing distrust of broad sectors of the population in state institutions, as reflected by the demonstrations registered in the country.
28. The State has reported on the measures it has taken to address these allegations, but acknowledges that not all the violent events that occurred during the crisis, in particular the murders have been clarified.¹⁶ Likewise, months after the elections, the IACHR has continued to receive information about ill treatment and irregularities in the trials of some people who were prosecuted and deprived of their liberty for accusations related to events that occurred during the post-electoral crisis. Similarly, the Commission has been informed of the deplorable conditions of

¹³ OHCHR, Annual Report 2018 of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras, p. 2.

¹⁴ IACHR, 169 Period of Session, Thematic Hearing, "Criminalized and Deprived Persons in the Post-Electoral Context in Honduras. Boulder, Colorado, United States, October 3, 2018.

¹⁵ Pursuant the country's legal system, the reform was ratified by Congress on the 29th of the same month.

¹⁶ Information provided by the State, Secretary of Human Rights, Monitoring Report to the Recommendations of the IACHR, 2018.

detention in which these persons would find themselves, which would be far from complying with international standards in this area and would be incompatible with human dignity.

29. The situation described in this section indicates that the aftermath of the post-election crisis persists for many sectors of the Honduran population. The Commission calls on the Honduran State to devote all necessary resources to ensure that investigations related to the crisis are conducted in accordance with international law standards, in order to achieve genuine access to justice for victims and their families, and to prevent events such as those from recurring.
30. Honduras held presidential elections on November 26, 2017.¹⁷ In the elections, President Juan Orlando Hernandez was re-elected, which generated rejection and questioning in some sectors of the citizenry, due to the fact that the Political Constitution of Honduras did not allow presidential re-election. In addition, there were many irregularities in the electoral process, which were documented by OHCHR, civil society organizations and international organizations specialized in electoral observation.¹⁸ In this regard, the State indicated to the IACHR that the registration of President Juan Orlando Hernandez was carried out in accordance with the stipulations of the Constitutional Chamber of the Supreme Court of Justice's ruling of April 22, 2015, which declares the inapplicability of Article 239.2 of the Constitution of the Republic of Honduras, and the resolution of the Supreme Court of Justice of April 13, 2016, rejecting the annulment petition concerning the Constitutional Chamber's previous ruling.¹⁹
31. Since 1982, the Constitution limited presidential and vice-presidential offices to a single term. In 2009, then-President Manuel Zelaya was overthrown by what was considered a coup d'état, in an apparent reaction to his proposal for a non-binding referendum on whether or not to amend the Constitution to allow for re-election.²⁰ The overthrow of the then President was highly criticized and rejected by the international community.²¹ Subsequently, the Supreme Court of Justice ratified a ruling of its Constitutional Chamber and declared the partial inapplicability of Legislative Decree 131, which limited the number of presidential terms to one.²² This allowed then-President Hernandez to run for re-election, which generated controversy and suspicion in sectors of public opinion and civil society, who considered that the then-President sought to remain in office despite the constitutional prohibition on re-election.

¹⁷ In addition to the president, in these elections 128 deputies to the Honduran Congress were elected, as well as their 128 alternates; 20 deputies to the Central American Parliament; 298 mayors and 298 deputy mayors, and 2,092 councilors.

¹⁸ See, for example, [OHCHR, Annual Report on the Situation of Human Rights in Honduras](#), January 28, 2019, A/HRC/40/3/Add.2. OAS, [OAS Electoral Observation Mission in Honduras Calls for Agreement between Main Candidates to Recognize Winner](#), December 4, 2017.

¹⁹ Official Journal of the Republic of Honduras [La Gaceta No. 33,713](#), April 24, 2015.

²⁰ The New York Times, [The Honduran Candidate](#), November 2, 2017.

²¹ BBC, [Coup d'état in Honduras: Global Rejection](#), June 29, 2009.

²² Supreme Court of Justice, [Judgment of 22 April 2015](#), 2015, 1343-2014 and 0243-2015.

32. In its concluding observations on the second periodic report of Honduras in 2017, the United Nations Human Rights Committee expressed concern that despite the constitutional limit of the presidential term, the incumbent stood for re-election. Among its recommendations, the Committee urged Honduras to “respect the eligibility criteria set forth in the Constitution, in particular the presidential term limit”. In this regard, the IACHR joins the call of the United Nations Human Rights Committee to respect the applicable provisions contained in the Constitution.
33. Also, during the electoral process, broad sectors of society questioned the quality and reliability of the electoral system. In particular, they questioned the expiration of the electoral roll, the issuance of blank credentials and vote buying, the lack of independence of the Supreme Electoral Tribunal (TSE), the lack of transparency of the electronic transmission system, and the counting of votes, among other shortfalls.²³ The manner in which the results of the election were accounted for and announced to the public also raised questions.²⁴ On November 29, 2017, the TSE published results showing candidates in a virtual tie, with a slight 0.1% lead, by President Hernandez.²⁵ The results, and above all the “collapse of the system” of publishing results for approximately ten hours were highly questioned within the country. For its part, the OAS Electoral Observation Mission indicated that the electoral process was characterized by irregularities and deficiencies, and that this, combined with the narrow margin of victory, prevented certainty about the electoral results.²⁶ On December 18, 2017, President Juan Orlando Hernandez was declared the winner by the Supreme Electoral Tribunal of Honduras and re-elected to a second four-year term.
34. This context resulted in a climate of instability that different sectors defined as a post-electoral political crisis. Thus, according to the information received, from 29 November 2017 onwards, a series of protests and acts of violence took place in which the National Police and the Armed Forces intervened, with the justification of maintaining public order. Faced with this situation, the President of the Republic established a regime of suspension of guarantees for a period of 10 days and a subsequent period of 6 days, a situation that was the subject of public pronouncements by the IACHR and OHCHR.²⁷ The IACHR stated that “street protests

²³ OHCHR, Human rights violations in the context of the 2017 elections in Honduras, March 12, 2018, para. 12.

²⁴ In the early hours of November 27, 2017, the Supreme Electoral Tribunal (TSE) announced the preliminary results of the election, which showed the opposition candidate almost five points ahead. Subsequently, the TSE online system collapsed and no results were issued for more than ten hours. When the results transmission system resumed, the opposition candidate’s advantage gradually began to diminish until it completely disappeared. OHCHR, Human Rights Violations in the Context of the 2017 Elections in Honduras, March 12, 2018, para. 16. La Prensa “[JOH beats Nasralla by 2,911 votes in the Honduran elections.](#)” November 29, 2017.

²⁵ OHCHR, Human rights violations in the context of the 2017 elections in Honduras, March 12, 2018, para. 16. La Prensa “[JOH beats Nasralla by 2,911 votes in the Honduran elections.](#)” November 29, 2017.

²⁶ EOM/OAS [Second Preliminary Report of the Electoral Observation Mission to Honduras](#), December 17, 2017; OAS, [OAS Electoral Observation Mission in Honduras calls for agreement between main candidates to recognize winner](#), December 4, 2017.

²⁷ First, on December 1, 2017, it issued Decree No. PCM-84/2017, which suspended constitutional guarantees for a period of ten days, indicating “the magnitude of the violent and vandalistic actions they have carried out in various regions of the country.” Subsequently, on December 5, the President issued Decree 85/2017, by which he extended the “curfew” for six more days, reduced its applicability to the period from 20:00 hours to

and riots do not constitute an exceptional situation that justifies per se the suspension of fundamental rights [...] On the contrary, at critical moments for the validity of democracy, robust public debate and political demonstrations must have the maximum possible protection”.²⁸

35. Similarly, UN and IACHR experts condemned the murder of demonstrators in Honduras and the detention of hundreds of people who took to the streets after the suspension of the vote count in the presidential elections. They also condemned media attacks and arrests of journalists during coverage. The Commission received information on actions committed by the security forces against demonstrators, including the indiscriminate use of tear gas; the use of firearms in demonstrations; arbitrary detentions; attacks and destruction of journalists’ equipment; the use of tasers or electro-shock weapons.²⁹ During the on-site visit, a victim of post-election violence told the IACHR: “I was going home, and the military shot me. I received a shot in the face, two in the abdomen, and one shot in the hand. I had to pass by where the military was, and when I passed, I was shot. My companions were the ones who helped me [...] they took me to the hospital. I survived, but I lost an eye because of the shots [...]”.³⁰
36. According to OHCHR information, the consequences of the use of force by the authorities to control the riots include the loss of at least 23 lives, 16 of them from gunshot wounds fired in the context of the repression of protests or subsequent chase operations by security forces.³¹ According to the information received, there would be very little progress in the investigations of these cases, which would be characterized by slowness. In addition, 1,351 people were arrested for violating the curfew established by Decree 84-2017.³² Out of these, at least 117 persons faced criminal charges for their alleged participation in acts committed during the protests.³³ According to civil society information, as of October 2018, a total of 84 persons were under criminal prosecution, and 13 were deprived of their liberty, 11 of them are in maximum-security prisons, including the so-called “La Tolva”

5:00 hours, and restricted its geographic coverage. Decree PCM-84-2017, Official Gazette of the Republic of Honduras, December 1, 2017. At the time, the IACHR and OHCHR expressed their concern about the levels of violence observed in the demonstrations, and called on the State of Honduras to maintain its actions within the framework of human rights. OHCHR, Human Rights Violations in the Context of the 2017 Elections in Honduras, 12 March 2018, para. 35.

²⁸ According to inter-American standards, any declaration of a state of emergency must meet strict requirements of legality, proportionality, temporality, and scope, and these must be clearly defined. See, IACHR, [Honduras: Human rights experts condemn measures against protesters and media](#), December 20, 2017. IACHR, [IACHR urges the State of Honduras to guarantee and respect human rights in the post-electoral context](#), December 22, 2017. I/A Court H.R., OC-9/87, Judicial Guarantees in States of Emergency (Arts. 27.2, 25 and 8, American Convention on Human Rights), Series A, No. 09, October 6, 1987. IACHR, [Situation of Human Rights in Venezuela](#), OEA/Ser.L/V/II, Doc. 209, December 31, 2017, para. 203.

²⁹ IACHR, Hearing on Reports of Human Rights Violations in the Post-Electoral Context of Honduras, Bogotá, March 26, 2018.

³⁰ IACHR, Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

³¹ OHCHR, Human Rights Violations in the Context of the 2017 Elections in Honduras, March 12, 2018, para. 47.

³² OHCHR, Human Rights Violations in the Context of the 2017 Elections in Honduras, March 12, 2018, para. 69.

³³ IACHR, 169 Period of Sessions, Thematic Hearing, “Situation of Persons Criminalized and Deprived of Liberty during the Post electoral Conflict in Honduras”. Boulder, Colorado, United States, October 3, 2018.

prison.³⁴ Relatives of those who participated in the protests and who are deprived of their liberty informed the IACHR about the lack of medical care, difficulties and harassment during the visits. In this regard, the partner of a person deprived of liberty after the post-election conflict told the IACHR: “When I entered [to visit my partner], the military searched me and touched me in intimate areas. When they are inside, some people have suffered harassment and sexual harassment.”³⁵

37. The Commission was also informed of irregularities in the judicial proceedings.³⁶ In particular, the Commission received information indicating that the accused persons did not have an adequate defense and did not have contact with their relatives.³⁷ Similarly, civil society organizations pointed out to the Commission that in many cases, criminal proceedings were used as a tool to silence political dissidents,³⁸ statement emphatically denied by the Honduran State in its comments on this report.³⁹ For their part, civil society organizations additionally reported on alleged cruel, inhuman and degrading treatment to which some of the persons deprived of their liberty have been subjected, as well as the fact that State agents supervise family visits.⁴⁰
38. During the its on-site visit, the IACHR also met with the families of people who had been murdered, as well as with people injured during the post-electoral conflict, who gave their testimonies on the excessive use of public force and the lack of respective investigations. In this regard, the Commission heard directly from a mother of four children, who indicated that her husband was killed during a demonstration: “He was assassinated during the demonstration, and there were several military groups [...]. I filed a complaint with the Public Prosecutor’s Office, and as of today, we have no information on how the process is going”.⁴¹ The mother of a 13-year-old boy told the IACHR that as a result of a gunshot wound, his son’s lung had been perforated and his ribs had broken; and that despite having filed a complaint with the Public Prosecutor’s Office, on the date of the on-site visit, he had not received any information.⁴² In the same way, the injured victims recounted over and over again the threats - including death threats - by military elements so that

³⁴ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

³⁵ IACHR, Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

³⁶ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

³⁷ IACHR, Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

³⁸ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

³⁹ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019.

⁴⁰ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

⁴¹ Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁴² Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

they would not file complaints. Several of these people explained that they had to leave their homes for fear of such reprisals. Others planned to leave the country for the same reason.⁴³

39. For its part, the State reported that as of 18 January 2018 it registered 897 demonstrations during the post-electoral context, a situation that reflects that Honduran society exercised its right to freedom of expression and peaceful demonstration.⁴⁴ The State noted that in the riots, demonstrators were arrested on charges of theft, robbery, concealment, possession of weapons, possession of explosive material, unlawful association, assault, and fire, as well as crimes against the life and physical integrity of law enforcement officials.⁴⁵ It also stated that it noted the involvement of maras and gangs in the demonstrations, and that the vast majority of those arrested for violating the curfew were released under the terms of the law.⁴⁶ The State assured that the detentions were not arbitrary, and that “all persons detained” were “guaranteed the enjoyment of the rights that assist every citizen in a judicial process”. People who are in pretrial detention in connection with the riots, the state said, “enjoy the right to food, medical check-ups, the right to marital visits, among others”.⁴⁷
40. According to CONADEH, 182 complaints of injury were registered with that organism.⁴⁸ Also, according to information received from the State during the visit, 253 security agents were injured.⁴⁹ These figures contrast with what was reported by civil society organizations, who reported 232 people injured between November 29 and December 31, 2017, 115 of them during the first week of the state of emergency, as well as 1,397 people arrested during the same period.⁵⁰
41. The IACHR also received reports of illegal home invasions by members of the security forces.⁵¹ A victim who identified himself as a political prisoner told the IACHR that:

⁴³ Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁴⁴ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

⁴⁵ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

⁴⁶ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

⁴⁷ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

⁴⁸ Meeting with the National Commissioner for Human Rights, CONADEH, July 29 2018, Tegucigalpa. See also CONADEH, Post-election Crisis: Third Summary Report and Recommendations of the National Human Rights Commissioner, January 15, 2018.

⁴⁹ IACHR, Preliminary Observations on the IACHR visit to Honduras.

⁵⁰ Meeting with the National Commissioner for Human Rights, CONADEH, July 29 2018, Tegucigalpa. See also CONADEH, Post-election Crisis: Third Summary Report and Recommendations of the National Human Rights Commissioner, January 15, 2018; OHCHR, Human rights violations in the context of the 2017 elections in Honduras, 12 March 2018, para. 47.

⁵¹ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

[Military agents and COBRAS] came in to break the doors of our houses. At the moment of the seizure they enter with arrest warrants [and] they state us that there were drugs. But there was nothing in our houses. They presented us before the media even though they should not have detained us.⁵²

42. The IACHR was also informed by civil society organizations of a practice implemented by the authorities to identify and punish opponents of the government through illegal raids on homes; monitoring and surveillance of community leaders; visits of authorities to neighborhoods in order to capture specific people who have previously been victims of smear campaigns; improper use of criminal law to criminalize social protest; increased military and police presence in neighborhoods with greater opposition to electoral results.⁵³ During a meeting with victims during the visit, a professor told the Commission: “I received an attack in front of my house by the military. I am persecuted politically for going to the street to protest, for claiming our right to democracy. We don’t feel well in the country. We feel persecuted. Most of the victims can identify the Military Police as those responsible for the acts of which we have been victims.⁵⁴
43. During its visit, the IACHR received reiterated information that the PMOP and the National Police had subjected some of the persons detained in the post-electoral context to ill treatment, such as threats, offenses, kicks, and even sexual harassment during arrest and detention.⁵⁵ In this regard, the State indicated to the Commission that the Public Prosecutor’s Office received 583 complaints regarding the alleged illegal detention and alleged abuse of authority in this context, which are currently under investigation.⁵⁶ The Commission strongly condemns the ill-treatment of detainees, and reiterates the State’s obligation to initiate the respective investigations ex officio and without delay, as well as to expedite them, in accordance with international standards in the matter.
44. The State reported that a Technical Roundtable for the Validation of Cases was created in order to review and confirm the deaths that occurred during the post-electoral crisis.⁵⁷ This roundtable consists of the Office of the Prosecutor, the Office of the Prosecutor for Crimes against Life, the Prosecutorial Unit attached to the

⁵² Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁵³ IACHR, Hearing on the Reports of Human Rights Violations in the Post-Electoral Context of Honduras, Bogotá, March 26, 2018; IACHR, Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁵⁴ Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁵⁵ Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁵⁶ IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

⁵⁷ Information provided by the State, Meeting with the President of the Republic and senior State officials, Tegucigalpa, August 2, 2018.

Military Police of Public Order, and the Police Directorate of Investigation.⁵⁸ The State informed the IACHR that the Technical Committee concluded that 22 cases could be linked to the post-election context.⁵⁹

1. Disproportionate Use of Force

45. In relation to the disproportionate use of public force, the Commission received testimonies of such use to disperse public demonstrations in other contexts, which indicates that these would not be isolated events.⁶⁰ According to the information received, demonstrations and acts of protest in Honduras have been strongly repressed, and many of their participants have been subjected to stigmatization, detentions and criminal proceedings, in disregard of the fundamental principles of international human rights law.⁶¹ The Commission held meetings with widowed spouses during the on-site visit, and they all reported that the military or the police killed their husbands during demonstrations.⁶² Likewise, multiple victims indicated that military agents attacked them with firearms during the demonstrations, and one of them said that “military agents murdered my brother in 2010. As a result, we had to go to Colón. In December 2017 we were demonstrating against the government, and they shot at us and threw a car at us.”⁶³
46. The general principles on the use of force, in the context of protests and public demonstrations, require that the management of security operations be planned carefully and meticulously by people with specific experience and training for this type of situation, and under clear, specific and previously established protocols of action.⁶⁴ These directives should be aimed at ensuring that police officers act with the certainty that their obligation is to protect participants in a public meeting, demonstration or rally, to the extent that they exercise a right.⁶⁵ The information available indicates that a proposal has been made to revise the Manual on the Use of Force by the National Police, which the IACHR welcomes. In addition, the Commission was informed of the initiative to develop a normative framework on the use of public force, with the support of the International Committee of the Red Cross, the United States Agency for International Development (USAID), OHCHR,

⁵⁸ Information provided by the State, Meeting with the President of the Republic and senior State officials, Tegucigalpa, August 2, 2018.

⁵⁹ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 5.

⁶⁰ Meeting with civil society organizations, Tegucigalpa, July 29, 2018.

⁶¹ Meeting with civil society organizations, Tegucigalpa, July 29, 2018.

⁶² Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁶³ Meeting with Victims and Relatives of Victims of Violence in the Post-Electoral Context, Tegucigalpa, July 31, 2018.

⁶⁴ [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, from August 27 to September 7, 1990. See also, IACHR, [Annual Report 2015](#), Chapter IV.A, Use of Force, Sec. E.1.63

⁶⁵ [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), Provisions 18-21. IACHR, [Annual Report 2015](#), Chapter IV.A, Use of Force.

among others. The Commission encourages the State of Honduras to make efforts in coordination with specialists in the field with a view to adopting a normative framework on the use of public force that adheres to international human rights standards.⁶⁶ The IACHR reiterates the importance of the State refraining from using force to control social protest without observing the principles and standards of international law.

47. Indeed, the Commission has made it clear that firearms should be excluded from devices used to control social protests.⁶⁷ Considering the irreversible consequences that could result from the use of lethal force, the IACHR conceives it as “a last resort that, qualitatively and quantitatively limited, is intended to prevent a more serious occurrence than that caused by the state’s reaction”.⁶⁸ Within this framework of exceptionality, both the Commission and the Inter-American Court have agreed that, in order for the use of force to be justified, the principles of legality, absolute necessity, and proportionality must be satisfied.⁶⁹
48. In the event that the use of lethal weapons is absolutely necessary, there must be explicit rules on who has the power to authorize their use and the ways in which this authorization must be properly documented. The Inter-American Court has stated that, in accordance with the circumstances of each case, it is “necessary to verify whether there are other less harmful means available to protect the life and integrity of the person or situation to be protected.”⁷⁰ Specifically, it has also established that this requirement is not met when persons do not represent a direct danger, “even when the lack of use of force would result in the loss of the opportunity to detain the person”.⁷¹ For its part, the European Court of Human Rights has assessed “whether the use of potentially lethal force against the applicant was legitimate but also whether the operation was regulated and organized in such

⁶⁶ In 2008, the State of Honduras adopted the Organic Law of the National Police of Honduras, [Decree No. 67-2008, June 30, 2008](#).

⁶⁷ [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), Provisions 9-11. IACHR, [Annual Report 2015](#), Chapter IV.A, Use of Force.

⁶⁸ IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124. Doc. 5 rev. 1, adopted March 7, 2006, para. 64.

⁶⁹ IACHR, [Annual Report 2015](#), Chapter IV.A, Use of Force. IACHR: Report No. 90/14, Admissibility and Merits, Luis Jorge Valencia Hinojosa, Ecuador, November 4, 2014, para. 181; [Report on Terrorism and Human Rights](#), October 22, 2002, para. 87; [Report on Citizen Security and Human Rights](#), December 31, 2009, para. 114. See also: I/A Court H.R. Case of Cruz Sánchez and Others v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of 17 April 2015. Series C No. 292, para. 265; Case J. v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of 17 April 2015. Series C No. 275, para. 330; and Case of Nadege Dorzema et al. v. Dominican Republic. Merits, Reparations and Costs. Judgment of October 24, 2012 Series C No. 251, para. 85.

⁷⁰ I/A Court H.R. Case of Montero Aranguren and others (Retén de Catia). Preliminary Objections, Merits, Reparations and Costs. Judgment of July 5, 2006. Series C No. 150, paras. 67-68; and Case of Nadege Dorzema et al. v. Dominican Republic. Merits, Reparations and Costs. Judgment of October 24, 2012 Series C No. 251, para. 85. See IACHR, [Annual Report 2015](#), Ch. IV A, Use of Force.

⁷¹ I/A Court H.R. Case of Hermanos Landaeta Mejías y Otros v. Venezuela. Judgment of 27 August 2014. Preliminary Objections, Merits, Reparations and Costs. Series C No. 281, para. 134; Case of Nadege Dorzema et al. Merits, Reparations and Costs. Judgment of 24 October 2012 Series C No. 251, para. 85; and ECHR, Case Kakoulli v. Turkey, No. 38595/97. Judgment of November 22, 2005, para. 108. See IACHR, [Annual Report 2015](#), Ch. IV A, Use of Force.

a way as to minimize to the greatest extent possible any risk to his life”.⁷² In particular, “exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.”⁷³

49. In the case of non-lethal weapons, the IACHR reiterates that their use must take into account not only the design or characteristics of the weapon, but also other factors such as the context in which they are used and the particular conditions of the recipient, otherwise their consequences may be lethal or cause serious injury.⁷⁴ In any case, the use of these weapons must be accompanied by the implementation of ammunition registration and control systems.⁷⁵ This type of register, before and after operations, is an administrative control measure that helps to facilitate judicial and administrative investigations into possible violations of the rules and principles governing the use of force.
50. The Commission considers that the post-electoral situation in Honduras was the result of a structural crisis that has permeated the country’s political, social and economic scene for years. The violence in the post-electoral framework reflects the worsening political crisis and lack of confidence in public institutions in Honduras. Faced with a crisis that remains latent and that translates into repeated demonstrations in the country, the State is obliged to resolve the causes that led to the post-electoral conflict, including the inapplicability of Article 374 of the Constitution, as well as electoral reforms that correspond to the light of observations and recommendations issued by competent international bodies. It must also implement measures and actions that effectively provide justice and reparation to the victims, transparency, accountability, as well as measures that guarantee the non-repetition of similar acts of violence and repression.

B. Citizen Security

51. In this section, the IACHR analyzes the citizen security situation in Honduras, its main causes, and the impact this phenomenon has on the Honduran population. In particular, it reviews the progress made by the State in order to maintain the downward trend in the homicide rate, the policies and measures that have led to it. Similarly, the IACHR addresses the remaining security challenges.
52. For years, the Inter-American Commission has monitored the high levels of citizen insecurity in Honduras and its effects on the effective enjoyment of human rights.⁷⁶ The State recognizes that in the last decade it has been one of the most violent

⁷² ECHR, Case of Makaratzis v. Greece. Application No. 50385/99/95, December 20, 2004, para. 60.

⁷³ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Provision 8. In this regard, the Commission emphasizes that Article 6 of Decree 168/2013, which creates the Military Police of Public Order (PMOP), establishes that human rights violations were considered “actions against persons and their property committed by organized crime”.

⁷⁴ IACHR, [Annual Report 2015](#), Chapter IV.A, Use of Force.

⁷⁵ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Provision 11.

⁷⁶ IACHR, [Situation of Human Rights in Honduras](#), OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015.

countries in the world, having reached in 2011 a rate of 86.5 homicides per 100,000 inhabitants. It also indicates that drug dealing and organized crime constitute a factor generating violence, which have infiltrated several state institutions.⁷⁷ As detailed in this section, the policies implemented by the Honduran State to purge and reform the National Police have contributed to the reduction of homicides in the country.

53. In 2018, 3,726 homicides were recorded in Honduras.⁷⁸ Murders caused by firearms continue to be the leading cause of death in the country.⁷⁹ Despite this, according to official state data, the homicide rate in Honduras continued to decrease from 59.1 in 2016, to reach a rate of 40.86 per 100,000 inhabitants by the end of 2018.⁸⁰ The State reported that from 2017 to 2018, the homicide rate continued to decline, and was reduced by 2.72% in that period.⁸¹ The State also indicated that the Inter-Institutional Strategic Security Plan 2018-2022 was created, which contemplates actions to reduce the homicide rate per 100,000 inhabitants by eight points per year, with the goal of decreasing the homicide rate to 11 homicides per 100,000 inhabitants projected for 2021.⁸² If achieved, this would mean a 32-point reduction in the homicide rate in four years.⁸³
54. As will be discussed below, the IACHR recognizes the efforts made by the State to reduce the overall homicide rate. In this regard, considering that during the on-site visit in 2014, the IACHR observed that the homicide rate was 68 per 100,000 inhabitants, this means that more than 20 points were reduced in four years. The Commission encourages the State to continue with these efforts. In particular, with respect to areas where the same progress has not been made -such as extortion, assaults, and illegal possession of arms- the IACHR encourages the State to implement strategies, policies, and measures to combat the respective challenges.

⁷⁷ Human Rights Secretariat, Justice, Governance and Decentralization, Report on the Situation of Human Rights in Honduras, 2016 and 2017, December 2017, pp. 6-7. Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 4.

⁷⁸ National Observatory on Violence, University Institute on Democracy, Peace and Security, [Infographic Preliminary homicide data from January to December 2018](#), February 26, 2019.

⁷⁹ Secretariat of State in the Office of Security, General Direction of the National Police, Direction of Planning, Operational Procedures and Continuous Improvement, Department of Statistics, [Behavior of homicides in Honduras 2018](#).

⁸⁰ Secretariat of State in the Office of Security, General Direction of the National Police, Direction of Planning, Operational Procedures and Continuous Improvement, Department of Statistics, Annual Report 2018, [Comparative situation of homicide cases at the national level \(preliminary data\)](#).

⁸¹ In particular, the Secretariat of Security of the National Police reported that, according to preliminary data, in 2018 there were 3,682 homicides, 182 fewer cases than in 2017. Secretariat of State in the Office of Security, General Directorate of the National Police, Directorate of Planning, Operating Procedures and Continuous Improvement, Statistics Department, Annual Report 2018, [Comparative situation of homicide cases at the national level \(preliminary data\)](#).

⁸² Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 6.

⁸³ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 5.

55. For their part, some civil society organizations told the Commission that homicide figures have been underreported in the recent years.⁸⁴ The IACHR received complaints that the alleged reduction in the homicide rate is not reflected in the serious situation of persistent violence against vulnerable groups.⁸⁵ In addition, civil society organizations stated that the vast majority of crimes committed in the country are not reported, with the result that official records of complaints only reflect a minimum percentage of the crimes actually committed.⁸⁶ According to OHCHR information, a “high number of deaths classified as ‘unidentified’ results in an overestimation of the reported reduction in the homicide rate”.⁸⁷
56. The situation of insecurity in Honduras is also evidenced in other crimes, such as robberies, assaults, extortions, rapes, drug trafficking and drug dealing, among others, most of which go unpunished.⁸⁸ During its visit, the IACHR heard from victims, family members, and civil society organizations who testified about the high levels of crime they face, and how rare it is for police agencies to investigate, file charges, let alone convict those responsible.⁸⁹ In this sense, victims of violence and insecurity told the IACHR that in many cases elements of the state police forces are part of the cause of the insecurity they suffer.⁹⁰ As detailed in Chapter III, this disproportionately affects groups and individuals at particular risk, both in the public and private spheres.⁹¹ According to available information, out of the 3,726 homicides recorded in the country in 2018, a total of 382 of the victims were women and 113 were transporters. Out of the total homicides, 70.5% were committed with firearms.⁹²
57. The State recognized that there are structural causes of violence and insecurity, such as poverty, unemployment, among others, and argued that it has adopted measures to address these causes, such as the Bono Vida Mejor program, which had benefited 497,547 people until May 2018.⁹³ The State reported on the adoption of the

⁸⁴ Meetings with civil society organizations, July 29, 2018, Tegucigalpa

⁸⁵ Meetings with civil society organizations, July 29, 2018, Tegucigalpa.

⁸⁶ Meetings with civil society organizations, July 29, 2018; Meeting with civil society organizations, July 31, 2018, Tela and San Juan.

⁸⁷ OHCHR, [Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras](#), January 28, 2019, A/HRC/40/3/Add.2, p. 5.

⁸⁸ OHCHR, [Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras](#), January 28, 2019, A/HRC/40/3/Add.2, p. 5.

⁸⁹ Meetings with civil society organizations, July 29, 2018, Tegucigalpa. Meeting with relatives of victims of the post-electoral conflict, Tegucigalpa, July 31, 2018. Meeting with civil society organizations, July 31, 2018, Tela and San Juan.

⁹⁰ Meeting with civil society organizations, July 29, 2018, Tegucigalpa.

⁹¹ For example, according to data provided by the State, from January to June 2018, 4,870 complaints were received for domestic violence and 1,829 for intra-family violence, as well as 426 for rape (in addition to 90 more for attempted rape, 12 for sexual harassment, and 10 for specific rape) against women and children. Out of these, the State reported that 399 cases for domestic violence, 1,212 for intra-family violence, 165 for rape, and 45 for attempted rape are under investigation or referred. Information provided by the State, Ministry of Security, Directorate of Police Investigations, Oficio D-DPI-No. 1146-2018, June 29, 2018.

⁹² National Observatory on Violence, University Institute on Democracy, Peace and Security, [Preliminary homicide data from January to December 2018](#), February 26, 2019.

⁹³ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 4.

following violence prevention measures through the Prevention Cabinet and the Subsecretariat for Prevention of the Secretariat for Security (SEDS): (i) strengthening of the Gang Resistance Education and Training Program (GREAT), which has benefited more than 200,000 children and adolescents in 348 educational centers in 18 departments of the country; (ii) creation of “Honduras Joven”, “Por mi Barrio”, “Mi Segunda Oportunidad” prevention programs, through which “seed capital” is granted to young people in conjunction with the Tegucigalpa Chamber of Commerce; (iii) implementation of the “Miles de Manos” program, in which 45,000 young people have been trained in pregnancy prevention and sexual and reproductive health; (iv) strengthening of 65 Youth Outreach Centers (CDAJ) in seven of the country’s departments, with a view to establishing the creative use of free time, job training and school reinforcement.⁹⁴

58. The State also announced the implementation of the “Safer Municipalities” program coordinated by the Subsecretariat of Safety in Prevention. The State indicated that this program aims to “bring the police closer to the community through the development of strategies and behaviors oriented with a preventive approach.”⁹⁵ Together with the United Nations High Commissioner for Refugees (UNHCR), it mapped high-risk areas in Tegucigalpa and San Pedro Sula, the country’s two main cities. This, in order to achieve the intervention and presence of public and private officers to prevent the conditions of violence faced by children and adolescents.⁹⁶

1. Militarization of Citizen Security Tasks

59. The IACHR has observed that one of the State’s responses to reduce the levels of insecurity and homicides has been to employ the military forces in citizen security tasks. The Commission has been monitoring the increase in the participation of the military forces in multiple areas and functions related to public and penitentiary security in recent years, particularly since its last visit in 2014. During its visit to the country in 2018, the IACHR continued to receive information about the intervention of the military police, the militarization of the penitentiary function, and its involvement in civic and educational training, such as the “Guardianes de la Patria” program for children and adolescents, which the IACHR referred to in its 2015 report.⁹⁷ Likewise, the army would perform security functions in areas where there are land conflicts and territories such as Bajo Aguán.
60. During and after its visit, the IACHR received with concern information regarding the involvement of military agents in murders, executions, kidnappings, and arbitrary detentions of civilians, the forced displacement of persons, and other

⁹⁴ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 5.

⁹⁵ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 8.

⁹⁶ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 5.

⁹⁷ IACHR, *Situation of Human Rights in Honduras*, OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015.

vexations, which it will follow up.⁹⁸ The Commission notes that some Honduran military personnel have been tried and convicted for human rights violations, including murders, in at least 10 cases.⁹⁹ In this sense, the IACHR has information about an incident in which three civilians were allegedly killed by the military in the area of La Moskita in May 2018, which had not been properly clarified at the time of the on-site visit, according to the information received.¹⁰⁰ In this regard, the State informed the IACHR that the Public Prosecutor's Office accused an infantry corporal of these acts and that as of July 2019 the judicial file had a formal indictment.

61. According to the State, the legal maximum number of PMOP members is 5,000 and by August 2018 they had 4,000 members.¹⁰¹ The State reported that from the beginning of the government administration the idea was the "redeployment of military forces for the police to begin to take over security". In a meeting with high authorities of the sector, it was explained to the IACHR that the national police was co-opted by criminal organizations, which meant that a process of previous purging of the police force had to be implemented, a process that has been carried out in recent years. The State explained to the IACHR that these measures are of a temporary nature and are part of a strategy to directly combat organized crime. The State indicated that this plan consists of purging and strengthening the National Police until reaching the goal of 26,000 troops by 2022, and in the meantime the State will progressively withdraw military officers from citizen security tasks as the number of police officers increases.¹⁰²
62. The State informed the IACHR that the action of the PMOP "will be determined by the reduction of the level of violence in each municipality in the short term and by the strengthening of the National Police in the long term. Specifically the State indicated that, as part of the plan, municipalities that have more than 43 homicides per 100,000 inhabitants will continue to maintain military support, in municipalities that have between 20 and 43 homicides per 100,000 inhabitants a process of redeployment of military force will take place and in municipalities where the rate is less than 25 homicides per 100,000 inhabitants, the police will take full charge of security services.¹⁰³ The State indicated that in 82 municipalities of the country there were no homicides in the first semester of 2018, therefore in those

⁹⁸ Meeting with civil society organizations, Tegucigalpa, July 31, 2018.

⁹⁹ Proceso Digital, "[Military in the Eye of the Hurricane](#)", May 23, 2018. Meeting with civil society organizations, Tegucigalpa, July 31, 2018.

¹⁰⁰ Meeting with civil society organizations, Tegucigalpa, July 31, 2018. COFADEH, Solidarity Center, [Honduras: post-electoral political crisis and its impact on human rights](#), December 2017.

¹⁰¹ Document "Strengthening of the National Police and temporary accompaniment of military forces in the citizen security service". Annex to the information submitted by: Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018. See Republic of Honduras, [Legislative Decree 168-2013, Public Order Military Police](#), August 24 2013, art. 14.

¹⁰² Information provided by the State, Meeting with the President of the Republic and senior State officials, Tegucigalpa, 2 August 2018. Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 7.

¹⁰³ Document "Strengthening of the National Police and temporary accompaniment of military forces in the citizen security service". Annex to the information submitted by: Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018.

municipalities the participation of the PMOP would not be necessary. The State has stated that the work of the PMOM is “an exceptional measure.”¹⁰⁴

63. The State explained, in relation to the precise moment in which military support will be needed in citizen security tasks, that “the answer cannot be established in terms of an exact date but in relation to the security condition of citizens in the different regions of the country.” The State warned that this depends on the implementation of various reforms to the National Police regarding the number of police and “effectiveness of the use of force to ensure the safety of citizens throughout the country”.¹⁰⁵ The State added that “the process of the cessation of military support will be progressive.”¹⁰⁶
64. Inter-American jurisprudence establishes that the maintenance of public order and citizen security must be primarily reserved to civilian police forces; and that when the army participates in security tasks it must be extraordinary, subordinate and complementary, regulated and supervised.¹⁰⁷ The Commission reiterates that police and military institutions are substantially and qualitatively different in terms of the purposes for which they were created, as well as in terms of their training and preparation.¹⁰⁸ With this in mind, the Commission acknowledges the information provided by the State, in particular on the exceptional nature of the measure and the plan for the gradual withdrawal of military forces from public security and the strengthening of the National Police. The IACHR will follow up on the implementation and results of this plan.

2. Measures to Strengthen the National Police

65. With regard to the measures adopted to strengthen the National Police and achieve a reduction in the homicide rate, the State reported on the creation of the Special Commission for the Process of Depuration and Transformation of the National Police, which by September 2017 had evaluated 9,728 police officers, out of whom 4,445 had been removed from their posts.¹⁰⁹ The State reported that the Public Prosecutor’s Office has received some 1,800 complaints against public officials

¹⁰⁴ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 7.

¹⁰⁵ Document “Strengthening of the National Police and temporary accompaniment of military forces in the citizen security service”. Annex to the information submitted by: Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018.

¹⁰⁶ Document “Strengthening of the National Police and temporary accompaniment of military forces in the citizen security service”. Annex to the information submitted by: Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018.

¹⁰⁷ I/A Court H.R., Alvarado Espinoza et al. v. Mexico, Judgment of 28 November 2018. Series C No. 370, paras. 181 and 182.

¹⁰⁸ IACHR, [Situation of Human Rights in Honduras](#), OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 37. IACHR, [Situation of Human Rights in Guatemala: Diversity, inequality and exclusion](#), OEA/Ser.L./V/II. Doc. 43/15, December 30, 2015, paras. 153, 174, para. 178. IACHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L./V/II. Doc. 208/17, December 31, 2017, para. 352.

¹⁰⁹ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 4.

through the Special Prosecutor’s Office for the Prosecution of Justice Sector Officials.¹¹⁰ Notwithstanding the foregoing, the IACHR was informed that there are around 144 criminal cases concerning the conduct of at least 455 police officers, which were referred to the Attorney General’s Office by the Depuration Commission, and which have not been adjudicated.¹¹¹ The Commission reiterates the importance that these criminal cases move forward and, if necessary, sanctioning those responsible in a timely manner.

66. Likewise, the State reported that the strengthening plan includes 5 pillars: 1) regaining citizen confidence; 2) continuous education and training; 3) life plan; 4) adequate equipment for each specialty and 5) decent workspaces. The State informed the IACHR that training programs have been carried out for 3,000 police officers per year, as well as programs aimed at improving the infrastructure in police centers and the adequate equipment for each police officer.¹¹² The State also indicated that in September 2017, Legislative Decrees No. 69-2017 and No. 18-2017, approved the Law on Police Careers and the Organic Law of the State Department in the Office of Security and the National Police of Honduras, aimed at regulating the processes of entry, permanence and suitability in office.¹¹³ The State also indicated that by August 2018, the Police index per 100,000 inhabitants was 156, a figure it considers comparable to the 300 recommended by the United Nations Office on Drugs and Crime (UNODC). On this point, the State reported that by 2018 it expected to have 15,899 police officers, almost 3,000 more than the previous year, and that it aspires to reach more than 26,486 police officers by 2022.¹¹⁴
67. The State added that between 2014 and June 2018, the Secretariat of Human Rights (SEDH), through the Directorate of Education and Culture of Peace and with technical assistance from the United Nations Development Program (UNDP) and the International Committee of the Red Cross (ICRC), trained 26,627 members of the Military Police of Public Order and the Armed Forces.¹¹⁵ The State further reported that it has adopted two central measures to strengthen the National Police: a process of training “a new police officer who is close to citizens”; and training at the

¹¹⁰ In particular, 33 in the Public Prosecutor’s Office Section, 658 in the National Police Section, and 803 in the Judicial Branch Section, for which 33 requests were submitted (6 in the Public Prosecutor’s Office Section, 16 in the National Police Section, and 11 in the Judicial Branch Section) Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 8.

¹¹¹ Meeting with civil society organizations, July 29, 2018. Meeting with the Office of the United Nations High Commissioner for Human Rights.

¹¹² Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, pp. 8-9.

¹¹³ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 4.

¹¹⁴ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 9.

¹¹⁵ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 6. The State further reported that “human rights procedures primers” were prepared for the PMOP, which include standards on the use of force. The State also indicated that between the beginning of 2014 and June 2018, the Department of Human Rights of the Secretariat of Security has trained 24,837 members of the police career and aspiring police officers of the Police Technological Institute. The State said that in these trainings there are a total of “17 topics in human rights”.

Technical Police Institute that includes a criminal investigation school and other specialties to train and graduate three thousand new police officers per year.¹¹⁶

68. The IACHR appreciates the progress reported by the State in reforming, modernizing, and strengthening the National Police, as well as the legislative advances in modernizing the police career and increasing the number of agents, work equipment, and training programs.¹¹⁷ The IACHR encourages the State to continue adopting measures to strengthen and professionalize the National Police, such as deepening and broadening the training of its personnel in the respect for human rights, ensuring that their actions comply with international human rights standards, drafting protocols on the use of force, and guaranteeing accountability in cases of alleged excessive use of force or abuse of power by state agents. The Commission also recalls that the State has the obligation to supervise judicially and institutionally the actions of police officers in the fight against crime, as well as to respect and guarantee the rights of its inhabitants.¹¹⁸ Similarly, the State has an obligation to investigate possible human rights violations with due diligence in an appropriate, effective and timely manner.

3. Private Security Companies

69. During its visit, the IACHR continued to receive information about the proliferation of private security companies in Honduras. According to civil society organizations, there are more than 60,000 unregistered private security guards in the country.¹¹⁹ According to the UN Special Rapporteur on Extrajudicial Executions, some private security agents have been linked to numerous attacks and killings, particularly in areas of intense social conflict such as Bajo Aguán, as well as to the murder of human rights defender Berta Cáceres.¹²⁰ The State pointed out that the Directorate of Control of Private Security Services and other Services of the Secretariat of State in the Office of Security is responsible for the registration of the creation of security companies.¹²¹ There are currently 33,684 registered security guards and 43,126 weapons.¹²² The State indicated that there is also the Regulation for the Control of Private Security Services, which establishes obligations and prohibitions related to the possession and carrying of weapons that must be complied with by all security

¹¹⁶ Document “Strengthening of the National Police and temporary accompaniment of military forces in the citizen security service”. Annex to the information submitted in the Monitoring Report to the Recommendations of the IACHR, 2018.

¹¹⁷ Human Rights Secretariat, Monitoring Report IACHR Recommendations, 2018, p. 6. Document “Strengthening of the National Police and temporary accompaniment of military forces in the citizen security service”. Annex to the information submitted by Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018. Inter-American Development Bank – IDB, [How did Honduras halve its homicide rate?](#) 2019.

¹¹⁸ IACHR, [Annual Report 2015](#), Chapter IV.A, Use of Force.

¹¹⁹ Meeting with civil society organizations, July 29, 2018, Tegucigalpa.

¹²⁰ [Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Honduras](#), A/HRC/35/23/Add.1, 11 April 2017, paras. 28-32.

¹²¹ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 11.

¹²² Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 7.

companies. It maintained that in case the companies do not comply with these provisions, they could receive fines ranging from fifteen to thirty minimum salaries.¹²³

70. The State added that, as of June 2018, the SEDH had trained 157 members of private security companies, and has initiated training processes at the executive level of these companies.¹²⁴ The State recognized that “greater control is still required” and, as of the date of approval of this report, the Law on Private Security Services and Private Investigation Agencies was in the process of being drafted by the National Congress.¹²⁵ The Commission reiterates the importance of greater supervision of private security companies and recalls that the State has the obligation to establish transparent and strict selection processes for the purpose of granting licenses to private security companies, as well as the supervision of these companies and their members.¹²⁶

4. Circulation of Arms in the Country

71. On the other hand, the IACHR learned about the alarming number of firearms circulating in the country —both legally and illegally— as well as the lack of state control. Worrying information was received indicating that in 2017 there were more than one million illegal weapons circulating in Honduras.¹²⁷ The State reported that in 2016, the National Interinstitutional Security Force (FUSINA) confiscated 8,350 firearms, and maintained that “the withdrawal of the circulation of this arsenal has reduced rates of violence in general.”¹²⁸ The State also reported that from 2004 to 2019, 384,788 firearms were registered according to the National Ballistic Registry of Firearms Department of the Police.¹²⁹
72. Similarly, the State pointed out that Honduras ratified the Arms Trade Treaty in 2015.¹³⁰ With respect to domestic legislation, the IACHR notes that in February 2019 amendments to the Law on the Control of Firearms, Ammunition, Explosives, and

¹²³ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 12.

¹²⁴ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 12.

¹²⁵ Information provided by the State, Meeting with the President of the Republic and senior State officials, Tegucigalpa, August 2, 2018. Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 12.

¹²⁶ IACHR, [Report on Citizen Security and Human Rights](#), December 31, 2009, para. 73. See also: UN General Assembly, Latin American and Caribbean Regional Consultation on the effects of the activities of private military and security companies on the enjoyment of human rights: regulation and monitoring, A/HRC/7/7/Add.5, March 5, 2008. IACHR, [Annual Report 2015](#), Chapter IV.A, Use of Force, State Obligations towards Non-State Actors.

¹²⁷ Meeting with civil society organizations, July 29, 2018, Tegucigalpa.

¹²⁸ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 12.

¹²⁹ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 7.

¹³⁰ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 12.

Other Similar Materials were published. Among the changes made, the minimum age for the purchase and possession of a firearm was increased from 18 to 21 years of age (Art. 33); the number of weapons a person may possess was reduced from five to three (Art. 22); the number of weapons a person may carry was reduced from five to two (Art. 78); a psychological examination is required for persons who buy a firearm (Art. 33); and a series of high-caliber weapons were listed and banned.¹³¹ The Act also provides that legal persons applying for a license must provide a list “of the personnel of the company that will handle firearms.”¹³² It further provides 44 additional points for the registration of weapons in different parts of the country. The IACHR takes note of and welcomes these modifications, which would enter into force on May 8, 2019, and will closely monitor their effective implementation.

73. The Commission acknowledges the efforts made by the State referred to in this section, in particular the results achieved in terms of the decrease in the homicide rate and its downward trend since its previous visit to the country. In this spirit, the IACHR encourages the Honduran State to continue these efforts to reduce levels of crime and citizen insecurity, and to materialize the gradual withdrawal of the Armed Forces from tasks of citizen security, while continuing to strengthen the civilian police forces by providing them with financial, human, and technical resources to carry out their work effectively.

C. Administration of Justice

74. An efficient and effective administration of justice is a sine qua non requirement to guarantee not only the right to due process and judicial guarantees, but also all human rights, since this institution is the State’s tool to enforce them in practice, and to combat impunity when these rights have been violated.¹³³
75. The Commission notes that many of the structural problems that weaken the guarantees of independence and impartiality and contribute to the persistence of impunity persist to date, especially in the face of historically high levels of violence in the country. Civil society organizations informed the IACHR of the existence of what they consider to be “selective justice”, which, on the one hand, acts late without offering an effective response in relation to human rights violations, and, on the other hand, in some cases acts in favor of the interests of various actors linked to public, political, and business power.
76. In this section, the IACHR analyzes the situation of impunity, judicial independence, criminal justice, the normative and institutional framework, justice, and the fight against corruption.

¹³¹ [Decree No. 101-2018](#), published in La Gaceta, Official Journal of the Republic of Honduras, February 8, 2019, Law on the Control of Firearms, Ammunition, Explosives and Other Related Materials.

¹³² [Decree No. 101-2018](#), published in La Gaceta, Official Journal of the Republic of Honduras, February 8, 2019, Law on the Control of Firearms, Ammunition, Explosives and Other Related Materials, Art. 34.

¹³³ IACHR, [Human Rights Situation in Honduras](#), OAS/Ser.L./V/II. Doc. 42/15, December 31, 2015, para. 262.

1. Impunity

77. During its visit, the IACHR noted that, despite efforts by the State and progress in some areas, the number of unpunished crimes continues to be symptomatic of structural impunity. According to United Nations data, the impunity rate in Honduras continues to exceed 90%, and more than 97% of crimes against human rights defenders go unpunished.¹³⁴ Similarly, crimes allegedly committed by State agents also have high levels of impunity.
78. According to available information, only one in four indictments reached the trial stage, with an average of 75 per cent being dismissed or closed during pre-trial hearings, with an average of 3,600 open trials per year.¹³⁵ Faced with these levels of impunity, the IACHR received repeated denunciations of the general mistrust of the population in the Honduran justice system; some officials recognized this issue and stressed the importance of recovering the trust.¹³⁶ For its part, the State in its response indicated that in 2018 confidence in the judiciary had improved significantly, placing it in fifth place out of 18 countries analyzed by the Lationobarometro Corporation.¹³⁷ Information was also received on obstacles to access to some of the files and necessary information by relatives and victims of murdered persons, as well as in cases of people who were injured or accused in the post-election context, who in some cases reported not having received any news after filing the complaint.¹³⁸ During the on-site visit, the IACHR met with women whose husbands were murdered in this context, and one of them expressed that “to this day we have no results from the authorities.” Another widow said, “I will never get my husband back; all I ask is that his death does not go unpunished.”¹³⁹ Some family members pointed out that there is “selective justice”, since the trials against opposition leaders or human rights defenders would be moving forward.¹⁴⁰
79. In this regard, the State pointed out that in order to combat crime rates and levels of impunity, the Public Prosecutor’s Office has been strengthened with a budget for

¹³⁴ [End of mission statement by Michel Forst](#), United Nations Special Rapporteur on the situation of human rights defenders on his visit to Honduras, May 11, 2018.

¹³⁵ Office of the United Nations High Commissioner for Human Rights. [Annual Report to the Human Rights Council on the situation of human rights in Honduras](#), March 2018, para. 31. As an illustration of this situation, the State reported that 22 cases of crimes against trade unionists are being investigated, of which only two have been prosecuted: one has been sentenced and the other was concluded. Two others are “pending execution”, and the rest “continue to be investigated. Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 13.

¹³⁶ Meetings with civil society organizations on citizen security, July 28, 2018, Tegucigalpa. Meeting with civil society organizations, July 31, 2018, Tela and San Juan.

¹³⁷ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 5.

¹³⁸ Meeting with relatives of victims of the post-electoral conflict, Tegucigalpa, July 31, 2018.

¹³⁹ IACHR, Meeting with relatives of victims of persons killed and wounded in the post-electoral context, Tegucigalpa, July 31, 2018.

¹⁴⁰ IACHR, Meeting with relatives of victims of people killed and wounded in the post-electoral context, Tegucigalpa, July 31, 2018. IACHR, 169 Period of Sessions, Thematic Hearing, “Criminalized and Deprived Persons in the Post-Electoral Context in Honduras”. Boulder, Colorado, United States, October 3, 2018.

fiscal year 2018 of 1,885,475,158 lempiras (about 78 million U.S. dollars in 2018). The State further argued that this corresponds to a budget growth rate of 8% compared to the previous year. To date, according to State data, the Public Prosecutor's Office has 938 prosecutors and 322 agents from the Technical Agency for Criminal Investigation (ATIC).¹⁴¹ The State informed the IACHR that by 2019, the budget increased by 12% with respect to 2018.¹⁴²

80. The Commission was also informed during the visit about the creation of a Single Criminal Investigation Manual designed to help standardize and unify the various investigative practices, actions, processes and techniques, and which provides the incorporation of ATIC for the prosecution of serious and high-impact crimes.¹⁴³ Information was also provided on the creation of the Specialized Comprehensive Care Module (MAIE) part of the Public Prosecutor's Office to provide care for women victims of domestic violence, gender-based violence, victims and witnesses in vulnerable conditions.¹⁴⁴
81. Likewise, among the efforts made by the State in this regard, the Commission received information from the Supreme Court of Justice, which has implemented a Strategic Plan focused on reducing judicial delay, indicating that there would be no delays in the processes in which peace justices are in charge.¹⁴⁵ Notwithstanding this, the Commission was informed that first instance trials have not been significantly expedited and last on average 20 months. Habeas corpus proceedings before the Supreme Court of Justice are resolved in an average of 45 days, which represents a delay in such an emergency procedure and therefore limits the effectiveness of this remedy in the prompt and effective protection of rights.¹⁴⁶ The IACHR recalls that it is the obligation of the State to ensure prompt and effective

¹⁴¹ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 4.

¹⁴² Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 7.

¹⁴³ IACHR, Meeting with Magistrates of the Supreme Court of Justice, August 2, 2018.

¹⁴⁴ IACHR, Meeting with Magistrates of the Supreme Court of Justice, August 2, 2018. Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 19.

¹⁴⁵ IACHR, Meeting with Magistrates of the Supreme Court of Justice, August 2, 2018. The Commission also learned that the Judicial Branch, with technical support from civil society, conducted workshops for approximately 160 justice officials in Tegucigalpa and San Pedro Sula in 2018, covering topics such as Litigation Techniques in Oral Trial, Conducting Hearings and Administration of Judicial Offices, as well as practical exercises related to the Model of Judicial Management by Hearings. Association for a Fairer Society (ASJ), [ASJ supports the Judicial Branch in implementing the Judicial Management Model for Hearings](#), September 4, 2018. ASJ, [Justice operators participate in training sessions on the Model of Judicial Management by Hearings](#), August 23, 2018.

¹⁴⁶ Office of the United Nations High Commissioner for Human Rights. Annual Report to the Human Rights Council on the Human Rights Situation in Honduras, March 2018, para. 32. Appeals to the Constitutional Chamber of the Supreme Court usually take several years. An illustrative case of this delay and of which the IACHR was aware is a case filed by the National Coalition of Environmental Networks and Organizations (CONROA) against the Mining Law, Legislative Decree 283-2012, in October 2014. The Supreme Court resolved the action almost three years later, in June 2017.

justice, as well as to conduct expeditious and impartial investigations and punish those responsible.¹⁴⁷

82. Since its creation in 2016, the IACHR has monitored the actions carried out by the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH).¹⁴⁸ During the visit, the Commission received a series of complaints concerning corruption cases presented by the MACCIH and the Public Ministry, aided by the Special Fiscal Unit against Impunity and Corruption (UFECIC), created in August 2017. Among these are the issues that have already been penalized, known as: “Red de diputados” which involved more than 100 deputies accused of embezzlement of public funds, by facilitating million-dollar transfers from the Executive Branch to non-governmental organizations (NGOs), which in turn made transfers to the deputies involved;¹⁴⁹ “Pacto de Impunidad”, related to two deputies accused of falsifying documents, abuse of authority, and crimes against the form of government in the approval of legal provisions that sought to protect deputies investigated for misappropriation of funds, and which were approved through irregularities in the process;¹⁵⁰ “La Caja de Pandora”, which involved deputies, other public officials and private individuals accused of designing a scheme to embezzle and divert public funds earmarked for social programs and use them to finance political campaigns.¹⁵¹ In the “Caja chica de la Dama case”, the former first lady, Rosa Elena Bonilla de Lobo, is accused of creating a network of money laundering, embezzlement of public funds, and illicit association for having seized 16 million lempiras and having created a network of money laundering to hide money coming from the State, destined for social works;¹⁵² and “Fraude sobre el Gualcarque”, related to falsification of documents, abuse of authority, and other irregularities in obtaining contracts to use the waters of the Gualcarque River, which at the time had been denounced by human rights defender Berta Cáceres.¹⁵³
83. In this context, according to information received by the IACHR, it has been a challenge for the MACCIH to investigate and prosecute cases involving the country’s political and economic power, and there are often insufficient resources to protect key witnesses in the investigation.¹⁵⁴ Despite these challenges, the IACHR highlights the progress made in the emblematic cases mentioned in the previous paragraph,

¹⁴⁷ In this regard, see I/A Court H.R. Gonzalez et al. Case (“Cotton Field”) v. Mexico. Preliminary Objection, Merits, Reparations and Costs, Judgment of November 16, 2009. Series C No. 205, para. 283.

¹⁴⁸ The MACCIH was created by agreement between the government of Honduras and the Organization of American States on January 19, 2016. In March 2018, an appeal of unconstitutionality was imposed against the decree approved by the National Congress of the Republic of Honduras approving the establishment agreement, which was received by the Supreme Court of Justice. On May 29, 2018, the Constitutional Chamber declared (SCO-0189-2018 RI) that the decree in question and, therefore, the MACCIH-OAS is constitutional and does not contravene the provisions of the Honduran National Constitution. Fifth Semi-Annual Report of MACCIH-OAS, “Towards Institutional Strengthening: Binomial UFECIC-MP/MACCIH-OAS, Breaking Paradigms”, October 19, 2018.

¹⁴⁹ Observatory of the Criminal Justice System in Honduras, OAS/MACCIH, [Case Network of Deputies](#). Tiempo Digital, [MACCIH: Case 'network of deputies' could involve 140 congressmen instead of 60](#), February 6, 2018.

¹⁵⁰ Observatory of the Criminal Justice System in Honduras, OAS/MACCIH, [Impunity Pact Case](#).

¹⁵¹ Observatory of the Criminal Justice System in Honduras, OAS/MACCIH, [Pandora’s Box case](#).

¹⁵² Observatory of the Criminal Justice System in Honduras, OAS/MACCIH, [Caja Chica de la Dama Case](#).

¹⁵³ Observatory of the Criminal Justice System in Honduras, OAS/MACCIH, [Fraud case on el Gualcarque](#).

¹⁵⁴ Meeting with the Mission of Support against Corruption and Impunity in Honduras, July 28, 2018, Tegucigalpa.

through the work carried out jointly with the Public Prosecutor’s Office. The IACHR will closely follow the work of the MACCIH as well as progress in these emblematic cases in the fight against corruption and impunity in Honduras.

2. Judicial Independence

84. Furthermore, during its visit, the Commission noted the absence of sufficient guarantees of the independence of the oversight bodies of judges, due to the excessive control by the Supreme Court and its Office of the President, which continues to prevail in both the appointment and removal of judges.¹⁵⁵ In its Follow-up Report of 2016, the IACHR referred to the March 2016 ruling of the Honduran Supreme Court of Justice, in which the Judicial Career Law was declared unconstitutional. As a result of this ruling, all administrative decisions, such as appointments and removal from office, fall under the jurisdiction of the President of the Supreme Court of Justice. The legal framework applicable on a temporary basis is the one established in the Judicial Career Act of 1980, which continues to apply a disciplinary procedure that does not respect judicial guarantees.
85. The Inter-American Court of Human Rights, in its judgment in the case of *López Lone and Others v. Honduras*, noted that the Judicial Career Council under the 1980 Act did not constitute an autonomous and independent body by virtue of its status as an auxiliary body dependent on the Supreme Court. The Court also found that the provisions of the Act and its Regulations, with respect to the imposition of sanctions on judges, were very ambiguous in providing “excessive discretion: to the body in charge of imposing them.”¹⁵⁶ The international standard establishes that States may create different procedures for the designation of justice officials, but not any designation procedure satisfies the conditions required by the American Convention for the implementation of a truly independent regime.¹⁵⁷ The IACHR has repeatedly pointed out that only a transparent appointment process, based on objective criteria and guaranteeing equal opportunity for candidates, constitutes a fundamental guarantee for their independence.¹⁵⁸ The IACHR calls on the State to adopt as soon as possible a legal framework to regulate the judicial career and the Judiciary Council in accordance with international standards on the matter.
86. During the visit, the IACHR followed up on that particular case. The IACHR welcomes the Supreme Court’s decision to reinstate Tirza Flores Lanza as a judge of the Labor Appeals Court of San Pedro Sula, and Guillermo López Lone as a judge of the San Pedro Sula sentencing court, in compliance with the State’s international human

¹⁵⁵ Meeting with civil society organizations, July 29, 2018, Tegucigalpa. Meeting with Supreme Court of Justice, August 2, 2018.

¹⁵⁶ I/A Court H.R. Case of *López Lone et al. v. Honduras*. Preliminary Objection, Merits, Reparations and Costs. Judgment of October 5, 2015, para. 264.

¹⁵⁷ I/A Court H.R. Case of *Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 30, 2009. Series C No. 197, para. 74.

¹⁵⁸ IACHR. *Democracy and Human Rights in Venezuela*. OEA/Ser.L/V/II. Doc. 54, December 30, 2009, para. 187.

rights obligations.¹⁵⁹ The judgment was published in the official journal *La Gaceta* No. 34,027, on May 7, 2016 and in the newspaper *La Tribuna*, on May 10, 2016, and payments were made as compensation for material and moral damages and costs, both to the aggrieved parties and to their representatives.¹⁶⁰

87. On the other hand, the IACHR received information indicating that in practice, judges and magistrates do not have a regime that assures them stability and possibilities for professional advancement, which conditions their performance and limits their independence.¹⁶¹ In some cases, selection contests are considered “a fiction, an illusory guarantee; that is, merely formal.”¹⁶²
88. In this sense, the State informed that recently processes of selection of anti-corruption and anti-extortion judges and magistrates were carried out.¹⁶³ In order to ensure transparency and impartiality in the appointment processes, as well as a competition based on merit and capacity parameters, the Special Commission for the Selection Process of Anti-Corruption and Anti-extortion Judges and Magistrates was created, composed of representatives of civil society, the Supreme Court of Justice, and the MACCIH.¹⁶⁴ Through this process, six appellate magistrates and seven judges were appointed to the corruption courts. The State also approved the Protocol for the Selection and Appointment of Magistrates of the Court of Appeal, Judges of First Instance, Judgment Judges, Execution Judges and Peace Judges II by means of Agreement No. PCSJ 13-2017. According to the State, the Protocol is made up of the Staff Selection Commission, its Secretariat and the Oversight Team made up of a representative of the MACCIH, the National Human Rights Commission of Honduras, members of civil society, the Honduran Bar Association, the Association of Judges and Magistrates of Honduras, the Association of Judges for Democracy, and the Association of Public Defenders of Honduras.¹⁶⁵
89. In contrast, in civil, criminal, labor, family and child courts, among others, the practice of appointing temporary judges without a competitive merit-based

¹⁵⁹ IACHR, *Annual Report 2018*, Chap. IV, Human rights developments in the region, para. 287. CEJIL, *Honduras: Magistrate and judge dismissed during coup d'état are reinstated in their posts*, September 24, 2018; *El Pulso*, *Judges dismissed for criticizing coup d'état*, September 24, 2018, reinstated.

¹⁶⁰ On the other hand, the State informed that as for the reimbursement of reasonable expenses incurred by the victims López Lone and Flores Lanza to attend the hearing of monitoring compliance with the judgment, held on February 10, 2017 in Panama City, the APJ has stated that the respective reimbursement has already been made. Human Rights Secretariat, Justice, Governance and Decentralization, *Report on the Human Rights Situation in Honduras 2016-2017*, Tegucigalpa, December 2017, p. 14.

¹⁶¹ CEJIL, *Presentation of information (2017-2018) to be used as input in the framework of the next on-site visit to Honduras (30 July to 4 August 2018)*, pp. 3-4.

¹⁶² CEJIL, *Presentation of information (2017-2018) to be used as input in the framework of the next on-site visit to Honduras (30 July to 4 August 2018)*, p. 4.

¹⁶³ Information provided by the State, Human Rights Secretariat, *Monitoring Report to the Recommendations of the IACHR*, p. 16.

¹⁶⁴ Information provided by the State, Human Rights Secretariat, *Monitoring Report to the Recommendations of the IACHR*, p. 16.

¹⁶⁵ Information provided by the State, Human Rights Secretariat, *Monitoring Report to the Recommendations of the IACHR*, p. 16. The State also indicated that the Technical-Legal Unit of the Presidency of the Judicial Branch was created in 2016, through Agreement No. PCSJ 6-2016. This unit may, inter alia, review the conduct of Judges and Courts and, where appropriate, issue recommendations, opinions or legal opinions.

competition, where the relationship with Judicial Branch officials plays a determining role.¹⁶⁶ The Commission considers that these courts should also have a process for appointing judges similar to that of anti-corruption and anti-extortion judges, on the basis of an objective competition based on merit and ability.¹⁶⁷

90. In addition, among the efforts made by the State to ensure that judges are able to carry out their work without being subjected to any type of undue pressure, the Commission received information on the existence of a Unit for Attention for Judges in Situations of Risk, within the Judicial Branch, whose mandate is to carry out all the necessary security coordination for the immediate protection of judges who receive threats against their physical integrity or that of their families.¹⁶⁸ However, it would not have sufficient capacity, training or specialized technical resources to protect judges from harassment and threats.
91. In this regard, the State pointed out that Article 67 of the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Operators provides that “justice sector institutions must make modifications to their own budgets to address the item of protection measures for their operators [...]”.¹⁶⁹ The IACHR was also informed that the Judicial Branch created an Access to Justice Commission, which adopted its regulation in January 2017, but it is not operational. Moreover, the guidelines for access to justice by indigenous peoples and communities, women, migrants, and persons with disabilities have not been developed.¹⁷⁰

3. Special Institutions for the Investigation of Crimes

92. Moreover, “national jurisdiction” judges and prosecutors appointed by the National Defense and Security Council (CNDS) are still operating. The courts with national jurisdiction were created in May 2016 by the Supreme Court of Justice to hear cases of corruption and extortion with the technical assistance of the MACCIH, which also supervises the selection processes of judges and magistrates of this jurisdiction. The information gathered during the visit indicates that the judges and prosecutors of national jurisdiction have broadened their attributions to include “high impact” matters that would exceed the cases contemplated under the Law, having heard, for instance, matters related to the post-electoral crisis and, more recently, in March

¹⁶⁶ Meeting with civil society organizations, July 29, 2018, Tegucigalpa. CEJIL, Presentation of information (2017-2018) to be used as input in the framework of the next on-site visit to Honduras. Honduras (July 30- August 4, 2018), p. 12.

¹⁶⁷ IACHR, Guarantees for the independence of justice officials: towards strengthening access to justice and the rule of law in the Americas, OAS/Ser.L/V/II, Doc. 44, December 5, 2013, p. 27.

¹⁶⁸ Judicial Branch Honduras, Judicial Branch Creates Attention Unit for Judges in Situations of Risk, February 27, 2015.

¹⁶⁹ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 17. See also Chapter II.D, Human Rights Defenders.

¹⁷⁰ Office of the United Nations High Commissioner for Human Rights. Annual Report to the Human Rights Council on the situation of human rights in Honduras, March 2018, paras. 32-33.

2018, usurpation matters.¹⁷¹ The Commission is particularly concerned by the inclusion of the crime of usurpation in this jurisdiction because adjudicating this crime in these courts could lead to prosecutions of land and territory defenders for these crimes, and also stigmatize the work of defenders by commencing judicial proceedings against them in a jurisdiction originally intended for high-impact crimes committed by organized crime groups.

93. Another aspect of special concern noted above by the IACHR is that these judges and prosecutors may hold hearings without the need to determine their physical location, including battalions, by virtual means, and may even reside outside the country as determined by the National Defense and Security Council, thus subordinating themselves to that Council.¹⁷² Regarding the CNDS, since 2014 the IACHR has pointed out the need for its regulations to be reviewed, given that officials from the Judicial Branch (the Chief Justice of the Supreme Court) and the Executive Branch (the Secretary of State in the Office of Security, the Secretary of State in the Office of National Defense, and the President of the Republic, who presides over it) participate in the council.¹⁷³ As mentioned above, the combination of interests linked through joint action calls into question the independence and impartiality of the justice sector to investigate and sanction cases before it, which is contrary to standards and good practices in this area.¹⁷⁴
94. The Commission learned that the Public Prosecutor's Office has created Special, Regional and Local Prosecutor's Offices and Special Units with the aim of providing a more specialized response to the needs of the population and addressing the particular characteristics of the victims, including the Special Prosecutor's Offices for Human Rights, Women's Rights, Children's Rights, Transparency and Combating Public Corruption, Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, among others. Despite these formal advances in institutional design, the information received in the field reveals that it is necessary to strengthen coordination among such entities, especially when they can converge, and to reveal key aspects for the investigation, especially in view of the context of criminality in which they take place.¹⁷⁵ For example, the Commission was informed that the rate of public defenders at the national level in 2018 was three per 100,000 inhabitants, and even lower in the departments of Intibucá, Lempira and Gracias a Dios, which have higher poverty rates and a greater concentration of indigenous peoples.¹⁷⁶

¹⁷¹ Meeting with civil society organizations, 29 July 2018, Tegucigalpa. Meeting with relatives of victims of post-election violence, July 29, 2018. Tegucigalpa. Meetings with agencies of the United Nations system.

¹⁷² Meeting with civil society organizations, 29 July 2018, Tegucigalpa. Meetings with agencies of the United Nations system.

¹⁷³ Special Law of the National Defense and Security Council, approved on December 12, 2011, No. 32.692.

¹⁷⁴ IACHR, [Guarantees for the independence of justice officials: towards strengthening access to justice and the rule of law in the Americas](#), OEA/Ser.L/V/II, Doc. 44, December 5, 2013, para. 58.

¹⁷⁵ Meetings with civil society organizations on citizen security, 28 July 2018, Tegucigalpa. Meeting with civil society organizations, July 31, 2018, Tela and San Juan.

¹⁷⁶ Office of the United Nations High Commissioner for Human Rights. Annual Report to the Human Rights Council on the situation of human rights in Honduras, March 2018, paras. 32-33.

95. The IACHR has positively observed the advances in the new investigation units, but notes that these are not reflected in the same way in the Special Prosecutor's Office for Human Rights (FEDH) of the Public Prosecutor's Office. Although several evaluations have been developed to strengthen the FEDH and international cooperation resources have been allocated to strengthen it, the information gathered indicates that the functioning of this office continues to be weak and ineffective.¹⁷⁷ In this regard, the IACHR considers that the review of competencies within the FEDH should be considered, as well as strengthening its structure and internal procedures for assigning cases and its autonomy.
96. In summary, the Commission warns that the Honduran population still has a great deal of mistrust in the country's administration and justice institutions. Despite the State's efforts to strengthen the institution of justice, these have not translated into concrete progress in practice in terms of effective access to justice, prosecution and convictions of those responsible and, in general, a reduction in the high levels of violence and impunity. The IACHR urges the State to redouble its efforts in this regard, providing the justice institutions with the human and financial resources necessary for them to carry out their work effectively, as well as the autonomy and political independence to do so.

D. Freedom of Expression

97. During the visit, the IACHR observed that in the context of the protests concerning the electoral process, journalists and the media were subjected to threats and aggressions from both state agents and supporters of the competing political groups. Likewise, the IACHR was informed that media editors and journalists were also pressured to influence election coverage and other events of public interest. According to the information received, this polarization spread to social networks, where a stigmatizing discourse about the work of journalists prevailed.
98. The IACHR also noted with concern the excessive use of force by State security forces, which resulted in numerous deaths, detentions and injuries. The IACHR also emphasized that the persistence of high levels of violence against journalists and impunity for most crimes continues to be a serious problem. In addition to this structural aspect there are also the crimes of libel, slander and other legal figures that affect the freedom of expression which are part of the comprehensive reform of the Penal Code and the presentation of a project to regulate social networks. The IACHR analyzes these issues in this section on freedom of expression in Honduras.

1. Violence against journalists and impunity

99. Violence against journalists and impunity for these crimes continue to seriously affect the exercise of the right to freedom of expression in Honduras. The IACHR and

¹⁷⁷ Meeting with civil society organizations, July 29, 2018, Tegucigalpa.

its Special Rapporteur for Freedom of Expression have recognized the reforms to the legislative and institutional framework for prevention, protection, and justice as important steps in combating this type of violence.¹⁷⁸ However, these advances and efforts by the State have not succeeded in effectively guaranteeing the right of journalists to carry out their work free from violence and, consequently, violate the right of Honduran society to access information of public interest.

100. According to official figures, between 2003 and 2014, 50 communicators and media workers were murdered in the country.¹⁷⁹ Since January 2015, the IACHR and its Special Rapporteurship have recorded 15 murders of journalists and media workers in the country¹⁸⁰ and have been informed about attacks, physical aggressions, threats and intimidation against this group of people.¹⁸¹ The brutal murders in 2017 of Honduran journalist Igor Padilla, correspondent of the television channel Hable Como Habla in the city of San Pedro Sula,¹⁸² and of reporter Víctor Funes, known as “the journalist of the people”, of the television channel 45TV in the city of Ceiba in the department of Atlántida,¹⁸³ and the attack on journalists Jhonny Lagos and Yadira Cerrato of *El Libertador* in Tegucigalpa, are examples of the violence faced by journalists in the country.¹⁸⁴
101. During the visit, the IACHR learned about the high risk of violence faced by journalists who investigate and cover issues of corruption, organized crime, social protests, and land claims. The Commission also heard several testimonies that recounted how the political crisis that followed the presidential elections of November 28, 2017 increased the risk for the exercise of free and independent journalism in the country. Likewise, the IACHR was informed of undue pressure on the media to give favorable coverage to the pro-government candidate and not to transmit images linked to police repression, even under the threat of losing official advertising contracts.

¹⁷⁸ IACHR. Country report. Human Rights Situation in Honduras. OEA/Ser.L/V/II. Doc. 42/15 31 December 2015. para. 379.

¹⁷⁹ National Human Rights Commissioner (Conadeh). February 6, 2015. 11 people linked to the media died in violent circumstances.

¹⁸⁰ Osmin Antonio España Chávez (October, 2017); Carlos William Flores (August, 2017); Víctor Fúnez (June 2017); Igor Padilla (January, 2017); Dorian Hernández (June, 2016); Elmer Cruz (June, 2016); Henry Roberto Reyes Salazar (July, 2016); Joel Aquiles Torres Alvarenga (July, 2015); Deibi Adalí Rodríguez (June, 2015); Juan Carlos Cruz Andara (June, 2015); Carlos Fernández (February, 2015), Franklin Johan Dubón (May, 2015); Cristel Joctán López Bermúdez (April, 2015); Artemio Deras Orellana (April, 2015); Erick Arriaga (February, 2015).

¹⁸¹ IACHR. Annual Report 2015. Report of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere) OEA/Ser.L/V/II. Doc. 48/15. December 31, 2015. paras. 751-756; IACHR. Annual Report 2016. Report of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere) OEA/Ser.L/V/II. Doc. 22/17. March 15, 2017. paras. 705-723; IACHR. Annual Report 2017. Report of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere) OEA/Ser.L/V/II. Doc. 210/17. December 31, 2017. paras. 772-780.

¹⁸² C-Libre. January 17, 2017. Journalist murdered in San Pedro Sula.

¹⁸³ C-Libre. June 15, 2017. Journalist who received death threats is murdered; La Prensa, June 15, 2017. Honduran journalist murdered in front of his home in La Ceiba.

¹⁸⁴ IACHR. Special Rapporteur for Freedom of Expression. Request for Information. Article 41 of the American Convention on Human Rights. Ref: Attack against journalists of the newspaper El Libertador. September 12, 2017.

102. The IACHR received with concern information about attacks and undue pressure on the media, threats and attacks on journalists, as well as smear campaigns against the press in this context. For example, the IACHR learned of the attack on Radio Progreso, which after the elections was the victim of sabotage of its transmission tower and antenna in Tegucigalpa, which caused it to leave the transmission in that city. According to the information received, “on December 9, 2017, the Radio Progreso signal in Tegucigalpa began to have failures in the transmission from 5:00 p.m. onwards. After three drops of the signal at 5:40 in the afternoon the signal definitely went off the air in Tegucigalpa. On Sunday, December 10, a team of Radio Progreso technicians moved [to] where the transmitter for Tegucigalpa is located and found that the tower and the transmitter had been damaged. On Monday, December 11, the technician [...] verified that 2 of the 4 tensors were loosened, because they were loosened the wind made the tower fall and the transmitter lost stability and fell to the ground, according to the technician that action could only be performed by someone who knows the location of the tower and its structure.”¹⁸⁵
103. Additionally, the Jesuit priest Ismael Moreno, director of *Radio Progreso*, has been the victim of stigmatization and discredit campaigns since the beginning of the post-election protests, in particular, it has been denounced the circulation of pamphlets making him responsible for the violence in the country and for being allied with drug trafficking.¹⁸⁶ Journalist Cesar Obando Flores, correspondent for *Radio Progreso* and television presenter on a program called “Los Dueños de la Audiencia”, was also the victim of threats.¹⁸⁷ Later, Sandra Maribel Sánchez, director of the program “Más Que Dos”, also on *Radio Progreso*, received a threatening phone call after she and the president of the Medical College of Honduras (CMH), Suyapa Figueroa, denounced the government’s intention to privatize the health system.¹⁸⁸ *Radio Progreso* is an emblematic community medium in the country, criticizing the current government. Radio Progreso is also a beneficiary of precautionary measures issued by the IACHR.¹⁸⁹
104. According to information gathered by the Office of the High Commissioner for Human Rights in Honduras and civil society organizations, during the post-election crisis several journalists were attacked by security agents while covering anti-government protests: cameraman David Matute from “Marte Tv” in the municipality of Comayagua, was attacked by the Military Police; journalist Bladimir Rivera from “Prensa Libre” channel from the southern part of the country, was attacked by the Military Police;¹⁹⁰ cameraman Kevin Castillo of Televisión Televida Channel was beaten and his equipment destroyed by members of the Honduran army while covering a public demonstration in Choluteca in southern Honduras;¹⁹¹ three

¹⁸⁵ Ismael Moreno. Copy of written complaint for the crime of damage against a media. Filed before the Public Prosecutor’s Office on December 13, 2017. Available in the archive of the IACHR.

¹⁸⁶ OHCHR Honduras. [Annual Report 2017](#), para. 45; OHCHR Honduras. September 1, 2018. [OHCHR concerned about smear campaign against Father Ismael Moreno](#).

¹⁸⁷ C-Libre. January 9, 2018. [Journalist receives death threats after spreading partisan political information](#).

¹⁸⁸ OHCHR Honduras, August 23, 2018. [OHCHR is concerned about threats against the press](#); C-Libre. August 26, 2018. [Threats to journalist for reporting on “privatization of the health system”](#).

¹⁸⁹ IACHR. PM 196/09 - Precautionary Measures, Honduras. 2009.

¹⁹⁰ C-Libre, December 4, 2017. [Military repression of the press during coverage of social protests](#).

¹⁹¹ C-Libre. January 5, 2018. [Militaries Break Cameraman’s Camera Coverage of protesters](#).

journalists, two from UNE TV and one from Univision, were attacked by security forces in the vicinity of the Presidential House; the journalist Dassaev Aguilar Moncada, correspondent in Honduras for the Iranian news network “Hispan TV”, was wounded on his left foot by the impact of tear gas bombs dropped by the Military Police;¹⁹² the correspondent of the French Press Agency (Agence France Presse), was hit in the head by a tear gas bomb launched by the Military Police.¹⁹³

105. The IACHR received information indicating that this type of attack against the press would continue in 2018. For example, according to available information, in May 2018, police and military forces allegedly intimidated and threatened UNE TV journalist Víctor Rodríguez while he was covering a protest called by the “Alianza de Oposición contra la Dictadura” (Opposition Alliance against Dictatorship) in the capital city of Honduras.¹⁹⁴ Also, prior to the national strike announced by the Opposition Alliance, a new smear campaign and threats against journalists commenced in social networks.¹⁹⁵
106. The IACHR considers that the electoral crisis produced a setback, after the State had begun to implement prevention and protection policies for journalists. According to data provided by the State during the on-site visit, 67 journalists and social communicators were under the Protection Mechanism for Human Rights Defenders and Journalists. Out of this group, 22 journalists and social communicators received protection due to the risk produced in the post-election context. In addition, the mechanism has dealt with seven cases of journalists who are victims of forced displacement. The IACHR recognizes the State’s efforts to strengthen this mechanism and ensure effective protection for journalists at risk. It also considers positive the plan to establish a prevention and context analysis unit and the revision of the mechanism’s risk assessment matrix. However, the Commission heard testimonies and complaints about deficiencies in the design and implementation of physical protection measures, the lack of transparency and sufficient motivation of the decisions taken, insufficient resources and the absence of a comprehensive and differentiated approach to the problem, which goes beyond the physical protection of journalists and includes both prevention policies and effective investigation. This translates into high levels of mistrust between journalists and media workers regarding the effectiveness of the protection program. Many journalists reported that they avoid filing requests for protection for fear of being exposed to a more serious risk.
107. The IACHR has reiterated that States have a positive obligation to prevent these events, protect journalists who are at risk for their work, initiate effective investigations when attacks occur, punish those responsible, and provide reparations to victims. The IACHR emphasizes the importance of strengthening the effectiveness of the mechanism and having a comprehensive prevention policy to

¹⁹² C-Libre. January 20, 2018. [Military Police fractured a Journalist's Leg with a tear bomb](#). C-Libre January 27, 2018. [International news agency photojournalist wounded by soldiers during a citizen demonstration against the dictatorship](#).

¹⁹³ C-Libre. January 27, 2018. [International news agency photojournalist wounded by military during citizen demonstration against dictatorship](#).

¹⁹⁴ C-Libre, May 7, 2018. [Policemen and military men raise assault UNE TV journalist](#).

¹⁹⁵ C-Libre. January 19, 2018. [Journalists who are victims of hate and smear campaigns through social networks](#).

address the root causes of violence against journalists and promote an environment that fosters freedom of expression.

108. Campaigns to stigmatize and criminalize journalists and others for exercising their right to freedom of expression are of particular concern. There is a stigmatizing and polarizing public discourse against the press. Journalists and media are branded as “marero” or “terrorists” when they report on issues perceived as contrary to government or business interests, and they are perceived as if they have sold themselves for a price (“tarifados” or “vendidos” in Spanish) when, from the other side of the political spectrum, they are accused of not being government critics. The IACHR reiterates that the authorities should not stigmatize or stereotype the press, in order to avoid the increasing risk they face. On the contrary, the authorities should take into account that public officials have a position as guarantors of the fundamental rights of individuals and, therefore, their statements cannot constitute forms of direct or indirect interference in the rights of those who intend to contribute to public deliberation through the expression and dissemination of information. This duty is particularly accentuated in situations of greater social conflict, disturbances of public order or social or political polarization, precisely because of the risks they may entail and because in the digital age these labels become commonplace among followers.
109. Impunity in cases of violence against journalists remains high and constitutes the State’s main challenge in this area. As the Inter-American Court has stated, “the combination of violence against journalists and impunity has a highly negative impact, firstly, on journalists themselves and their families, and secondly, because it has caused diverse communities [...] not to receive information on issues that affect them, such as armed conflict, organized crime, drug trafficking and political corruption.”¹⁹⁶
110. During the visit to the country, the State reported that the Prosecutor’s Office for Crimes against Life is leading the investigation of 66 cases of homicides of journalists that have occurred since 2013. Out of these cases, only 24 have been prosecuted there have been eight convictions, however the masterminds have not been convicted. Impunity rates in cases of threats and attacks against journalists are even higher. Victims and human rights organizations have constantly denounced that they have no information about the status of their complaints about murders or violence against journalists. Impunity has generated fear and self-censorship among communicators, as well as a deep distrust in public authorities to achieve justice.
111. The IACHR recognizes the measures adopted by the State to ensure effective investigations and reverse the pattern of impunity, however, notes that the recommendations that have been made since the last visit in 2014 have been partially implemented, so it is necessary that these efforts be redoubled. The adoption of a specialized protocol to ensure adequate investigation of crimes against journalists is an urgent necessity. The IACHR and its Special Rapporteurship express their willingness to provide technical advice to the MP on this matter. Likewise, the

¹⁹⁶ I/A Court H.R. Case of Carvajal Carvajal and others v. Colombia. Merits, Reparations and Costs. Judgment of March 13, 2018. para. 177.

creation of a Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Workers (FEPRODDHH), as part of the National System of Prevention and Protection, is an important step forward and should have all the material, technical and human resources to investigate complaints of threats and attacks against journalists and social communicators at risk.

2. The Use of Criminal Law to Punish the Exercise of Freedom of Expression

112. In Honduras, criminal law continues to be frequently used as a mechanism to inhibit and harass journalists. In the last two years, the IACHR has expressed concern about the idea of maintaining or incorporating crimes incompatible with its international obligations in the area of freedom of expression.
113. The reforms to the crime of terrorism and the bill against hate speech and discrimination in social networks are worrying examples of restrictive legislative proposals that could enable legal action against journalists and human rights defenders. In this regard, in May 2018, the IACHR's Special Rapporteur for Freedom of Expression, Edison Lanza, together with the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, sent a communication to the State of Honduras in which they expressed their concern about the effects on the exercise of freedom of expression of the legal initiative on Cybersecurity and measures to protect against acts of hatred and discrimination on the Internet and social networks.¹⁹⁷ This office has stressed that the cybersecurity response of States cannot compromise the democratic virtues that characterize the Internet. In particular, the Rapporteurs reminded the State that authorities must be aware of the possible impact of any criminal measure on the exercise of human rights in the digital environment. Similarly, they emphasized that any regulation or policy aimed at combating hate speech must comply with the requirements of international human rights treaties.
114. Similarly, according to information received during the visit, the new Criminal Code, which at the time of submission of this report had not entered into force, maintains the offences of libel and slander in order to protect the reputation of a public official, although they are fined. In this regard, the IACHR reiterates that the use of criminal mechanisms to punish expressions on matters of public interest or concerning public officials, candidates for public office, or politicians violates Article 13 of the American Convention, since there is no imperative social interest that justifies it, is unnecessary and disproportionate, and may constitute a means of indirect censorship given its intimidating and chilling effect on the debate on matters of

¹⁹⁷ IACHR/UN. IACHR Special Rapporteur on Freedom of Expression, Edison Lanza and UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye. Request for Information. IACHR/RELE/Art. 41/06-2018/27. National Cybersecurity Bill and measures to protect against acts of hatred and discrimination on the Internet and social networks. June 7, 2018.

public interest.¹⁹⁸ The IACHR has emphasized that the use of criminal law to punish specially protected speeches - such as those referred to public officials - is not only a direct limitation of freedom of expression, but can also be considered as an indirect method of restricting expression because of its chilling effect on the free flow of ideas, opinions, and information that may be critical or offensive. The simple threat of criminal prosecution for critical expressions on matters of public interest can generate self-censorship given its intimidating effect. In the words of the IACHR, “[c]onsidering the consequences of criminal sanctions and the inevitable chilling effect they have on freedom of expression, criminalization of speech can only apply in those exceptional circumstances when there is an obvious and direct threat of lawless violence [...] the State’s use of its coercive powers to restrict speech lends itself to abuse as a means to silence unpopular ideas and opinions, thereby repressing the debate that is critical to the effective functioning of democratic institutions. Laws that criminalize speech which does not incite lawless violence are incompatible with freedom of expression and thought guaranteed in Article 13, and with the fundamental purpose of the American Convention of allowing and protecting the pluralistic, democratic way of life.”¹⁹⁹

115. In addition, the new Criminal Code includes a broad definition of the crimes of “public disorder”, “disobedience to authority”, “attack on authority”, “unlawful meetings and demonstrations” and “access to and dissemination of classified information”. In this regard, the Commission notes that these crimes could allow the criminalization of legitimate social protest actions and the work of human rights defenders. In this regard, it reiterates that the application of criminal law against those who participate in a demonstration constitutes a serious restriction with serious consequences for freedom of expression, and the rights to freedom of assembly, association and political participation, therefore it can only be applied under very exceptional circumstances and is subject to strict scrutiny.
116. Thus, in its 2005 report, the IACHR’s Special Rapporteur for Freedom of Expression stated that: “there is interference on the part of the judiciary. The Rapporteurship understands that, in principle, criminalization *per se* of demonstrations in public thoroughfares is inadmissible when they are carried out in exercise of the rights to freedom of expression and to freedom of assembly. In other words, it must be examined whether the application of criminal sanctions is justified under the standard, established by the Inter-American Court, that said restriction (criminalization) satisfies a pressing public interest necessary for the operation of a democratic society. It is also necessary to examine whether the imposition of criminal sanctions is, in fact, the least harmful means to restrict the freedom of

¹⁹⁸ IACHR. Arguments before the Inter-American Court in the case of Herrera Ulloa v. Costa Rica. Transcribed in: I/A Court H.R.. Case of Herrera Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C No. 107. Para. 101.2); IACHR. Arguments before the Inter-American Court in Ricardo Canese v. Paraguay. Transcribed in: I/A Court H.R. Case of Ricardo Canese v. Paraguay. Merits, Reparations and Costs. Judgment of August 31, 2004. Series C No. 111. para. 72.h).

¹⁹⁹ IACHR. [Annual Report 1994](#). Chapter V: Report on the Compatibility of Disobedience Laws with the American Convention on Human Rights. Title IV Conclusion. OEA/Ser. L/V/II.88. doc. 9 rev. 17 February 1995.

expression, exercised through the right of assembly, in turn exercised through a demonstration on a thoroughfare or in a public space.”²⁰⁰

117. In its second Report on the Situation of Human Rights Defenders in the Americas, the Commission noted that “[d]uring the last years, there is a growing trend in some countries to bring criminal charges against people who participate in social protests”²⁰¹ and in 2015, concerned about the serious situation, the Commission approved a report on the Criminalization of Human Rights Defenders, in which it pointed out that social protests are one of the most common contexts in which this serious problem occurs.²⁰²
118. As the Special Rapporteurship for Freedom of Expression has pointed out, “criminalization could have an intimidating effect on this form of participatory expression among those sectors of society that lack access to other channels of complaint or petition, such as the traditional press or the right of petition within the state body from which the object of the claim arose. Curtailing free speech by imposing a custodial sentence for those who make use of this means of expression would have a dissuading effect on those sectors of society that express their points of view or criticisms of the authorities as a way of influencing the processes whereby state decisions and policies that directly affect them are made.”²⁰³
119. Finally, during the visit, the IACHR received with concern information about the lack of publicity and transparency about the content of these draft bills as they are being discussed by Congress. The IACHR condemns these practices. Access to information held by the State is one of the foundational pillars of democracies, and the secrecy of the actions of the legislature in its essential function of drafting the law impacts the fundamental principles of the rule of law and democracy, and is incompatible with the American Convention. In a democratic society, the principle of legality is inseparably linked to that of legitimacy and publicity, as well as to respect for citizen participation.

3. National Security and Access to Public Information

120. In the 2015 country report, the Commission expressed concern about the approval and entry into force, on 7 March 2014, of the Law for the Classification of Documents

²⁰⁰ IACHR, Annual Report of the Special Rapporteur for Freedom of Expression. 2005. Chapter V, “Public demonstrations as an exercise of freedom of expression and freedom of assembly”, para. 96. In the same sense, see IACHR, Annual Report of the Rapporteurship for Freedom of Expression, 2002, Chapter IV, para. 35.

²⁰¹ IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II. Doc. 66 31 December 2011, para. 107.

²⁰² IACHR, Criminalization of Human Rights Defenders, OEA/Ser.L/V/II. Doc. 49/15, 31 December 2015, para. 12.

²⁰³ IACHR, Annual Report of the Rapporteurship for Freedom of Expression, 2002, Chap. IV, para. 35.

Related to National Security and Defense²⁰⁴ and urged the State to review it.²⁰⁵ As already analyzed in the 2015 report, this law imposes severe restrictions on the right of access to public information, which are incompatible with the State's international obligations in this area and should be repealed.

121. Article 3 of the aforementioned law states that “matters, acts, contracts, documents, information, data and objects, the knowledge of which by unauthorized persons could damage or endanger national security and/or defense, and the achievement of objectives in these matters, may be declared Classified Matters.” The law confers the exclusive power to classify information to the National Defense and Security Council²⁰⁶ and indicates that it should be done according to a set of parameters that range from “undesirable institutional effects” to “imminent risk or direct threat to security, national defense and public order to constitutional order, sovereignty and territorial integrity, and the achievement of national objectives” in view of the level of damage that could be caused by its publicity. Article 4 establishes four categories of classification: Reserved, Confidential, Secret and Ultra-Secret.²⁰⁷
122. The law for the classification of public documents regulates the terms for declassification, indicating that this “must be done” “after” five years in the case of classified information, ten years in the case of confidential information, fifteen years in the case of secret information and twenty-five years in the case of ultra-secret information. “However, if the circumstances for which the matter was declared as classified persist, the National Defense and Security Council may extend the original classification period, by means of a duly substantiated and reasoned order”, in accordance with the law. The declassification can be requested before the respective

²⁰⁴ National Congress of the Republic of Honduras. Decree 418-2013. [Law for the classification of public documents related to national security and defense, Decree 418-2013.](#)

²⁰⁵ IACHR. [Annual Report 2016. Report of the Special Rapporteur for Freedom of Expression.](#) Chap. II (Evaluation of the Situation of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 22/17 March 15, 2017. Para. 782.

²⁰⁶ Republic of Honduras. Law for the classification of public documents related to national security and defense, Decree 418-2013.

²⁰⁷ The text of this provision is as follows: The Classification Categories are: Reserved, Confidential, Secret and Ultra-Secret, according to the degree of protection required. a) Reserved: Lower level in subjects classified in the national order. It is all that information, documentation or material referring to the internal strategic scope of the State entities and that its disclosure could produce “undesirable institutional effects” if it were publicly available against the effective development of State policies or the normal functioning of public sector institutions. b) Confidential: Intermediate level in matters classified in the national order. It is all that information, documentation or material referring to the internal strategic scope of the State and that its revelation could result in an imminent risk or direct threat against security, national defense and public order. This material could “damage or harm internally” national security if it were publicly available. c) Secrecy: High level in matters classified in the national order. It is all that information, documentation or material referring to the strategic scope of the State both externally and internally and that its disclosure could result in imminent risk or direct threat against the constitutional order, security, national defense, international relations and the achievement of national objectives. This material would eventually cause “serious internal and external damage” to national security if it were publicly available. d) Top Secret: Highest level of classification in matters classified in the national order. It is all that information, documentation or material that, being referred to the strategic political scope of the State, both externally and internally of the national defense, its original revelation imminent risk or direct threat against the second, national defense, sovereignty and territorial integrity, and the achievement of the national objectives. This information could cause “exceptionally serious internal and external damage” to national security if it were publicly available. Republic of Honduras. [Law for the Classification of Public Documents Related to National Security and Defense, Decree 418-2013.](#)

term expires only in case of national interest, or for the investigation of possible crimes.

123. In turn, the National Intelligence Law Decree 211-2012²⁰⁸ provides that “expenditure incurred in the procurement, contracting and execution of goods, services, works and human resources, which if done publicly would jeopardize national security, the integrity of intelligence personnel or their sources of information, shall be treated as reserved.”²⁰⁹ It also indicates that “notwithstanding the provisions of the Law on Transparency and Access to Public Information, intelligence activities, information and documents shall be reserved, given that their content is confidential or secret, as these are elements inherent to national security and defense.”²¹⁰
124. According to the information received during the visit, in 2015 the Institute of Access to Public Information issued a resolution in which it ordered reforming the law and repealing some of its articles.²¹¹ In 2016, several civil society organizations filed actions of unconstitutionality against this law, which are still pending before the Constitutional Chamber of the Supreme Court of Justice.²¹²
125. During the visit, the IACHR learned that the Executive Branch had sent Congress a reform bill, the content of which is not publicly available on the legislature’s website, despite the fact that the debates had already begun. The IACHR was informed by civil society organizations that, although it introduces positive changes, the reform concentrates in the executive branch broad powers to restrict access to public information. The IACHR and its Special Rapporteurship express their willingness to provide technical advice to Congress in relation to the reform of the Law.

²⁰⁸ Republic of Honduras. [National Intelligence Law Decree 211-2012](#). Published on 15 April 2018, Gazette 33.099.

²⁰⁹ See: Article 16.

²¹⁰ See: Article 18.

²¹¹ Institute for Access to Public Information. [Resolution No. SE- 001-2015](#). July 28, 2015.

²¹² In this regard, see, Radio Progreso. February 12, 2016. [With an appeal of unconstitutionality they seek to repeal the Law of Secrecy](#); La Tribuna. November 29, 2016. [Appeal of unconstitutionality filed against Secrecy Law](#); El Heraldo. April 28, 2014. [Appeal of unconstitutionality against the Secrecy Law](#).

CHAPTER 3

INEQUALITY, POVERTY AND EXCLUSION: ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS

INEQUALITY, POVERTY AND EXCLUSION: ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS

126. This section focuses on the differentiated effects that poverty and inequality have on the effective enjoyment of the human rights of the inhabitants of Honduras, especially their economic, social, cultural and environmental rights (ESCR). In this regard, the Commission and its Special Rapporteurship on ESC Rights analyze the available data on the prevalence of poverty in the country and how the State seeks to respond to this situation. And in order to document these impacts, they focus on the information gathered in relation to the right to food, the right to education, the right to health, and business and human rights. To this extent, they also refer to crosscutting aspects that affect the full enjoyment of all human rights, such as the transparent management of public funds and institutional mechanisms to promote public policies and budget allocations for social programs. Finally, the section refers to the situation of special vulnerability of the ESC Rights of the Miskito people, with particular attention to the labor rights of the Miskito divers, who face serious obstacles to the enjoyment of their rights and social benefits granted by the State.
127. During the visit, the IACHR verified the worrying situation of poverty, inequality and social exclusion in Honduras. In particular, serious difficulties continue to be observed in the enjoyment of social rights by large percentages of the population. In this regard, the Committee on Economic, Social and Cultural Rights (Committee on ESC Rights) in its most recent assessment of the country notes the persistence of high indices of poverty and extreme poverty, with a greater burden on indigenous peoples, people of African descent and people living in rural areas of the country.²¹³
128. Similarly, according to OHCHR, Honduras has been marked by high levels of poverty affecting more than 60% of the population, 38% of whom live in extreme poverty; this situation would point to setbacks in the fight against poverty since between 2001 and 2016 the number of families in such conditions would have increased by 63%, that is, around 5.3 million people out of a total population of 8.7 million.²¹⁴ This means that it has become one of the most unequal countries in the Central American region, where the enjoyment of human rights is conditioned by sex, social stratum, ethnicity and geographical area, and where marginalized sectors of the population suffer from violence, displacement and lack of access to security, justice, health care, education and other services.²¹⁵ For the IACHR, these challenges are

²¹³ Committee on Economic, Social and Cultural Rights. Concluding observations on the second periodic report of Honduras, July 11, 2016, para. 39.

²¹⁴ Office of the United Nations High Commissioner for Human Rights, Annual Report 2017 on the situation of human rights in Honduras. March 20, 2018, para. 7.

²¹⁵ Office of the United Nations High Commissioner for Human Rights, Annual Report 2017 on the situation of human rights in Honduras. March 20, 2018, paras. 7-8.

aggravated by the country's fiscal policy which is not contributing to closing the existing inequality gaps or generating sufficient resources to progressively advance in the realization of economic, social, cultural, and environmental rights,²¹⁶ this situation is even more complex due to the institutional weakness to confront and vigorously reject the existence of corruption, illicit capital flows, tax evasion or tax fraud.

129. The State has recognized the limited characterization of the problem of poverty in Honduras, the State reported that it made efforts to improve the analysis and evaluation of public policies in social matters by implementing a "Multidimensional Measurement of Poverty" methodology, using various indicators to assess the guarantee of four rights: health, education, work and housing. According to the data analyzed, in 2013, 7 out of every 10 people were in a situation of multidimensional poverty, the majority of people were of working age and were not contributors to a social security system, 71% of the people between 15 and 49 had less than 7 years of schooling and more than half used firewood for cooking.²¹⁷ The IACHR emphasizes the need to conduct these studies to address the existence of inequality, poverty and extreme poverty in an institutional manner. However, the persistence of these figures and in situ corroboration made by the Commission, demonstrates that the State needs to enhance its efforts articulating such actions in a more systematic and participatory manner. To this end, regulations, programs, plans or public policies with a human rights approach, as well as the direct strengthening of the actions of the respective state agencies within the framework of the commitments assumed in Agenda 2030 on Sustainable Development Objectives will be essential.
130. In this regard, the Commission recalls that poverty enhances the exposure to human rights violations, and that in certain cases, such violations can be attributed to the State.²¹⁸ The Commission has also referred to the close and cyclical interrelationship between discriminatory practices and situations of poverty, which generates serious obstacles to poverty eradication.²¹⁹ Within this framework, the State must ensure, in accordance with its international human rights obligations, that human rights are respected and guaranteed from the initial planning stages of the public policies that affect them, including the appropriate distribution of the budget, the allocation of responsibilities and the evaluation of progress and results, as well as the timely correction of any regressive actions or trends in this field.²²⁰ Consequently, the State must adopt legislation and public policies focused on the construction of participatory budgets and accountability mechanisms for the use of public resources for the eradication of poverty and inequality in the country.

²¹⁶ Committee on Economic, Social and Cultural Rights. Concluding observations on the second periodic report of Honduras, July 11, 2016, para. 19.

²¹⁷ Government of the Republic of Honduras, Secretariat for General Government Coordination, *Multidimensional Poverty Measurement, Honduras (2016)* pp. 15-16; See also: Government of the Republic of Honduras, *Voluntary National Review Agenda 2030*, United Nations Economic and Social Council High Level Political Forum, pp. 8-9.

²¹⁸ IACHR. Report on Poverty and Human Rights in the Americas, September 7, 2017. para. 91.

²¹⁹ IACHR. Report on Poverty and Human Rights in the Americas, September 7, 2017. para. 159.

²²⁰ IACHR. Report on Poverty and Human Rights in the Americas, September 7, 2017. para. 159.

131. As noted earlier in the report, the Commission has also received information denouncing serious acts of corruption as one of the major factors impeding the use of available resources for the guarantee of human rights, in particular the ESC Rights. For example, during the visit the “Pandora” case was highlighted, in which members of political parties and individuals diverted more than 11 million dollars, which originally belonged to the Secretariat of Agriculture and Livestock for the development of social projects, towards the securing of property.²²¹ As a result, economic funds earmarked for the guarantee and enjoyment of social rights of the most vulnerable population were not actually used for this purpose. The IACHR emphasizes the duty of the State to guarantee transparency and access to information in the administration, control and supervision of the use of public resources, as well as to advance diligently in investigations and impose the corresponding sanctions for acts linked to corruption.²²² Within this framework, the IACHR encourages the recently created Interagency Table on Transparency and Anti-Corruption to adopt a human rights approach, especially considering the impact on the social rights of the most disadvantaged individuals.²²³
132. The State also informed the IACHR about the progress and challenges related to the right to health, the access to essential medicines and treatment for the country’s most disadvantaged population groups, which is an issue of particular concern. Although the State has referred to increased investment in the public health system in 2014, 2015 and 2016,²²⁴ the IACHR is concerned about information received during its visit on the low coverage in the country, the insufficient economic and human resources available to guarantee this right, the prevalence of inadequate infrastructure and issues related to the quality of existing health services, particularly those aimed at the population in rural areas.²²⁵
133. The IACHR refers to the assessments made in the section on women’s rights with regards to sexual and reproductive health, however it underscores its concern over the high rates of child and adolescent pregnancy (15%),²²⁶ maternal death rates (73 per 100,000 births),²²⁷ as well as the absolute criminalization of abortion and the prohibition of the use, sale and distribution of emergency oral contraceptives. The IACHR emphasizes the State’s obligation to guarantee equal access of women to health services in this area, to provide information on the social and economic

²²¹ MACCIH-OAS. Honduras Observatory. [Pandora case](#) (accessed November 19, 2018).

²²² IACHR. Resolution 1/18. Corruption and Human Rights, March 2, 2018.

²²³ IACHR, Preliminary Observations visit Honduras, p. 10.

²²⁴ Working Group on the Protocol of San Salvador, Final Observations and Recommendations to the State of Honduras: Consideration of Reports Submitted by States Parties to the First Grouping of Rights under the Additional Protocol to the American Convention on Economic, Social and Cultural Rights, “Protocol of San Salvador”, para. 50.

²²⁵ See *mutatis mutandis* ESC Rights Committee, concluding observations on the second periodic report of Honduras, 11 July 2016, para. 51.

²²⁶ MESECVI, Hemispheric Report on Sexual Violence and Child Pregnancy in the States Parties to the Convention of Belém do Pará, Washington, DC, 2017, OEA/Ser.L/II, para. 88.

²²⁷ Working Group on the Protocol of San Salvador, Final Observations and Recommendations to the State of Honduras: Consideration of Reports Submitted by States Parties to the First Grouping of Rights under the Additional Protocol to the American Convention on Economic, Social and Cultural Rights, “Protocol of San Salvador”, para. 47.

factors that affect the health of girls and women, the provision of specific health services, and the modalities of their use.

134. The IACHR recalls that the jurisprudence of the Inter-American Human Rights System has affirmed that health is a fundamental human right and indispensable for the adequate exercise of other human rights, and that every human being has the right to the enjoyment of the highest possible level of health that allows living with dignity, emphasizing that health is not only the absence of diseases, but also as a complete state of physical, mental, and social well-being, derived from a lifestyle that allows people to achieve an integral balance. Within this framework, the general obligation to protect health translates into the State's duty to ensure people's access to essential health services, goods and medicines, guaranteeing quality and effective medical care, as well as promoting the improvement of the population's health conditions,²²⁸ including sexual and reproductive health.
135. The IACHR emphasizes that the enjoyment of the right to food has a close relationship with the access to seeds and the use and control of land, especially considering the high cost of the market basket and the high inequality in the distribution of land in Honduras.²²⁹ In this context, the Commission is concerned about the lack of effective measures within the country, especially when there are high rates of chronic malnutrition (23%) and global malnutrition (7%), these figures along with the food security issues should encourage comprehensive policies that guarantee the right to adequate food, and those affected receive immediate attention.²³⁰ In addition, the IACHR is concerned about reports of limited access to sources of production for the benefit of transnational agribusiness corporations and about legal threats to restrict the use, storage and exchange of traditional seeds by indigenous and *campesino* (farmer) communities.
136. In this context, the IACHR emphasizes that the United Nations Committee on Economic, Social and Cultural Rights has indicated that the right to food is guaranteed when people have physical and economic access to adequate food or the means to obtain it at all times,²³¹ this requires States to take concrete measures to continuously improve the ability of people to feed themselves and to eliminate hunger and malnutrition, including the direct allocation of food in cases where people are unable to obtain food themselves.²³² Honduras must bear in mind that policies on seeds and land use and access are key elements in guaranteeing the right to food, in particular for indigenous peoples, Afro-descendants such as *campesino*

²²⁸ I/A Court H.R. Case of Poblete Vilches and others v. Chile. Merits, Reparations and Costs. Judgment of March 8, 2018. Series C No. 349, para. 118; Case of Duque v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 26, 2016. Series C No. 310, para. 174.

²²⁹ OHCHR, Annual Report on the Situation of Human Rights in Honduras, March 20, 2018, para. 10.

²³⁰ Working Group of the Protocol of San Salvador, Concluding Observations and Recommendations to the State of Honduras: Consideration of Reports Submitted by States Parties to the First Grouping of Rights under the Additional Protocol to the American Convention on Economic, Social and Cultural Rights, "Protocol of San Salvador", para. 101.

²³¹ Committee on ESC Rights. General Comment No. 12, May 12, 1999, para. 6.

²³² Committee on ESC Rights. General Comment No. 12, May 12, 1999, para. 15.

communities and small farmers, as they are closely related to access to food and their livelihoods.

137. The persistence of land grabbing and land concentration tends to threaten the effective and full enjoyment of this right. For example, by: generating forced displacements, obstructing land tenure and legal security over the lands of these populations, preventing access to seeds under reasonable terms or preventing production because of the lack of protection of crops genetic diversity, having in place restrictive patent regimes on seeds or due to the smaller size and quality of the land. In this regard, the State must ensure that all seed, land and investment projects or policies are compatible with its international human rights obligations, particularly when the marginalization of communities dependent on access to land for their livelihoods is accentuated and the lack of land and seeds is associated with significant levels of rural poverty.²³³
138. The Commission also received information from the Minister of Education regarding the progress and challenges in the area of education, such as legal, budgetary and quality challenges. The Commission takes note of the adoption of the Education Sector Strategic Plan 2017-2030. Notwithstanding this, it is concerned about the high illiteracy rates (11%) and about the high levels of disapproval and school dropout.²³⁴ During the visit, the IACHR heard complaints from teachers regarding the stagnation of salaries, increased social security contributions, and the trend toward the privatization of education, which would have an impact on teachers' working conditions and accentuate inequality and educational gaps in the full exercise of this right. In this regard, the complaints received included acts of corruption, lack of information and improper administration of the funds and social contributions of this union. The complainants indicated that there is continuous harassment of union leaders, as well as several cases of unjustified dismissal and suspension from work. Low education quality indices, insufficient budget and the absence of intercultural and gender approaches in education were also highlighted.
139. The IACHR recalls that the right to education is considered the epitome of the indivisibility and interdependence of all human rights,²³⁵ and serves as a catalyst for

²³³ See in general: Report of the Special Rapporteur on the right to food. UN. A/57/356, August 27, 2002; Report of the Special Rapporteur on the right to food. UN. A/64/170, July 23, 2009; Report of the Special Rapporteur on the right to food. UN Doc. A/HRC/13/33/Add.2, December 28, 2009; Report of the Special Rapporteur on the right to food. UN Doc. A/65/281, August 11, 2010. For its part, the State informed the IACHR that through the Secretariat of Agriculture and Livestock (SAG), 10 new production technologies and productivity of agricultural crops were generated, which contributes to improving food security. In addition, 13,139 agricultural producers have been assisted by the SAG through training, technical assistance and advisory services to increase production (Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 10).

²³⁴ Working Group of the Protocol of San Salvador, Concluding Observations and Recommendations to the State of Honduras: Consideration of Reports Submitted by States Parties to the First Grouping of Rights under the Additional Protocol to the American Convention on Economic, Social and Cultural Rights "Protocol of San Salvador", para. 103; see also Committee on ESCR. Concluding observations on the second periodic report of Honduras, 11 July 2016, para. 55; and United Nations Human Rights Council, Universal Periodic Review: Report of the Working Group, paras. 125.61 and 125.81.

²³⁵ I/A Court H.R. Case of Gonzales Lluy and others v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 1, 2015. Series C No. 298. para. 234.

generating critical and participatory citizenship as well as influencing the development of individuals and societies. The IACHR also recalls that under the Protocol of San Salvador, to which Honduras is a party²³⁶, the right to education must be directed towards “the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace.” This implies that the State must guarantee the right of its population to receive human rights education, in addition to the obligation to respect and guarantee each of the fundamental elements for the realization of the right to education, such as its availability, accessibility, acceptability and adaptability.²³⁷

140. In summary, under this entire framework, the IACHR emphasizes that the right to education is indispensable for the realization of other human rights such as the right to work, to political participation, to freedom of expression, to care for the environment, or the substantive equality between women and men. It also stresses that the right to food, like the right to health, must be understood as a fundamental and indispensable for the exercise of the rights to life and personal integrity, therefore the States are required to adopt measures for the exercise of these rights. Although under International Human Rights Law there are certain aspects of the rights to health, food and education that are of progressive realization, it is necessary to underline that there States also have immediate obligations, including the provision without discrimination of medicines and essential food, as well as compulsory and free primary education, prioritizing persons and groups that face a situation of vulnerability and poverty. The State, in addition to fulfilling its immediate obligations, must show the progress achieved and monitor the policies aimed at achieving the goals related to these rights and to be accountable when the measures are not adopted. To this end, the IACHR considers it useful to have as a parameter the goals approved by the States on health, food and education since the implementation of Agenda 2030 relating to the Sustainable Development Goals.²³⁸
141. Lastly, in the area of business and human rights, the State reported that Office of the United Nations High Commissioner for Human Rights is advising the State with a view to drawing up a national plan of action on business and human rights.²³⁹ It also referred to efforts made by the Ministry of Labor in the area of labor rights, referring to the adoption of a new Labor Inspection Law in 2017 and underlining efforts to prioritize a timely and rapid response to labor complaints.²⁴⁰ For their part, various sectors reported human rights violations as a result of activities in the extractive sector and the exploitation of natural resources, such as mining and energy production, as well as arbitrary and illegal actions by private security companies. The IACHR is aware of situations of forced displacement, harassment, criminalization and stigmatization against human rights defenders in these contexts and the undermining and precariousness of the ESC Rights. In this regard, the

²³⁶ Honduras deposited its accession to this Treaty on November 10, 2011.

²³⁷ Committee on ESC rights. General Comment No. 13, 8 December 1999, para. 6.

²³⁸ United Nations General Assembly. Transforming our world: the 2030 agenda for sustainable development. Sustainable development goals: Goals 2, 3 and 4. 25 September 2015.

²³⁹ Information received in meeting with state authorities, August 2, 2018, Tegucigalpa.

²⁴⁰ Information received in meeting with state authorities, August 2, 2018, Tegucigalpa.

Commission is concerned about information on the limited capacity of state institutions to address such problems in a timely manner and in accordance with international human rights norms and standards.

142. The IACHR reiterates that in certain circumstances, the State may be held internationally responsible for human rights violations committed by private individuals, including acts committed by private companies.²⁴¹ Similarly, the Commission has warned that “development activities must be accompanied by appropriate and effective measures to ensure that they do not proceed at the expense of the fundamental rights of persons who may be particularly and negatively affected”,²⁴² and that these impacts depend on and differ according to the type of business activity involved. In particular, it stresses that in relation to extractive exploitation or development activities, state obligations revolve around six central axes: (i) the duty to adopt an adequate and effective regulatory framework, (ii) the duty to prevent human rights violations, (iii) the obligation to supervise and monitor the activities of companies and other non-state actors, (iv) the duty to ensure mechanisms for effective participation and access to information, (v) the duty to prevent illegal activities and forms of violence, and (vi) the duty to ensure access to justice through adequate investigation, punishment and redress of human rights violations in these contexts.²⁴³

Economic, social, cultural and environmental rights of the Miskito people

143. The IACHR considers it appropriate to make particular mention of the situation of the Miskito people’s ESC Rights as it has continue to observe the extreme poverty, exclusion and inequality in which they find themselves. The IACHR has previously expressed its concern about the serious situation of indigenous peoples in Honduras.
144. In the particular case of the Miskito people, the IACHR notes that there is no proper equipment and medical personnel in the health centers in the region. This is especially the case in the Puerto Lempira Hospital, which serves the entire population of the Department of Gracias a Dios, with serious shortages of equipment, electricity, and medical specialties. Similar situations were observed in the communities of Panama, Garífuna and Auratá. For instance, in Auratá there is only one auxiliary nurse in the community health center to attend approximately 600 people, there is a shortage of medicines and the fluvial transfer available to access larger health centers, such as the Hospital of Puerto Lempira, is not affordable. This is aggravated by the absence of clean water and sanitation services, the prevalence of precarious housing, and the consequences of climate change

²⁴¹ IACHR. Indigenous Peoples, Afro-descendant communities and natural resources: human rights protection in the context of extraction, exploitation and development activities. December 31, 2015, para. 46.

²⁴² IACHR. Mayan Indigenous Communities of the Toledo District (Belize), Merits Report No. 40/04, Case 12.053, October 12, 2004. para. 150.

²⁴³ IACHR. Indigenous Peoples, Afro-descendant communities and natural resources: human rights protection in the context of extraction, exploitation and development activities. December 31, 2015, para. 65.

affecting traditional crops. This situation is similar in the other communities in the area. These populations also denounced high rates of maternal mortality, child malnutrition and teenage pregnancy, in most cases there are difficulties to cover the costs of the market basket placing them in a position of extreme vulnerability. In this regard, the IACHR emphasizes that indigenous peoples have the right, collectively and individually, to the enjoyment of the highest attainable standard of physical, mental and spiritual health. They have the right to use, without discrimination, all health and medical care institutions and services accessible to the general population, as well as to exercise their own health systems and practices. In this regard, States, in consultation and coordination with indigenous peoples, should promote intercultural systems or practices in the medical and health services provided in indigenous communities, including the training of indigenous health technicians and professionals.²⁴⁴ The situation described above is aggravated by contexts of violence related to drug trafficking and organized crime and by the lack of formal employment opportunities and the widespread presence of inadequate, unsafe, and in many cases illegal working conditions, for example, with respect to the fishing industry in the area and the lack of control and state presence repeatedly denounced and documented before this Commission,²⁴⁵ which has generated abuses and systematic violations of the rights of indigenous workers.

145. On the other hand, taking into account the persistent and structural conditions of inequality in Misquito territory, the IACHR is also concerned about the lack of access to and quality of education, including the basic and immediately enforceable contents of this right. In Mosquitia, the deterioration of schools and the absence of secondary and higher education centers were highlighted as well as the prevalence of a very low quality of education, which hinders the strengthening of capacities and greater opportunities to get out of poverty. The Commission notes that there is widespread concern about the lack of prioritization of bilingual intercultural education, since Spanish continues to be the dominant and mostly exclusive language in the teaching of indigenous children. This not only generates the risk of the gradual loss of the original language but also the rejection of cultural values and worldviews, which strengthens the stigmatization and stereotypes present in society with respect to these communities; the lack of inclusion of relevant information and historical data on these peoples in national educational texts was also highlighted. Finally, the IACHR received information on the difficulties of physical access to schools, and the risks that this poses for the realization of the rights of Miskito girls and boys, having to travel long distances or being forced to move to have access to education. This, for example, was emphasized with respect to the community of Auratá in that region. In this regard, the IACHR underscores that States and indigenous peoples, in accordance with the principle of equal opportunities, should promote the reduction of disparities in education between indigenous and non-indigenous peoples. For their part, indigenous peoples have the right to establish and control their educational systems and institutions in accordance with their cultural methods of teaching and learning. Furthermore, in

²⁴⁴ American Declaration on the Rights of Indigenous Peoples, Art. XVII.

²⁴⁵ IACHR. Human Rights Situation in Honduras. December 31, 2015, paras. 427-435. See also Office of the United Nations High Commissioner for Human Rights, Annual Report on the Situation of Human Rights in Honduras, March 20, 2018, para. 15.

the case of indigenous peoples, the right to education implies, inter alia, that States, in conjunction with these groups, promote intercultural education.²⁴⁶

146. Finally, the IACHR reiterates its concern about the lack of an effective policy to address the multiple effects that Miskito divers continue to suffer as a result of underwater fishing, including the lack of public policies and services to serve those who have acquired a disability as a result of this activity²⁴⁷. In this regard, the Commission has received repeated information on the situation of Miskito divers, in particular on the precarious working conditions under which they engage in spearfishing. The information available indicates that many Miskito divers who engage in traditional spearfishing as their main form of livelihood have suffered labor exploitation, to the extent that many have died or are physically disabled as a result of fishing.²⁴⁸ Members of these communities have underscored that the situation of the Miskito divers is framed within a structural problem of poverty, abandonment and exclusion. For its part, the State has indicated that it provides medical attention to the surviving Miskito divers and that the Department of Occupational Health and Safety of the Secretariat of Labor has coordinated actions with the medical services that have taken care of the population of workers who have been affected by this. The IACHR reiterates its call to the Honduran State to address the situation of the Miskito divers without delay and to ensure that they have effective access to justice when their rights are violated.

²⁴⁶ American Declaration on the Rights of Indigenous Peoples, Art. XV.

²⁴⁷ IACHR, [Admissibility Report No. 121/09](#), Petition 1186-04, Opario Lemoth Morris and Others (Miskitos Divers), Honduras, November 12, 2009.

²⁴⁸ IACHR, [Admissibility Report No. 121/09](#), Petition 1186-04, Opario Lemoth Morris and others (Miskitos Divers), Honduras, November 12, 2009.

CHAPTER 4

PARTICULAR SITUATION OF GROUPS OF SPECIAL CONCERN

PARTICULAR SITUATION OF GROUPS OF SPECIAL CONCERN

147. In this chapter, the Commission analyses the human rights situation of sectors of the Honduran population that are particularly vulnerable. It analyses the situation of human rights defenders and justice operators; indigenous peoples and Afro-descendants; children and adolescents; women; LGBTI persons; internally displaced persons; and migrants, persons in need of international protection and returnees and persons deprived of their liberty.

A. *Human Rights Defenders and Justice Operators*

1. Human Rights Defenders

148. During on-site visit to the country, the Commission noted that Honduras had made significant institutional progress in protecting the rights of human rights defenders. On March 15, 2018, the decree was published creating the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, a new body attached to the Public Prosecutor's Office in charge of investigations of crimes committed against human rights defenders by state officials, as well as by private individuals.²⁴⁹ The IACHR welcomes that in a meeting held with the Public Prosecutor's Office, it was pointed out that this office would soon be provided with a budget to start operating.²⁵⁰ Likewise, in 2015, the Law on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators was passed, creating the National Protection Mechanism, which represents an important commitment in the protection of human rights defenders by the State.²⁵¹

149. Notwithstanding these important institutional advances, during its visit the Commission observed that human rights defenders continue to face an extreme risk situation due to the permanent violence, criminalization and delegitimization to which they are exposed. In this regard, the Commission was informed of acts of harassment, threats, intimidation, aggression, murder and other acts of violence against human rights defenders, as well as criminalization and defamation, in a

²⁴⁹ [Decree No. 34,593, Agreement No. FGR-002-2018](#), Official Gazette of the Republic of Honduras, Tegucigalpa, Honduras, March 15, 2018.

²⁵⁰ IACHR, on-site visit to Honduras, visit with state officials, August 2, 2018. Information provided by the Public Prosecutor's Office, Republic of Honduras, Report on the Death of Journalists 2018.

²⁵¹ [Decree No. 34-2015, Law on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators](#), Official Gazette of the Republic of Honduras, Tegucigalpa, Honduras, May 15, 2015.

general context of impunity which, according to information received during the visit, would exceed 95% of the cases.²⁵²

150. The IACHR found that people who defend the environment, land, and territory face the greatest risks in Honduras.²⁵³ These people face most of the cases of violence, criminalization and defamation in front of the development of hydroelectric, mining or agrarian projects.²⁵⁴ During its visit to Bajo Aguán and Atlántida, the Commission received information on threats, harassment and acts of violence against campesino leaders and indigenous defenders for their opposition to tourism, agrarian, mining or hydroelectric projects that affect their lands, territories or natural resources.
151. The Commission also warns of an aggravated risk for women human rights defenders. According to the information received by the Commission during the visit, attacks on the integrity and reputation of women human rights defenders represent the highest percentage in relation to other forms of aggression, accounting for 24% of all aggressions suffered in 2016 and 2017. In this category of aggressions, smear campaigns stand out, which in the case of women human rights defenders, are also developed around the domestic, family and community environments and attack the role of women in society, as well as their sexuality.²⁵⁵ Defamation campaigns against women human rights defenders, for example, often contain a high degree of gender-based violence, with accusations based on their sexual, family and work lives. The Commission also notes with concern the situation of violence against the LGBTI community, which also affects those who defend the rights of this community.²⁵⁶

²⁵² Meetings with civil society organizations, Tegucigalpa, July 29, 2018. Meetings with civil society organizations, Tegucigalpa, July 31, 2018. Meetings with civil society organizations, Tela and Comunidad de San Juan, July 31, 2018.

²⁵³ The Commission received information on threats against defenders of land, the environment and the rights of indigenous peoples Ana Mirian Romero, Roberto Gómez, María Felicita López and Rodolfo Vásquez, members of the Lenca Indigenous Movement of La Paz-Honduras, and of the Indigenous Council of San Isidro Labrador. In a similar situation, members of the Civic Council of Popular and Indigenous Organizations of Honduras, COPINH, of which the defender Berta Cáceres was also a member. [Frontline Defenders, Case History: Ana Mirian Romero](#). See also: [Frontline Defenders, Case History: Miriam Miranda](#), [Case History: COPINH](#), [Frontline Defenders: José de los Santos Sevilla](#).

²⁵⁴ IACHR, [IACHR condemns killing of members of the Tolupán indigenous peoples in Honduras](#), March 7, 2016; IACHR, [IACHR deplores killing of Nelson Noé García in Honduras](#), March 21, 2016.

²⁵⁵ National Network of Honduran Human Rights Defenders, [Defender para vivir: Report on the Situation of Women Human Rights Defenders 2016-2017](#), p. 19.

²⁵⁶ In January 2016, Paola Barraza, a transgender woman human rights defender of LGBTI people, was murdered, and in August 2017 David Valle, an LGBT defender who had requested protection measures from the National Mechanism, was attacked. IACHR, [IACHR condemns killings and other acts of violence against human rights defenders of LGBT persons in Honduras](#), March 7, 2016. IACHR, [IACHR condemns the attack against LGBTI rights defender David Valle, in Honduras](#), August 9, 2017. IACHR, [IACHR condemns killing of LGBT rights defender in Honduras](#), June 15, 2016. IACHR, [IACHR condemns killings and other acts of violence against human rights defenders of LGBT persons in Honduras](#), March 7, 2016. For more information, see section of this report on the situation of LGBTI persons in Honduras.

152. On the other hand, between the end of 2017 and 2018, according to the information received, the situation of human rights defenders was aggravated by the acts of violence reported after the post-electoral crisis.²⁵⁷
153. In this section, the Commission analyzes the most relevant information regarding the murders and aggressions of human rights defenders, the criminalization and delegitimization of the defense of human rights, the investigation of the murder of human rights defender Berta Cáceres, as well as the situation in Bajo Aguán and the situation of justice operators.

2. Murders and Aggressions

154. Although the IACHR noted that since 2016 the murder rate of human rights defenders in the country has decreased, the global numbers of aggressions in recent years remain distressing.²⁵⁸ According to information received, from 2014 to August 2018 there were at least 65 murders of human rights defenders, and between 2016 and 2017 alone more than 1,232 attacks were reported against defenders, their families, and their organizations.²⁵⁹ The IACHR has repeatedly expressed its consternation at the murders of human rights defenders in the country and beneficiaries of precautionary measures granted by the IACHR, such as the murders of Berta Cáceres, Nelson Noé García, José Ángel Flores and Silmer Dionisio George.²⁶⁰ According to information provided by civil society organizations, the vast majority of these attacks remain unpunished.²⁶¹ According to the National Commissioner for Human Rights (CONADEH), human rights defenders, journalists and social

²⁵⁷ IACHR, IACHR and OHCHR Express Concern over Threats and Practices of Harassment against Human Rights Defenders, Journalists, and Media Outlets in Honduras Following the Elections, January 19, 2018.

²⁵⁸ According to the most recent information available to the Commission, the homicide rate in Honduras continued to decline, reaching 42.8 per 100,000 inhabitants by the end of 2017. The State also reported that by June 2018, the partial homicide rate was 19.86 per 100,000 inhabitants, reflecting a downward trend compared to the previous year. Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 5.

²⁵⁹ IACHR, Preliminary Observations of the IACHR's Visit to Honduras, August 3, 2018, p. 15. Information gathered during the on-site visit.

²⁶⁰ IACHR, IACHR repudiates the killing of Berta Cáceres in Honduras, March 4, 2016. IACHR, IACHR condemns killings and other acts of violence against human rights defenders of LGBT persons in Honduras, March 7, 2016. IACHR, IACHR deplors killing of Nelson Noé García in Honduras, March 21, 2016. IACHR, IACHR condemns killing of LGBT human rights defender in Honduras, June 15, 2016. IACHR, Honduras, one of the most dangerous countries for human rights defenders - experts warn, August 19, 2016. IACHR, IACHR condemns murders of human rights defenders in the region, February 7, 2017. IACHR, IACHR and OHCHR Express Concern over Threats and Practices of Harassment against Human Rights Defenders, Journalists, and Media Outlets in Honduras Following the Elections, January 19, 2018. With regard to the murder of José Ángel Flores and Silmer Dionisio George, the State informed the IACHR that on September 7, 2018, in collaboration with the Bajo Aguán Task Force, INTERPOL, and Mexican authorities, that the alleged perpetrator of the crime, was captured and extradited from Mexico to Honduras. Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 11.

²⁶¹ Meetings with civil society organizations, Tegucigalpa, July 29, 2018. Meetings with civil society organizations, Tegucigalpa, July 31, 2018. Meetings with civil society organizations, Tela and Comunidad de San Juan, July 31, 2018.

communicators, including cameramen and photographers, continue to be victims of attacks on their integrity and their work.²⁶²

155. The Commission recalls that the State of Honduras has a duty to investigate attacks against human rights defenders, which implies serious, independent and transparent investigations to identify intellectual and material authors prosecute them and guarantee adequate reparation.²⁶³ At the same time, States have an obligation to combat impunity in general, and particularly when dealing with human rights defenders, since impunity in this context has a negative impact on other human rights defenders because of the fear it generates, which could directly diminish the possibilities for defenders to exercise their right to defend human rights through complaints.²⁶⁴
156. The IACHR underscores the important role that the new Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators (FEPRODDHH), created in March 2018, could play in practice.²⁶⁵ The Commission calls on the State of Honduras to urgently provide it with a budget and to ensure its effective functioning. It should also make progress in the elaboration of specialized protocols for the investigation of crimes against human rights defenders to support their work.

3. Criminalization of Human Rights Defenders and Social Leaders

157. The criminalization of human rights defenders in Honduras continues to be of concern to the Commission. In meetings with civil society organizations and human rights defenders in Bajo Aguán, San Pedro Sula, Tegucigalpa, and Tela, the IACHR received multiple testimonies that refer to the use of criminal types such as usurpation, insults and slander, assault, or threats to file civil lawsuits against them, as a method of obstructing the defense of human rights.²⁶⁶
158. For example, during its visit to the campesino community "Panama" in Bajo Aguán, in the Department of Colón, the IACHR noted with concern that, given the situation of serious violence arising from the agrarian conflict in the area, human rights defenders are subject to lengthy judicial processes, alternative legal measures, and arrest warrants. The Commission received testimonies from campesino leaders

²⁶² CONADEH, Ombudsman disapproves and strongly rejects the immoderate use of force by police officers who have violated the human rights of journalists and social communicators, August 2, 2018.

²⁶³ IACHR, Criminalization of Human Rights Defenders, OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, paras. 266 and following.

²⁶⁴ IACHR, Criminalization of Human Rights Defenders, OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, para. 229. I/A Court H.R. Case of Luna López v. Honduras. Judgment of October 10, 2013. Series C No. 269, para. 111.

²⁶⁵ Public Prosecutor's Office, Office of the Attorney General of the Republic of Honduras, Agreement No. FGR-002-2018, creating the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators "FEPRODDHH" published in La Gaceta on March 6, 2018.

²⁶⁶ Meetings with civil society organizations, Tegucigalpa, July 29, 2018. Meetings with civil society organizations, Tegucigalpa, July 31, 2018. Meetings with civil society organizations, Tela and Comunidad de San Juan, July 31, 2018.

accused of land usurpation crimes, even when they were not involved in land recovery processes and did not live in the region at the time of the events. In these cases, they pointed out that these processes are commonly used as a method of judicial harassment to forcibly evict and silence local resistance.²⁶⁷

159. Likewise, the IACHR observes that in recent years the student movement has faced several criminalization processes. Recently, on June 7, 2018, the Fourth Chamber of the Supreme Court of Justice sentenced Moisés David Cáceres Velásquez, Sergio Luís Ulloa Rivera, and Cesario Alejandro Félix Padilla, students at the National Autonomous University of Honduras (UNAH),²⁶⁸ after the student protests at the National University of Honduras (UNAH) in Tegucigalpa and UNAH-VS in San Pedro Sula that took place between 2014 and 2016 against various internal regulations of the University that regulate the regime of tuition, registration, payments, among others. The Commission notes that, according to public information, around 70 students were subject to criminal proceedings and at least 24 were expelled from the university for acts related to these demonstrations.²⁶⁹ According to published information, UNAH students were initially charged with sedition, usurpation, and campus seizure damages.²⁷⁰
160. The Commission notes that subjecting defenders and students to lengthy criminal proceedings, in which alternative legal measures are also imposed, has a multiplier and chilling effect that extends to those defending similar causes. As the Commission has previously noted, criminalization can also have social effects by affecting

²⁶⁷ Information gathered during the on-site visit in meeting with the Panama Community, July 2018. As another example, on February 28, 2017, two days before the first anniversary of the assassination of Berta Cáceres, defender Suyapa Martínez was notified that the company Desarrollos Energéticos, S.A. (DESA.) had filed a lawsuit against the Center for Women's Studies - Honduras, based on statements made by the human rights defender, as representative of the organization, about the murder of Berta Cáceres. Criterio.hn, "[Lawsuit against Suyapa Martínez is a mistake by DESA: Bertha Oliva](#)." March 8, 2017. Suyapa Martínez alleged publicly that DESA participated in the planning of the crime against Cáceres. In the complaint, the company requested compensation for damages amounting to one million Lempiras (approximately US\$ 41,000) for allegedly inaccurate and false statements. Front Line Defenders, Urgent Appeal, [Lawsuit against the Center for Women's Studies - Honduras](#), March 3, 2017. On March 20, 2017, Judge Sonia Marlene Barahona of the Civil Court of the Department of Francisco Morazán declared the nullity of the civil lawsuit filed by the company because it contained multiple errors and inadmissible claims. Front Line Defenders, Urgent Appeal, [Justice declares null complaint against CEM-H](#), March 22, 2017.

²⁶⁸ [OHCHR Honduras alarmed by the failure of UNAH authorities to comply with its commitment that led to the sentencing of students](#), June 8, 2017.

²⁶⁹ Conexión, [Judicial Branch Orders UNAH to Reinstate Expelled Students](#), June 7, 2018.

²⁷⁰ On 8 June 2017, OHCHR expressed its dismay at what it understood to be non-compliance with the second point of the agreement signed between the students and UNAH, in which it was established that the UNAH authorities undertook to appear before the competent jurisdictional bodies to request the termination or extinction of the criminal action brought against all university students. On July 29, 2016, the Criminal Court of Francisco Morazán dismissed 18 students from UNAH. On September 1, 2017, a judge of the Criminal Courts, Judicial Section, of Tegucigalpa, ruled that 24 more students should be acquitted. On June 7, 2018, the Constitutional Chamber of the Supreme Court of Justice (CSJ) restored the right to education of 24 university students expelled in the context of the protests and ordered their reinstatement to UNAH. [OHCHR Honduras alarmed by the failure of UNAH authorities to comply with its commitment that led to the sentencing of students](#), June 8, 2017. El País, "[UNAH: A year of conflict](#)", August 16, 2017. Conexión, "[Judicial Branch Orders UNAH to Reinstate Expelled Students](#)", Jun 7, 2018. La Prensa, "[18 other UNAH students acquitted in Tegucigalpa](#)", July 29, 2016. La Tribuna, [Twenty-four university students with final acquittal](#), September 27, 2017. Conexión, [Judicial Branch Orders UNAH to Reinstate Expelled Students](#), June 7, 2018.

structures, leaderships, the ability to function as a group and collective symbols when people who perform significant functions of a society, people or community, such as social and community leaders or indigenous authorities, are criminalized. In these cases, criminalization “has a very negative impact on the collective because not only is the accused person affected, but also the society in which he or she plays a role.”²⁷¹

161. In many cases, alternatives to deprivation of liberty are dictated, requiring defenders to travel long distances from their communities to appear before courts to sign. In this regard, a human rights defender who was criminally prosecuted told the IACHR: “I have been affected in the economic sphere, every Thursday I spend 100 lempiras to go and sign. I have to support my family, I have a daughter and I have to look after my family feeding. The information submitted to the IACHR also points to the stigmatizing effect of alternative measures on women human rights defenders, who tell how their daughters and sons are subjected to bullying and aggression in schools due to the legal status of their mothers.”²⁷²
162. The IACHR has also learned of the negative impact that the improper use of criminal law has on the families of human rights defenders. The criminalization processes have a negative impact on the interpersonal relations of human rights defenders, since in many cases people subjected to criminal proceedings are forced to separate from their family nucleus and change their place of residence and even to emigrate from their community, city, or country, and therefore, to alter their life plans, abandoning their daily work.
163. The IACHR reiterates that the State of Honduras must prevent the authorities or third parties from manipulating the punitive power of the State and its organs of justice to harass human rights defenders. In this regard, the State should take all necessary measures to prevent judicial investigations from subjecting human rights defenders to unfair or unfounded trials.²⁷³

4. Delegitimization of the Defense of Human Rights

164. On the other hand, the IACHR warns of the constant use of social networks and other media to spread stigmatizing and delegitimizing messages against human rights defenders. Civil society organizations told the Commission that human rights defenders are singled out as “criminals”, “narco-traffickers”, “terrorists”, “anti-development”, and “narco-leaders”, among other serious accusations.
165. For example, at a meeting in San Pedro de Sula, the Commission received the testimony of a human rights defender who was the victim of a defamation campaign through the dissemination of a pamphlet with her image, entitled “The Axis of Evil”,

²⁷¹ IACHR, *Criminalization of Human Rights Defenders*, OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, para. 220.

²⁷² Meeting with human rights defenders during the on-site visit, Tegucigalpa, July 2018. See also, National Network of Women Human Rights Defenders of Honduras, Report on the situation of women human rights defenders 2016-2017, p. 64.

²⁷³ IACHR, *Criminalization of Human Rights Defenders*, OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, para. 224.

accusing her of “hiring and organizing the city’s mareros” and “coordinating the looting and destruction of businesses”. As a result of this campaign, the defender was subjected to various threats. The IACHR observes that these campaigns have a differentiated impact on women human rights defenders, derived from traditional gender relations, which often intersect with the racial discrimination suffered by defenders of indigenous or afro-descendant origin.²⁷⁴

166. The Commission was also informed about an agreement adopted by a Municipal Corporation of the country, stating that human rights defenders who disagree with the criteria of that Corporation on the development of the municipality “are not well received, accepted and tolerated”.²⁷⁵ This situation is aggravated when State officials use this defamatory language.²⁷⁶ The IACHR also notes that in a televised forum broadcast on February 2, 2017, two representatives of Global Witness presented the report “Honduras: The Deadliest Place to Defend the Planet”, which states, among other things, that some industries backed by political and business elites have broken laws and bribed officials to carry out projects without due, free, and informed consultation with the affected communities. When the television program was being broadcast, the Secretary of Natural Resources and Environment called, noting that “Mr. Kity (representative of Global Witness) is very irresponsible and he would be more responsible right now if he were to leave the program and go to the prosecutor’s office, or else the prosecutor would immediately detain him *ex officio* and he should go to testify and present all the evidence of the things he is saying.”²⁷⁷ Intimidated, Global Witness representatives left the television studio only after an OHCHR Honduras delegation offered to guard and transport them.²⁷⁸
167. The IACHR believes that stigmatizing statements against human rights defenders can damage the right to personal integrity, the right to honor and dignity, and the principle of the presumption of innocence. These statements generally seek to delegitimize the advocacy work carried out by human rights defenders, stigmatizing them before society.²⁷⁹ In particular, public officials should refrain from making statements that stigmatize human rights defenders, or that suggest that human rights organizations are acting incorrectly or illegally, only because they participate in the promotion and protection of human rights.

²⁷⁴ Meeting with human rights defenders during the on-site visit, San Pedro Sula, July 2018.

²⁷⁵ Association of Judges for Democracy, [Municipal Corporation declared Human Rights Defenders are unwelcomed](#), August 30, 2018. The IACHR warns that CONADEH expressed its concern in relation to this resolution, for contravening the State’s obligation to protect and respect the full enjoyment of the rights of human rights defenders and because it creates risks for the performance of their legitimate work. CONADEH, [The National Commissioner for Human Rights \(CONADEH\) urges public institutions and other actors to protect and respect human rights defenders](#), August 30, 2018.

²⁷⁶ In its Concluding Observations on the second periodic report of Honduras, the United Nations Human Rights Committee expressed concern at reports that senior Government officials made disqualifying statements in the media regarding individuals and civil society organizations that contributed to the consideration of the State’s second periodic report, United Nations Human Rights Committee, Concluding Observations on the Second Periodic Report of Honduras, CCPR/C/HND/CO/2, August 22, 2017, para. 42.

²⁷⁷ Corporación Televicentro (TVC), Television program “Frente a Frente”, February 2, 2017.

²⁷⁸ Criterio HN, [Shame! Global Witness Representative Taken Out of TV Channel Guarded for Harassment of Government Officials and Private Sector](#), February 2, 2017.

²⁷⁹ IACHR, [Criminalization of Human Rights Defenders](#), OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, para. 79.

168. The Commission has also indicated that the repetition of stigmatizing statements can contribute to exacerbate the climate of hostility and intolerance on the part of different sectors of the population, which could lead to an affectation of the life and personal integrity of the defender, increasing his or her vulnerability, since public officials or sectors of society could interpret these statements as instructions, instigations, authorizations or supports, for the commission of acts against their life, personal security, or other rights.²⁸⁰ The IACHR considers that the State should provide human rights defenders with an adequate recourse when they are the object of stigmatizing statements that may affect their reputation, compromise their personal integrity, or give rise to or facilitate their criminalization.²⁸¹
169. Likewise, in order to confront stigmatization and defamation campaigns, it is essential that States publicly and unequivocally recognize the importance of the role played by human rights defenders in guaranteeing democracy and the rule of law in society. This commitment must be reflected at all state levels, whether municipal, state or national, and in all spheres of power - executive, legislative or judicial, as well as education and outreach activities aimed at all state agents, society in general and the press, to raise awareness of the importance and validity of the work of human rights defenders and their organizations.

5. Case Concerning the Murder of Berta Cáceres

170. On March 4, 2016, the Commission expressed its repudiation of the murder of Berta Cáceres, a recognized human rights defender, indigenous leader and general coordinator of COPINH. Berta Cáceres was the beneficiary of precautionary measures granted by the IACHR in 2009 and had repeatedly denounced publicly the situation of grave risk and harassment in which she found herself.²⁸²
171. The IACHR notes that on May 2, 2016, four men were arrested in connection with the murder of Berta Cáceres. According to the Public Prosecutor's Office, two of the people arrested are related to Desarrollos Energéticos, S.A. (DESA), the Honduran company that was building the Agua Zarca dam, which was strongly opposed by the human rights defender and the COPINH, the organization she headed.²⁸³ On March 14, 2016, the Public Prosecutor's Office determined "that investigations should

²⁸⁰ IACHR, [Criminalization of Human Rights Defenders](#), OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, paras. 78-92.

²⁸¹ In this regard, the Inter-American Commission and Court have pointed out that Article 14 of the American Convention establishes that "anyone injured by inaccurate or offensive statements or ideas disseminated to the public in general by a legally regulated medium of communication has the right to reply or to make a correction using the same communications outlet, under such conditions as the law may establish." For this reason, the IACHR considers that when officials make stigmatizing statements against human rights defenders, human rights defenders should be allowed to rectify or respond, without prejudice to adopting the appropriate disciplinary measures. IACHR, [Criminalization of Human Rights Defenders](#), OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, para. 90. I/A Court H.R. Case of Apitz Barbera and others ("First Contentious-Administrative Court") v. Venezuela. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 5, 2008. Series C No. 182, Recommendation 5 and 6.

²⁸² IACHR, [IACHR condemns the killing of Berta Cáceres in Honduras](#), March 4, 2016.

²⁸³ Front line Defenders, Urgent Appeal, [Four people arrested for the murder of Berta](#), May 5, 2016.

remain secret and the private prosecutor should only be given access to that information that does not put the investigations at risk.”²⁸⁴ After several requests of information presented by the private prosecution that were rejected, on May 22, 2017 the Public Prosecutor’s Office made a partial delivery of the information.

172. Since then, the COPINH and relatives of Berta Cáceres have accused the lack of access to relevant information regarding the progress of the investigation, the suspension or cancellation of proceedings, among other irregularities that prevent progress in the process.²⁸⁵ On November 7, 2017, the Commission, together with the Office of the United Nations High Commissioner for Human Rights, within the framework of the mechanism of joint actions to contribute to the protection of human rights defenders in the Americas, expressed their concern about the continued secrecy of the Berta Cáceres case file throughout the investigative process and the impact that this procedural situation generates on the rights of victims and persons subject to the proceedings.²⁸⁶ The IACHR notes that under Honduran domestic law, the secrecy of investigations can only be ordered “with respect to any person who is not part of them, as long as the results are not presented to the jurisdictional bodies. The authorities in charge of the investigation shall endeavor not to injure the rights of those investigated during the conduct of the investigations”.²⁸⁷
173. The IACHR warns that Ms. Cáceres’ family members have become plaintiffs and are therefore not third parties to the investigative process undertaken by the Public Prosecutor’s Office. The IACHR reminds the State of Honduras that according to inter-American standards, limitations on the right of access to information must be previously and expressly established by law, and their enshrinement must be sufficiently clear and precise not to allow an excessive level of discretion to the officials who decide whether or not to disclose the information.²⁸⁸ Likewise, limitations on the right of access to information under State control must expressly respond to an objective permitted by the Article 13.2 of the American Convention, that is, to ensure respect for the rights or reputations of others, to protect national

²⁸⁴ International Advisory Group of Experts (GAIFE), Dam of Violence: The Plan that Killed Berta Cáceres, November 2017, p. 34.

²⁸⁵ International Advisory Group of Experts (GAIFE), Dam of Violence: The Plan that Killed Berta Cáceres, November 2017, p. 34. During 2017, the hearings scheduled for August 21 and September 6 and 27 were suspended since the Public Prosecutor’s Office would not have provided the parties with all the information supporting the formalization of the accusation. The suspension of September 27, 2017 resulted in the installation of a working table between the Public Prosecutor’s Office and the parties to deliver the means of conviction, setting October 10, 2017 as the date for the meeting. At that meeting, the information was not delivered, resulting in the obstruction of access to information so that the parties to the proceedings can exercise the defense of their represented parties.

²⁸⁶ IACHR, Press Release No. 176/17, UN Human Rights and IACHR Urge Honduras to Investigate Crimes against Human Rights Defenders, November 7, 2017.

²⁸⁷ Republic of Honduras, Decree No.9-99, Criminal Procedure Code, Tegucigalpa, Honduras, December 30, 1999, art. 278.

²⁸⁸ IACHR, Access to Information, Violence against Women and the Administration of Justice in the Americas, OEA/Ser.L/V/II.154 Doc. 19, March 27, 2015, para. 332; IACHR, Pleadings before the Inter-American Court in the case of Claude Reyes and others v. Chile. Transcribed in: Case of Claude Reyes and others v. Chile, Merits, Reparations and Costs, Judgment of 19 September 2006, Series C No. 151, para. 58 f).

security, public order, or public health or morals.²⁸⁹ Finally, the Commission warns that on October 19, 2018, despite the fact that the Court in charge of the case had a valid disqualifying request, the trial began and the exclusion of the private accusation for abandonment was ordered. In this regard, the IACHR and OHCHR stressed that the exclusion of the private prosecution from the oral and public trial phase significantly undermines the victims' right to effective and equitable access to justice as well as their right to the truth.²⁹⁰

174. On November 29, 2018, the First Chamber of the Court of Judgment convicted Sergio Rodríguez, Mariano Díaz, Douglas Bustillo, Herny Hernández, Óscar Torres and Edilson Duarte as co-authors for the murder of Berta Cáceres.²⁹¹ The Court also noted that the murder was carried out with the “full knowledge and consent” of the executives of Desarrollos Energéticos S.A. (DESA), who had not yet been brought to justice.²⁹² The Commission notes that the court set a hearing for January 11, 2019 concerning the sanctions of those convicted, however the hearing was subsequently suspended pending the resolution of the appeals process concerning the writ of amparo filed by the parties. The IACHR welcomes this important advance. Nevertheless, it warns that justice for the victims will be effective and integral when all the material and intellectual authors of the crime are brought to justice and held accountable.²⁹³ On this last point, the State pointed out to the IACHR that a DESA manager was arrested and is being prosecuted as the intellectual author of the case.²⁹⁴

6. Conflict in Bajo Aguán

175. The IACHR has constantly monitored the situation in Bajo Aguán for several years through its various mechanisms. In the Bajo Aguán area, Tocoa, there is a long-standing land conflict between campesinos and businessmen. Deaths, threats, harassment, intimidation, and even disappearances of campesinos claiming their territories have occurred.²⁹⁵

²⁸⁹ IACHR, The inter-American legal framework regarding the right to access to information, Second Edition, Special Rapporteur for Freedom of Expression, March 7, 2011, para. 52.

²⁹⁰ IACHR, In Light of the Forthcoming Ruling on the Berta Cáceres Case, the OHCHR and the IACHR Express Concern over the Exclusion of Victims' Legal Representatives and Unjustified Delays in the Trial, November 28, 2018.

²⁹¹ CEJIL, Sentence of the Berta Cáceres case finds proof of criminal structure behind her murder, November 30, 2018.

²⁹² CEJIL, Sentence of the Berta Cáceres case finds proof of criminal structure behind her murder, November 30, 2018.

²⁹³ The State also informed the IACHR that there is currently a criminal case against two police officers for allegedly altering the evidence. Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 11.

²⁹⁴ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 11.

²⁹⁵ IACHR, Situation of Human Rights in Honduras, OEA/Ser.L/V/II, Doc. 42/15, December 31, 2015, para. 160.

176. In this context, since 2014 the IACHR has requested the adoption of precautionary measures in favor of 123 identified members of the organizations “Movimiento Campesino Recuperación del Aguán” (MOCRA), “Movimiento Campesino Fundación Gregorio Chávez” (MCRGC), “Movimiento Unificado Campesino del Aguán” (MUCA) and “Movimiento Auténtico Reivindicador Campesino del Aguán (MARCA), in Honduras”,²⁹⁶ these measures were expanded in 2016 and are still in force.²⁹⁷
177. Despite the creation of the Bajo Aguán Violent Deaths Unit (UMVIBA), the IACHR has not received updated information regarding the investigation of the deaths that occurred in Bajo Aguán in the last 10 years. In its observations on this report, the State reported that the Unit investigated the deaths of 118 people in the Bajo Aguán area related to the agrarian conflict, out of these 57 exhumations have been carried out, which have been the starting point for the judicialization of 26 cases.²⁹⁸ The State also called on “the IACHR to encourage some of the relatives to give their statements to the competent authorities or to have exhumations carried out in order to try to identify the mortal remains of potential victims, all with the aim of establishing the identity of those responsible for these violations.²⁹⁹ The Commission notes that the apparent reluctance of some relatives of the victims to assist in the investigations reflects the high level of mistrust in the State institutions in charge of the process.³⁰⁰
178. The IACHR has received information on other acts of violence, such as the issuance of arrest warrants against social leaders and human rights defenders, of the land

²⁹⁶ IACHR, [PM 50/14 - Campesino Leaders of Bajo Aguán](#), Honduras, May 8, 2014.

²⁹⁷ IACHR, Precautionary Measure No. 50-14, [Expansion of beneficiaries in favor of campesino leaders of the Bajo Aguán region with respect to the Republic of Honduras](#), December 6, 2016. IACHR, PM 65-15, Martha Ligia Arnold Dubond and her five children, Honduras, April 7, 2015. On April 27, 2016, the IACHR decided to request the adoption of precautionary measures also in favor of César Obando Flores Rodríguez, a journalist in the Bajo Aguán area. The request alleged that, due to his work as a journalist, Mr. Flores Rodríguez would be subject to threats and acts of harassment by State agents. IACHR, Resolution 27/2016, Precautionary Measure No. 241-16, [César Obando Flores Rodríguez, Honduras](#), April 27, 2016. Likewise, on April 7, 2015, the IACHR granted precautionary measures in favor of Martha Ligia Arnold Dubond and her five children due to the risk she would face in view of her activities as a human rights defender in the Bajo Aguán area. IACHR, Press Release No. 161/16, [IACHR repudiates the killing of José Ángel Flores and Silmer Dionisio George in Honduras](#), November 3, 2016. On November 3, 2016, the Commission repudiated the killing of José Ángel Flores and Silmer Dionisio George, President and member, respectively, of the Movimiento Unificado Campesino del Aguán ((MUCA). Both were beneficiaries of precautionary measures granted by the IACHR since May 8, 2014, and had repeatedly and publicly denounced the situation of grave risk in which they found themselves. IACHR, Press Release No. 161/16, [IACHR repudiates the killing of José Ángel Flores and Silmer Dionisio George in Honduras](#), November 3, 2016.

²⁹⁸ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 8.

²⁹⁹ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 58.

³⁰⁰ With regard to the investigations into the deaths in Bajo Aguán, the Commission stresses the importance of the work of the Honduran General Directorate of Forensic Medicine, and considers it important to ensure that it can act expeditiously and that it has the necessary human and technical resources, given the crucial work it does to ensure that the prosecutor’s offices have the information necessary for the investigation to produce an effective result. For more information, see section on Human Rights Defenders.

and territory of Bajo Aguán.³⁰¹ These arrests take place in a context that civil society organizations have pointed to as one of increased threats and smear campaigns against human rights defenders in Bajo Aguán. According to the organizations gathered in the Municipal Committee for the Defense of Common and Public Goods of Tocoa, smear campaigns use the media and social networks, and the threats have intensified since the installation of the mining company “Inversiones Los Pinares” in the area.³⁰²

179. The Commission reiterates its call on the State to investigate with due diligence the deaths that occurred in el Agúan, as well as acts of intimidation and discredit against human rights defenders. It also urges the State to seek a prompt solution to the conflict in Bajo Aguán.

7. Justice Operators

180. During its visit to the country in 2018, the Commission noted with concern that many of the problems of violence and threats to the independence and personal integrity of justice operators in Honduras still persist. In this regard, justice operators face death threats, assassinations, attacks, harassment, intimidation and interference that make it difficult for them to carry out their functions with independence and impartiality.³⁰³ Threats against justice operators have reached the highest levels of government, including the Technical Criminal Investigation Agency (ATIC), within the Public Prosecutor’s Office. In August 2018, the IACHR decided to request the Honduran State to adopt precautionary measures for the benefit of the Director of Forensic Medicine of the Public Prosecutor of Honduras, the Regional Coordinator of Forensic Medicine of San Pedro Sula, the Head of the Department of Forensic Pathology of the Regional Coordination of Forensic Medicine of San Pedro Sula, and a Technical Assistant of the Regional Coordination of Forensic Medicine of San Pedro Sula.³⁰⁴ It was reported that these officials suffered death threats in the context of their criminal and forensic investigation

³⁰¹ According to a statement from civil society, on September 13, 2018, a court issued 18 arrest warrants against social leaders and defenders for the crimes of “usurpation and damages to the detriment of the mining company ‘Inversiones Los Pinares’”. This measure would have been accompanied by an order to evict the Campamento por la Vida. According to the statement, several residents of the Community of El Guapinol, worked on the defense and protection of human rights through the Campamento por la Vida for more than 70 days, and they identified the environmental, human, economic and social impacts of the mining megaprojects of the company Los Pinares in the Atlantic area, which would have affected more than 90,000 inhabitants. FIDH, [Honduras: New wave of criminalization of human rights defenders in Bajo Aguán](#), October 17, 2018. On March 1, 2019, the Central American Alliance Against Mining joined the protests against the detentions and called for the release of human rights defenders deprived of their liberty. CMAL, [Freedom to Defenders of the Guapinol River](#), March 1, 2019.

³⁰² Radio Progreso, [Wave of Threats puts human rights defenders at greater risk in Tocoa](#), Colón, February 15, 2019.

³⁰³ IACHR, [Situation of human rights in Honduras](#), OEA/Ser.L/V/II, Doc. 42/15, December 31, 2015, para. 67. IACHR, [Judicial Independence Hearing in Honduras](#), October 28, 2013.

³⁰⁴ IACHR, [Resolution 61/2018](#), PM No. 972-18, Semma Julissa Villanueva Barahona and others regarding Honduras, August 12, 2018.

work within the Public Prosecutor's Office, allegedly originating from other members of ATIC itself.

181. Given the gravity, urgency and imminent risk that the beneficiaries would suffer irreparable harm, the Commission requested the Honduran State to adopt measures that, on the one hand, safeguard the life and personal integrity of the beneficiaries and, on the other, allow them to carry out their work as justice operators without being subjected to acts of intimidation, threats or other acts of violence.³⁰⁵
182. Justice operators in indigenous and Garifuna communities are also exposed to particular situations of threats and violence. In December 2016, the Commission requested the adoption of precautionary measures in favor of Mrs. Nelly Lizeth Martínez Martínez, who serves as First Instance Criminal Judge of the Judicial Section of Tegucigalpa, in charge of high-impact cases, and who is a member of the Garifuna community, and Mrs. María Dolores López Godoy, also the First Instance Criminal Judge of the Judicial Section of Tegucigalpa.³⁰⁶ Both were victims of a series of threats, and were even removed from their positions allegedly because of decisions taken in high-impact cases, and the IACHR therefore considered that they were in a situation of grave and urgent risk.
183. During the on-site visit, some justice operators mentioned to the IACHR the scarce budget they have to implement integral protection measures for themselves and their families, and some of them pointed out that due to this situation they chose not to make use of the protection.³⁰⁷ They also indicated that the modalities of protection do not always correspond to the needs or the particular risk they face, since security measures would be dictated by assessing the position of the person rather than the cases at their charge or the circumstances of risk. In a meeting with justice operators in San Pedro Sula, the IACHR was informed about the general lack of protection for judges, in contrast to judges of jurisdiction with territorial jurisdiction at the national level, who are provided with police escorts. Likewise, during the visit, justice operators pointed out that although the Law for the Protection of Human Rights Defenders, Journalists, and Judicial Operators establishes in one of its transitory norms that the Judicial Branch must proceed to create its own mechanism for the protection of judges and magistrates, this would not have been promoted by those who govern the judicial institution.³⁰⁸
184. The IACHR reiterates that if the State of Honduras does not guarantee the security of its judges and magistrates against all kinds of external pressures—including reprisals directly aimed at attacking them and their family members—its jurisdictional function may be seriously affected.³⁰⁹ There is a serious risk that the free development of the judiciary and access to justice for victims of human rights

³⁰⁵ IACHR, [Resolution 61/2018](#), PM No. 972-18, Semma Julissa Villanueva Barahona and others regarding Honduras, August 12, 2018. p.5.

³⁰⁶ IACHR, [Resolution 61/2016](#), PM 52-56, Case of María Dolores López Godoy, Nelly Lizeth Martínez Martínez and family regarding Honduras, December 6, 2016.

³⁰⁷ Information gathered during the on-site visit, July 2018.

³⁰⁸ Information gathered during the on-site visit, July 2018.

³⁰⁹ IACHR, [Situation of human rights in Honduras](#), OEA/Ser.L/V/II, Doc. 42/15, December 31, 2015, para. 75.

violations will be frustrated.³¹⁰ The Commission reiterates its call on the State to investigate, prosecute and punish those who attack justice operators, and to implement protection schemes appropriate to their needs.

8. National Protection Mechanism

185. The creation, in 2015, of the National Mechanism for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators was one of the most significant advances in the protection of human rights defenders and justice operators in Honduras. The National Protection Mechanism informed the IACHR that from July 1, 2015 to April 30, 2019, it dealt with 446 requests for protection measures, 334 were admitted.³¹¹ According to the information provided, of the admitted cases, 133 were filed, and 201 cases were active, of which 68% corresponded to human rights defenders, 23% to journalists and social communicators, and 8% to justice operators.³¹²
186. With respect to protection measures related to precautionary measures of the IACHR, of the 201 cases of protection measures in force, 28 cases correspond to precautionary measures granted by the IACHR, of which 75% correspond to human rights defenders, 11% correspond to justice operators, 11% correspond to journalists and 4% to social communicators.³¹³ According to information provided by the State, the National Mechanism has progressively received more requests for protection since its creation.
187. The Commission was informed that the budget of the National Mechanism increased by 30% from 2017 to 2018, and that the various authorities that make up the Directorate General of the Protection System increased their budget allocations in order to implement protection measures in their respective spheres. However, in several meetings with beneficiaries of protection measures, the need to increase the financing of the Mechanism was pointed out, given the sustained increase in requests for protection. Among other cases, there were cases in which the beneficiaries of the measures themselves would have to bear the cost of transporting and feeding the assigned security personnel. The Commission urges the State of Honduras to increase the budget of the Protection Mechanism so that it can meet the increased demand for protection measures and ensure their effective implementation. In this regard, the IACHR welcomes the National Government's commitment expressed during the visit to provide greater financial and technical resources to the National Protection Mechanism and hopes that this will materialize.
188. In several meetings held during its field visit, the Commission noted that a certain degree of lack of awareness of the Mechanism on the part of the authorities and/or

³¹⁰ IACHR, Second report on the situation of human rights defenders in the Americas.

³¹¹ Information provided by the State of Honduras. Follow-up Visit to Honduras May 22, 2019.

³¹² The State reported that the reasons for archiving were: withdrawal, departure from the country, administrative procedures that add up.

³¹³ Information provided by the State of Honduras. Follow-up Visit to Honduras May 22, 2019.

mistrust on the part of the population persists, especially with regard to police protection measures. In this regard, although the State reported progress in adopting protection measures other than or complementary to police protection, such as temporary relocation measures, prevention measures or psychosocial assistance, the Commission urges that the development and implementation of measures complementary to police protection be strengthened, that the promotion of investigation of the facts be consolidated and that risk factors be reduced. The IACHR also recommends that the State continue to adopt measures to disseminate the mandate of the National Mechanism, especially in departments and municipalities in the inland regions.

189. Finally, the Commission notes that the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators establishes in one of its transitory norms that the Judicial Branch must proceed to create its own mechanism for the protection of judges and magistrates. In a meeting with justice officials in San Pedro Sula, the Commission was informed that this mechanism has not yet been created despite the fact that justice officials and members of the Judicial Branch do not have effective protection measures against threats and harassment in the exercise of their functions. The justice operators pointed out that to date there are no measures or mechanisms that can be activated in the event of harassment, threats, pressure or attacks, with the exception of judges in the national jurisdiction. In this regard, the Commission urges the State of Honduras to comply with the transitional provisions of the Protection Act and to move forward with the creation of a mechanism for the protection of judicial officials in accordance with the provisions of the Act.

B. Indigenous Peoples and Afro-Descendants

190. The Inter-American Commission has closely followed, through its various mechanisms, the situation of indigenous and Afro-descendant peoples and communities in Honduras. During the visit, the IACHR was informed of the approval of the Public Policy against Racism and Racial Discrimination for the Integral Development of Indigenous and Afro-Honduran Peoples, developed in conjunction with the participation of indigenous and Afro-Honduran peoples.³¹⁴ The State also reported that in the area of La Mosquitia, department of Gracias a Dios, more than 95% of the communities' lands were titled. Despite these advances, challenges remain regarding land use and ownership in areas affected by international investment, in particular mining exploration, tourism and hydroelectric projects. Similarly, the Commission was able to observe that many of the problems affecting cultural and territorial identity and access to basic rights persist. One of the main claims that the IACHR heard was the affectation of its collective property due to the

³¹⁴ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 28.

lack of demarcation, titling, and clearing of title of its lands and territories, as well as the increase in concessions without free, prior, and informed consultation.³¹⁵

191. With regard to the impact on collective property, the IACHR received worrying information about the issuance by public institutions and judicial authorities of private titles granted to third parties with respect to lands and territories claimed by indigenous and Afro-descendant peoples.³¹⁶ The Commission learned that the Property Act grants rights of possession to third parties who have obtained title to the communal lands of indigenous and Afro-descendant peoples.³¹⁷ Such legislation would not establish a process for clearing the presence of third parties in territories claimed ancestrally by indigenous peoples and communities.
192. During the IACHR's visit to the Garífuna Community of San Juan, several community members stated that they occupy a small percentage of their lands and territories. This is due to the fact that the Honduran State granted property titles to third parties who were not members of the community. The IACHR also received testimonies indicating that many of the community members had to move due to pressure related to their territories from third parties.³¹⁸ In this regard, the IACHR reiterates what was established by the Inter-American Court in the sense that the lack of identification, delimitation and effective demarcation of indigenous lands by States can create a climate of constant uncertainty, affecting the social peace of the collective.³¹⁹
193. Faced with this problem, the State indicated that it “recognizes the ancestral territory of the indigenous and Afro-Honduran peoples”,³²⁰ and reported that the National Agrarian Institute has initiated a project called Mapping of Indigenous Titles in order to identify the lands and territories claimed.³²¹ The Commission appreciates these measures; however, it considers that they are not sufficient to guarantee the full enjoyment of the collective property of indigenous peoples in Honduras. In this regard, the Commission has affirmed that indigenous peoples have a right of communal ownership over the lands that they have ancestrally used, occupied and claimed.³²² In addition, the right to collective ownership entails a

³¹⁵ Meeting with indigenous peoples and communities, and civil society organizations, July 31, 2018, Tela and Comunidad San Juan. Meeting with civil society organizations, July 29, 2018, Tegucigalpa.

³¹⁶ Meeting with indigenous peoples and communities, and civil society organizations, July 31, 2018, Tela and Comunidad San Juan.

³¹⁷ For example, article 97 of the Property Act provides that third parties “who hold title to lands belonging to these [indigenous and Afro-Honduran] peoples and who have owned and possessed the land covered by it have the right to continue to own and exploit it”. Property Act, Decree No. 82-2004, Chapter III, On the Process of Regularization of Real Property for Indigenous and Afro-Honduran Peoples, arts. 93-102.

³¹⁸ Meeting with indigenous peoples and communities, and civil society organizations, July 31, 2018, Tela and Comunidad San Juan. Meeting with civil society organizations, July 29, 2018, Tegucigalpa.

³¹⁹ IACHR, Press Release 078/19 - [IACHR Condemns Murder of Indigenous Bribri Leader Who Was a Beneficiary of Precautionary Measures in Costa Rica](#), March 22, 2019 or Case of the Xucurú Indigenous Peoples and its Members v. Brazil, Judgment of February 5, 2018. Series C, No. 346, para. 118.

³²⁰ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 25.

³²¹ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 28.

³²² IACHR, Report No. 40/04, Case 12.053, Merits, Mayan Indigenous Communities of the Toledo District, Belize, October 12, 2004, para. 151.

series of obligations such as the recognition, demarcation, titling and clearing titles of indigenous peoples' lands and territories.³²³

194. These obligations were highlighted by the Commission in the cases of the Garífuna Communities Triunfo de la Cruz and Punta Piedra.³²⁴ These cases were subsequently heard by the Inter-American Court, which issued the respective judgments in October 2015. In those decisions, the Court declared the international responsibility of the Honduran State for the violation of the right to collective property of those communities, among other violations.³²⁵ In particular, it ordered the Honduran State to grant collective property title to the Triunfo de la Cruz community over the land claimed, duly delimited and demarcated, within two (2) years of notification of the judgment,³²⁶ as well as the clearing of titled lands in favor of the community of Punta Piedra.³²⁷
195. During its visit, the IACHR took note of the testimonies of members of these communities, as well as of their representatives, regarding the lack of compliance with the reparation measures established by the Court in its judgments.³²⁸ In particular, it was indicated that the State of Honduras has not taken steps with regard to the demarcation and titling of the territories and territorial reorganization of the Garífuna communities Triunfo de la Cruz and Punta Piedra. In this regard, the State maintained that an inter-institutional commission had been set up to enforce those judgments.³²⁹ It explained that the commission is created by 15 public institutions, which meet periodically to develop a work plan to comply with reparation measures. The Commission recalls that the State of Honduras has the obligation to comply in a timely manner with the judgments of the Inter-American Court, and reiterates its call on the State to comply promptly with them.³³⁰
196. In the case of the Garífuna Community Triunfo de la Cruz, the State explained that the process of evaluation of the properties of said community is being carried out in order to title the plot. The State indicated that the process of appraisal of the

³²³ I/A Court H.R. *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*. Merits, Reparations and Costs, Judgment of August 31, 2001. Series C No. 79, para. 153. 2, and *Case of the Xucurú Indigenous Peoples and its Members v. Brazil*, Judgment of February 5, 2018. Series C346, paras. 118, 192, 193, 2013.

³²⁴ IACHR, Case 12.548, Report No. 76/15, Merits, Garífuna Triunfo de la Cruz Community and its members, Honduras, November 7, 2012; and Case 12.761, Report No. 30/13 Garífuna Community of Punta Piedra and its members, Honduras, March 21, 2013.

³²⁵ I/A Court H.R. *Case of the Garífuna Community of Punta Piedra and its members v. Honduras*. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 8, 2015. Series C No. 304. I/A Court H.R., *Case of Comunidad Garífuna Triunfo de la Cruz and its members v. Honduras*. Merits, Reparations and Costs. Judgment of October 8, 2015. Series C No. 305.

³²⁶ I/A Court H.R. *Case of Comunidad Garífuna Triunfo de la Cruz and its members v. Honduras*. Merits, Reparations and Costs. Judgment of October 8, 2015. Series C No. 305. para. 260.

³²⁷ I/A Court H.R. *Case of the Garífuna Community of Punta Piedra and its members v. Honduras*. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 8, 2015. Series C No. 304. paras. 188-189.

³²⁸ One of the members of the Punta Piedra Garífuna Community indicated that “they depend on fishing and agriculture (...) [and the State] takes away our lands and the sea”. Statement received at the Tela meeting on Tuesday, July 31, 2018.

³²⁹ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 256.

³³⁰ IACHR, *Situation of human rights in Honduras*, OEA/Ser.L/V/II, Doc. 42/15, December 31, 2015, para. 88, Recommendations 27-31.

properties located in part of the territory of the community was initiated and that the main challenges “are due to the lack of resources of the National Agrarian Institute, the magnitude of the titling to be done, and the purchase of plots.”³³¹ In particular, the State reported that 350 Sworn Statements have been received from landowners or occupiers of land in Plot A1 declared in a court ruling for the clearing of title, and that in 2018, 200 topographic surveys and 170 appraisals were carried out. It further explained that these activities are expected to be completed in July 2019.³³²

197. In relation to the case of the Garífuna Community Punta Piedra, the State confirmed that it has not cleared the title of its territory consisting of the transfer of the Aldea Río Miel located within the limits of property titles granted by the INA. This is due to the fact that the community that lives in this place showed its rejection to appraisals and a possible relocation. The State indicated that it plans to involve OHCHR in order to “generate trust between the community and the State”.³³³ Additionally, in its response to this report the State indicated that on July 15, 2019 an Executive Decree was approved for the clearing titles of the lands of the Mosquita.³³⁴ The Commission appreciates the information provided by the State in order to make progress in complying with the resolution points of those judgments, while urging the Honduran State to speed up the implementation of reparation measures.
198. The State did not provide detailed information in relation to the content of the draft bill on clearing titles of indigenous peoples’ lands and territories. The Commission reminds the Honduran State that indigenous peoples have the right to have their territory reserved for them, without the existence of settlements or the presence of third parties within their lands. As a consequence of this right, States have a correlative obligation to prevent the invasion or colonization of indigenous or tribal territory by others and, when this happens, they must promptly and expeditiously carry out the necessary steps and actions to relocate those non-indigenous inhabitants.³³⁵
199. In this regard, the United Nations Committee on Economic, Social and Cultural Rights has held that a bill should take into account, among other things, the following aspects: (i) the State should take the necessary measures to identify in a short period of time the entire invaded territory; (ii) the State should provide the necessary human and financial resources for the relocation of occupants; and (iii) identify and

³³¹ Document “Garífuna Community Triunfo de la Cruz v. Honduras” delivered to the IACHR at the meeting with the Attorney General’s Office on August 2, 2018.

³³² Information provided by the State of Honduras, Meeting held on May 22, 2019.

³³³ Document “Garífuna Community Triunfo de la Cruz v. Honduras” delivered to the IACHR at the meeting with the Attorney General’s Office on August 2, 2018.

³³⁴ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 9.

³³⁵ IACHR, [Indigenous and tribal peoples’ rights over their ancestral lands and natural resources. Norms and jurisprudence of the Inter-American Human Rights System](#). OEA/Ser.L/V/II, Doc. 56/09, December 30, 2009, para. 114.

respond to actors such as companies.³³⁶ The Commission also recalls that various international instruments contain standards applicable to the reorganization of lands and territories claimed by indigenous peoples that are occupied by third parties, such as International Labor Organization Convention No. 169 and the American Convention and its jurisprudence.

200. During its visit, the IACHR received multiple complaints about the increase in the number of concessions granted to various mining exploration activities, and tourist and hydroelectric projects within the lands and territories of indigenous and Afro-descendant peoples without prior, free and informed consultation.³³⁷ Civil society organizations informed about the validity of more than 800 mining concessions,³³⁸ and of the granting of 128 hydroelectric concessions between 2002 and 2015.³³⁹ The information available to the Commission indicates that the State has not carried out effective prior consultations with indigenous peoples and communities of African descent potentially affected by these projects, this generates an impact on their survival and cultural integrity. The Commission received information from the National Agrarian Institute regarding the incursion of private oil palm companies and banana farms into the territory of the Garífuna communities of Cristales and Río Negro. The National Agrarian Institute indicated that these companies built canals that hindered the water flow of the Aguán River, the main source of water supply for these communities. The Institute noted that “to date the communities continue to suffer ecological damage caused by the continuous displacement of fresh water by salt water in the lagoons dependent on the río Aguán, this is destructing the flora, fauna and biodiversity of the environment.”³⁴⁰
201. The Commission received information on the installation of a hydroelectric project in the municipalities of Santa Bárbara and San Antonio de Cortés, which would have caused flooding in the territories of indigenous peoples and communities in the area.³⁴¹ In addition, the IACHR took note of statements from members of Garífuna communities that were affected by the contamination of the Mezapa River in the municipality of Tela, department of Atlántida, as a result of the construction of a hydroelectric project. In this regard, on February 24, 2018, the IACHR issued a precautionary measure in the *Matter of Water Consumers of the Mezapa River*.³⁴² The Commission took note of information indicating that (i) the private company

³³⁶ A draft law should take into account, inter alia, the following aspects: (i) the State should take the necessary measures to identify in a short term the invaded territory; (ii) the State should provide the necessary human and financial resources for the relocation of occupants; and (iii) identify and respond to actors such as companies. UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, the right to adequate housing (Article 11 (1) of the Covenant): forced evictions, 2007.

³³⁷ Meeting with indigenous peoples and communities, and civil society organizations, July 31, 2018, Tela and Comunidad San Juan. Meeting with civil society organizations, July 29, 2018, Tegucigalpa.

³³⁸ Environmental Law Institute of Honduras, [Official Global Listing of Mining Concessions in Honduras](#), Accessed September 20, 2018.

³³⁹ CEHPRODEC, [Electricity Production in Honduras](#), 2018.

³⁴⁰ National Agrarian Institute, Report on the inspection of the damage caused by the diversion of the Aguán River, delivered to the IACHR at the meeting with the INA on August 2, 2018.

³⁴¹ Communities United for the Development of the Ulúa River Biosphere (CUPD) delivered to the IACHR at the civil society meeting in Tegucigalpa on July 29, 2018.

³⁴² IACHR, Resolution No. 12/2018, PM 772-17.

HIDROCEP began construction of a hydroelectric project on the Mezapa River, which supplies drinking water to at least five communities in the municipality of Tela; and (ii) the company discharges waste into the river, and as a result the waters are highly polluted and unfit for human consumption. Consequently, the IACHR requested the State to adopt the necessary measures to mitigate, reduce and eliminate the sources of risk to the health of the inhabitants who use the river as drinking water.³⁴³

202. During its visit to the Garífuna Community of San Juan, the IACHR received testimonies related to the construction of hotel projects and vacation homes in part of the lands and territories claimed by that community.³⁴⁴ The Commission warns that these projects would have been approved without prior, free and informed consultation in accordance with Convention 169, ratified by Honduras since 1995, and relevant inter-American standards. In addition, the IACHR takes note of the information provided by the UN Special Rapporteur on Indigenous Peoples, who indicated that the General Mining Law of 2013 permits the granting of concessions and licenses for mining projects without prior, free and informed consultation.³⁴⁵
203. In this regard, States have an obligation to take all appropriate measures to ensure the continued relationship of indigenous peoples with their territory and culture.³⁴⁶ That is why consultation and consent are fundamental. If consent were obtained in accordance with the relevant standards, indigenous and tribal peoples and peoples of African descent would be aware of the impacts, including on the scope of their rights, and would decide whether, and to what extent and under what circumstances, to accept that such activities or projects be carried out in their territories, in order to anticipate and have an impact on the changes that may occur. Furthermore, the IACHR wishes to emphasize that, following the consultation process and, where appropriate, the obtaining of consent, States must continue to ensure that such authorized activities, plans or projects do not lead to the denial of the physical and cultural integrity of indigenous and Afro-descendant peoples. In this regard, it has been established in the inter-American system for more than a decade:

“dealing with major development or investment plans that may have a profound impact on the property rights of the members of [indigenous or tribal] people to a large part of their territory must be understood to additionally require the free, prior, and informed consent of [indigenous or tribal], in accordance with their traditions and customs.”³⁴⁷

³⁴³ IACHR, [Resolution No. 12/2018](#), PM 772-17.

³⁴⁴ See also: Global Witness, [Honduras: the deadliest place to defend the planet](#), January 2017.

³⁴⁵ UN, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Honduras, A/HRC/33/42/Add.2, 21 July 2016.

³⁴⁶ IACHR, Indigenous peoples, communities of African descent and natural resources: protection of human rights in the context of extraction, exploitation and development activities, December 31, 2015, para. 165.

³⁴⁷ I/A Court H.R. [Case of Saramaka People v. Suriname](#). Preliminary Objections, Merits, Reparations and Costs, Judgment of November 28, 2007, Series C No. 172, para. 137.

204. The State has the obligation to comply at all times with its duty to guarantee human rights in the context of activities, plans or projects carried out in indigenous and Afro-descendant lands and territories.³⁴⁸
205. With regard to the situation of the Miskito people in the Moskitia area, department of Gracias a Dios, the Commission values the fact that the State has titled more than 95% of the land of the communities. The State also informed about the adoption of the Moskitia Development Alliance to advance education, health and food for the population. However, the IACHR is concerned about the occupation by third parties of Miskito people's territory. The Commission urges the State to adopt a clearing title law, in consultation with the population, in accordance with Convention 169 and inter-American standards in this matter. It also highlights the need to move forward in the creation of a legal framework that recognizes the rights of indigenous peoples, their own institutions and customs, in accordance with inter-American standards.
206. During its visit to the Moskitia area, the Commission observed a worrying situation of poverty, unemployment, lack of health and energy services, and lack of water and sanitation sources. As noted above, the IACHR warns about the inadequate implementation of a culturally appropriate bilingual education program as well as of the multiple impacts that Miskito divers continue to suffer during spearfishing. The IACHR also received information on the situation of discrimination, violence and lack of access to health and work faced by Miskito women. In this context, the Commission recalls that States have an obligation to adopt measures to ensure real equality among people and to combat historical discrimination against vulnerable groups. In addition, the IACHR emphasizes the obligation of States to minimize the risks of occupational accidents and diseases, whether in public or private companies.

1. Draft Law on Free, Prior and Informed Consultation

207. The IACHR was informed that a draft law on free, prior and informed consultation is currently before the National Congress. The State reported that in May 2015 the Interinstitutional Technical Table of Convention 169 of the International Labor Organization (ILO) was created, holding 18 workshops on the draft law between 2016 and 2017 held 18 workshops, according to the State, these workshops counted with the participation of 14,313 indigenous and Afro-Honduran representatives participated.³⁴⁹ The Secretariat of Labor and Social Security indicated that a national workshop was held in the process of "socializing" the draft law, with the participation of representatives of the nine indigenous and Afro-Honduran peoples recognized by the Government of Honduras, with the assistance of *patronatos*, women's networks, various boards, evangelical and Christian churches,

³⁴⁸ IACHR, Indigenous peoples, communities of African descent and natural resources: protection of human rights in the context of extraction, exploitation and development activities, December 31, 2015, paras. 167-168.

³⁴⁹ Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 27.

associations, human rights defenders, development societies, among others.³⁵⁰ According to the State, 102 organizations and at least 1,308 persons registered participated.³⁵¹

208. In particular, the State reported that on July 18, 2018, after holding meetings with representatives of indigenous peoples, an official letter was sent to the National Congress in which it was indicated that prior to the discussion of the draft law, “a consultation at the national level with representatives of the nine indigenous peoples” would take place. According to information provided by the State, the consultation included (i) the indigenous and Afro-Honduran peoples appointing their duly accredited technical representatives for the purpose of submitting their formal and substantive comments on the draft law; (ii) a budget line allocated for the purpose of implementing the consultation of the draft law at the local level among the indigenous and Afro-Honduran peoples; and (iii) technical assistance from an expert on indigenous peoples’ issues.³⁵²
209. During its visit, the IACHR was informed that the consultation carried out with the indigenous peoples did not comply with the existing international standard on the matter, and did not have the participation of all the authorities and entities representing indigenous and Afro-descendant peoples. In this regard, the Commission received testimonies from organizations of indigenous and Afro-descendant peoples who stated that they had not been invited to participate in the elaboration of the draft law and that they were unaware of its content.³⁵³ According to these organizations, the processes carried out by the State would have distorted the consultation since they consisted of “socialization” workshops, rather than a real participatory process.³⁵⁴

³⁵⁰ Secretariat of Labor and Social Security, Summary of the Development Process of the Law of Free, Prior and Informed Consultation for Indigenous and Afro-Honduran Peoples Pursuant to Convention 169, p. 6 (IACHR archives).

³⁵¹ Secretariat of Labor and Social Security, Summary of the Development Process of the Law of Free, Prior and Informed Consultation for Indigenous and Afro-Honduran Peoples Pursuant to Convention 169, p. 6 (IACHR archives). Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 27. The United Nations Development Program (UNDP) accompanies the process of dialogue between the Government of Honduras and the nine Indigenous and Afro-Honduran Peoples for the joint development of the Law of Prior, Free and Informed Consultation (ILO Convention 169), November 17, 2016.

³⁵² Secretariat of Labor and Social Security, Summary of the Development Process of the Law of Free, Prior and Informed Consultation for Indigenous and Afro-Honduran Peoples Pursuant to Convention 169, 2018, p. 8.

³⁵³ Organizations in the meeting of the civil society July 29, 2018 in Tegucigalpa: Movimiento Independiente Indígena Lenca de la Paz – Honduras (MILPAH), Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH), Plataforma Nacional de Incidencia Indígena de Honduras (PLANIH), Mesa Sectorial Pueblo Lenka, Centro de Investigación y Promoción de los Derechos (CIPRODEH).

³⁵⁴ Meeting with indigenous peoples and communities and civil society organizations, 29 July 2018, Tegucigalpa. The IACHR also notes that by letter of July 2, 2018 addressed to the National Congress, the Confederation of Honduran Peoples (CONPAH) requested “to place on record that the last draft law was not discussed with CONPAH prior to its submission to the National Congress, but is the result of the final review carried out at the highest level of government. Secretariat of Labor and Social Security, Summary of the process of development the law of free, prior and informed consultation for indigenous and Afro-Honduran peoples under Convention 169, 2018, pp. 7-8 (IACHR files). Honduran Black Fraternal Organization - OFRANEH, [Prior consultation and its ideological kidnapping at the hands of the state of Honduras](#), August 15, 2018. Special Rapporteur on the rights

210. The Commission also notes that, according to the United Nations Special Rapporteur on the rights of indigenous peoples, there were irregularities in the consultation in question. In particular, the United Nations Rapporteur highlights: (i) the lack of participation and representation of indigenous peoples in the “socialization” workshops; (ii) the lack of inclusive dialogue processes and training on prior consultation and international standards on collective ownership; and (iii) the lack of training for State officials who participated in the process.³⁵⁵
211. In this regard, the State noted that “it will not initiate a new process of [free, prior and informed consultation], since it has been going on for more than three years and not concluding it has very negative consequences for the peoples, and negative effects for new investments due to the indefinite nature of a consultation process”.³⁵⁶
212. In this context, the Commission emphasizes that under the Convention 169 and international standards, the Honduran State has the responsibility to ensure that the process of drafting and discussing a prior consultation law is sufficiently inclusive. In this regard, the Commission recalls the importance that any process of adopting a law that adequately regulates the free, prior and informed consultation of indigenous peoples and people of African descent must have their effective participation as subjects of law. This is the only way to have a law that reflects international standards and has the necessary legitimacy in the eyes of those peoples and communities.³⁵⁷
213. The IACHR emphasizes the benefits of conducting prior and informed consultation in accordance with international and inter-American standards on the subject, particularly by respecting the internal decision-making and representation processes of the peoples and communities concerned.³⁵⁸ Indeed, if consultative processes are carried out in a free, prior and informed manner, in good faith, and through indigenous peoples’ representative bodies, they become much more expeditious, and contribute effectively to intercultural dialogue about the proposed measures.
214. In addition, according to the information received by indigenous and Afro-descendant organizations, the text of the preliminary draft of the consultation law would present some substantive shortcomings in its content on key issues related to its scope, indigenous representation, the institutions responsible for conducting

of indigenous peoples, Victoria Tauli-Corpuz, Additional observations of the Special Rapporteur on the rights of indigenous peoples on the process of regulating prior consultation in Honduras, June 9, 2017.

³⁵⁵ UN, Additional observations of the Special Rapporteur on the rights of indigenous peoples on the process of regulating prior consultation in Honduras, June 9, 2017.

³⁵⁶ Secretariat of Labor and Social Security, Summary of the Development Process of the Law of Free, Prior and Informed Consultation for Indigenous and Afro-Honduran Peoples Pursuant to Convention 169, p. 8.

³⁵⁷ IACHR, Indigenous and Tribal Peoples’ Rights to their Ancestral Lands and Natural Resources: Norms and Jurisprudence of the Inter-American Human Rights System, OEA/Ser.L/V/II, Doc. 56/09, December 30, 2009, paras. 273-288.

³⁵⁸ See: I/A Court H.R. Case of the Kichwa Indigenous People of Sarayaku v. Ecuador. Merits and Reparations. Judgment of June 27, 2012. Series C No. 245. I/A Cour H.R. Saramaka People’s Case. v. Suriname. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 28, 2007. Series C No. 172.

consultations, the stages of consultation and consent. In particular, the IACHR was informed about the “right to veto”; the creation of the National Commissioner for Free, Prior and Informed Consultation; the mechanics of the consultation process; the right to consent; the possibility of multiple consultations related to the same project; the requirements for accrediting indigenous representativeness; and the timeframe of application of the law that would not be retroactive in relation to administrative or legislative measures adopted before its entry into force.

215. For its part, OHCHR has pointed out that the current form of the draft consultation law falls short of human rights standards and does not fully safeguard “indigenous peoples’ rights to lands, territories, natural resources, and free, prior and informed consultation and consent”.³⁵⁹
216. According to inter-American standards, the consultation must be conducted in advance, in good faith and in a manner appropriate to the circumstances, and must be aimed at obtaining free and informed consent. Consultation should also be conducted through culturally appropriate procedures. In this context, the Commission recalls that both the United Nations Declaration on the Rights of Indigenous Peoples and inter-American jurisprudence conceive the right to free, prior and informed consultation as a process emanating from the right to self-determination.³⁶⁰ Therefore, the implementation of the right to prior consultation must, above all, respect that right, and ensure that it does not become a mere formalistic process that does not respond to the particularities of the indigenous people or community in question. The Inter-American Court has repeatedly pointed out that the right to consultation includes, as a fundamental element, the right of indigenous peoples to be consulted about, and to participate in, the development of the consultation process to which they are entitled.³⁶¹ Likewise, the IACHR recalls that prior consultation is not a tool to mitigate social conflict, but rather a procedure

³⁵⁹ OHCHR, Annual Report 2018, para. 62.

³⁶⁰ IACHR, Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: recommendations for full respect for their human rights. OEA/Ser.L/V/II, Doc. 47/13, 30 December 2013, paras. 21-22. The Commission has previously noted that “the right to self-determination has a direct and profound relationship with the rights [of indigenous peoples] over their lands, territories, and natural resources. IACHR, Indigenous and tribal peoples’ rights over their ancestral lands and natural resources. Norms and jurisprudence of the Inter-American Human Rights System. OEA/Ser.L/V/II, 30 December 2009, para. 165. United Nations Declaration on the Rights of Indigenous Peoples, 61/295. A/61/L.67 and Add.1, 13 September 2007, art. 3, “Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”. See also IACHR, Arguments before the Inter-American Court of Human Rights in the case of *Yakye Axa v. Paraguay*. Referred to in: I/A Court H.R. Case of the *Yakye Axa Indigenous Community v. Paraguay*. Judgment of 17 June 2005. Series C No. 125, para. 157(c). I/A Court H.R. Case of the *Xákmok Kásek Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of August 24, 2010, Series C No. 214, paras. 171-182. In the case of the *Kichwa indigenous people of Sarayaku v. Ecuador*, the Inter-American Court noted that “the right to cultural identity is a fundamental and collective right of indigenous communities, which must be respected in a multicultural, pluralistic and democratic society. I/A Court H.R. Case of the *Kichwa Indigenous People of Sarayaku v. Ecuador*. Merits and Reparations. Judgment of 27 June 2012. Series C No. 245, para. 217.

³⁶¹ I/A Court H.R. Case of the *Kichwa Indigenous People of Sarayaku v. Ecuador*. Merits and Reparations. Judgment of 27 June 2012. Series C No. 245, para. 181. I/A Court H.R. *Saramaka People v. Suriname*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2007. Series C No. 172, paras. 133-137. I/A Court H.R. *Saramaka People v. Suriname*. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of August 12, 2008, Series C No. 185, para. 17.

to give effect to the right to self-determination, in relation to activities carried out in their ancestral lands and territories, or that have an impact on the natural resources found there.

217. In addition, as reiterated by organs of the inter-American human rights system, States must ensure that indigenous peoples are consulted on issues likely to affect them. The right to consultation, and the correlative State duty, are linked to multiple individual and collective human rights. The right to be consulted is fundamental to the effective enjoyment of the right to communal property of indigenous and Afro-descendant peoples over the lands they have traditionally used and occupied, and is also directly related to the right to cultural identity, insofar as the culture of these peoples may be affected by State decisions concerning them.³⁶²
218. The IACHR also points out that conflicts over territorial disputes can be aggravated by the absence or ineffective action of the State in regulating land use and natural resource exploration. Thus, the IACHR recognizes the efforts of the Honduran State, through the Special Prosecutor's Office for Ethnicity and Cultural Heritage, to guarantee due process in cases involving the crime of usurpation brought against members of the Garífuna communities in the Trujillo area.³⁶³ However, it expresses consternation at the information received regarding accusations and lawsuits for usurpation of land, slander and defamation against multiple Garífuna leaders.³⁶⁴
219. Moreover, the IACHR expresses its concern about the threats being faced by Afro-descendant leaders, defenders of the territory, in the department of Colón, as a consequence of the presence of criminal groups and drug traffickers in the area. The IACHR notes with concern the militarized state response to these groups.³⁶⁵ The IACHR emphasizes that combating these groups, in addition to legal and operational actions, requires broad and sustainable strategies aimed at alleviating poverty and strengthening the rule of law in this region. Finally, the Commission underscores that it is the duty of the State to diligently investigate, prosecute, and sanction abuse of authority, disproportionate force, and shootings against civilians by State agents.³⁶⁶
220. Specifically, the IACHR urges the Honduran state to implement public policies that address the needs of these groups. Any initiatives, programs, and policies relating to indigenous and Afro-descendant peoples must be tailored to their needs and concerns and must be duly consulted with them. Likewise, the State should intensify its actions to respect and guarantee lands, including proper land titling, and adopt the necessary state measures to fulfill its obligation to guarantee prior, free, and informed consultation on projects affecting their lands, territories, and natural

³⁶² IACHR, [Indigenous and Tribal Peoples' Rights to their Ancestral Lands and Natural Resources: Norms and Jurisprudence of the Inter-American Human Rights System](#), OEA/Ser.L/V/II, Doc. 56/09, December 30, 2009.

³⁶³ Republic of Honduras, *Observations From the State of Honduras to the Draft Report Chapter IV. B - Annual Report Honduras (IACHR)*, 2018.

³⁶⁴ The IACHR received information about accusations and lawsuits against Medalime David, César Geovany Bernárdez and Celso Guillén, Miriam Miranda, Neny Heidy Ávila, Lety Hernández and Medalime David, among others. Tercera Información, [Honduras: "We Live Under Unsustainable Pressure" Miriam Miranda \(Ofraneh\)](#).

³⁶⁵ Proceso, [Drug Routes Force Honduras to Redesign Anti-Drug Policy](#), June 19, 2018.

³⁶⁶ For more information, see Chapter on Public Safety in this report.

resources, taking into consideration the special relationship between these peoples and the land and natural resources.

C. Children and Adolescents

221. The situation of children and adolescents in Honduras has been of special concern to the IACHR. During its visit in 2018, the Commission was able to verify the persistence of many of the structural causes that prevent the full enjoyment of their human rights. In this sense, the IACHR highlights those related to a particularly fragile institutional framework for guaranteeing children's rights, the absence of comprehensive protection, and the lack of access to basic services for children and adolescents. The Commission in its 2015 country report also identified these challenges.³⁶⁷
222. In this section, the IACHR analyzes the human rights situation of children and adolescents in the country, looking at their situation of poverty, education, access to health services, child labor, pregnancy and child marriage, sexual violence, insecurity and violence, juvenile justice, and migrant children. The Commission also takes into account information provided by the State regarding efforts to improve the situation of children and adolescents, as well as the status of the adoption of a National System for the Comprehensive Guarantee of the Rights of Children and Adolescents in Honduras.
223. The IACHR is particularly concerned about the impact that the country's socio-economic situation has on the rights of children and adolescents, on their well-being and on the opportunities they will have to fully develop. The interconnection and interdependence of rights, as well as the factors of lack of safeguard, requires that problems affecting Honduran children be addressed considering the global context. During the visit, the IACHR observed a panorama that continues to be very discouraging for children in the country. Out of approximately 9,012,229 inhabitants in the country, 38.8% are between the ages of 0 and 17.³⁶⁸ According to information available to the Commission, of the 4.1 million children living in Honduras, 36% live in poverty, and more than 10,000 are living on the streets. More than one million children and adolescents are outside the education system.³⁶⁹
224. During its visit, the IACHR observed that the structural conditions of inequality and social exclusion, combined with the State's low investment in children's rights, have a severe impact on the level of enjoyment of the various rights throughout children's lives and into adulthood. In order to break the cycles of poverty and exclusion, it is

³⁶⁷ IACHR, *Human Rights Situation in Honduras*, OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 327. See also IACHR, Public Hearing, Situation of human rights of children and adolescents in Bajo Aguán, Honduras. 153rd regular session, October 30, 2014.

³⁶⁸ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 16.

³⁶⁹ IACHR, *Thematic hearing "Situation of children's rights in the contexts of violence in Honduras"* of the 164th session, Mexico City. September 4-8, 2017.

crucial, among other things, that Honduras revise and strengthen its Comprehensive System for the Guarantee of the Rights of Children and Adolescents in Honduras (SIGADENAH), invest greater economic resources in guaranteeing the effective exercise of children's rights, and establish indicators and means of collecting data and information with a view to monitoring progress, verifying the real effectiveness of its public policies, and identifying the most vulnerable groups.³⁷⁰

225. According to information available to the Commission, Honduras has an infant mortality rate of 39 per 1,000 births of children under five.³⁷¹ The coverage of basic services in Honduras reflects this situation. More than 500,000 children in Honduras do not have access to safe drinking water, and nearly 1.1 million children do not have access to basic sanitation, disproportionately affecting those living in rural areas.³⁷² During the visit, the IACHR received information on how this situation impacts the enjoyment of the human rights of children and adolescents. The IACHR also received information on the deficient provision of maternal and child health services, especially in rural areas, which has resulted in an increase in the number of children and adolescents with disabilities.

1. Education

226. On the topic of education, in the last few years of the implementation of the Education for All Fast Track Initiative Honduras 2003-2015, the Honduran education system made significant progress, especially with the establishment of a system of standardized evaluation of learning and teacher performance. Progress was also made in coverage, graduation rates, learning achievement and local management, but according to the information available there was a reduction in budget allocation. However, with respect to academic performance, both national and international assessments indicate that learning outcomes are extremely low.³⁷³ In addition, according to an assessment by experts in the education systems, the valuable and extensive information generated by standardized assessments is not being used to identify and reinforce particularly problematic and underperforming areas and curricular content.³⁷⁴
227. According to available information, school coverage is estimated at 58.2 per cent nationally, and some 1.2 million children and adolescents between the ages of 3 and

³⁷⁰ See Secretariat of State in the Office of Human Rights, Justice, Governance and Decentralization, [Report on the Situation of Human Rights in Honduras 2016 and 2017](#), p. 33.

³⁷¹ Pan American Health Organization, Basic Indicators, Health Situation in the Americas 2018.

³⁷² Joint Monitoring Program of the Millennium Development Goals Targets on Water and Sanitation (JMP/WHO-UNICEF). See also: El Pulso HN, "[Nearly 2 million Hondurans do not have access to safe drinking water](#)", October 31, 2017.

³⁷³ Fundación para la Educación Ricardo Ernesto Maduro Andreu, [Education: A Pending Debt. Honduras Educational Progress Report 2017](#).

³⁷⁴ Fundación para la Educación Ricardo Ernesto Maduro Andreu, [Education: A Pending Debt. Honduras Educational Progress Report 2017](#).

- 17 do not attend school.³⁷⁵ For its part, the State informed the IACHR that according to the result of the 2018 Permanent Multipurpose Household Survey, the coverage of the population from 3 to 17 years old is 58.7%.³⁷⁶ With regard to equity, social inequalities are manifested and reproduced in inequalities in access to education and in the performance of children and adolescents. Honduras has one of the highest levels of social exclusion of young people in the region: more than 800,000 young Hondurans neither study nor work, according to data from the National Statistics Institute, which limits their opportunities and makes them more vulnerable to situations of exploitation, to being co-opted by the maras, to being linked to criminal activities, or to migrating in search of opportunities.³⁷⁷
228. The Commission notes that the main causes of absenteeism and school desertion include lack of economic resources, teenage pregnancy and violence in the education sphere. The presence of the maras in schools, as well as in their surroundings, causes a climate of insecurity, violence, absenteeism and desertion in the school environment that affects both boys and girls.
229. According to information published by the State at the end of 2017, there are 18,089 educational establishments in the country, of which 43.4% had no electricity, 31.3% had no sewage disposal system, and 18% had no access to drinking water.³⁷⁸ Many schools rely heavily on the support of parents and teachers. Despite the above, and the fact that a considerable number of schools do not have electricity, sewage disposal systems or connection to drinking water, the IACHR observed during its visit a tendency to cut resources for the education sector, while the budget in other areas of public spending increases, which suggests a neglect of the education system by state entities. According to information provided by the State, in the 2018 budget approved by the National Congress, the budget of the Secretariat of Education was reduced by 177,000,000 lempiras (7.3 million USD in 2018), while the budget allocated to the Secretariat of Security was increased by 201,136,446 lempiras (8.3 million USD in 2018).³⁷⁹
230. The IACHR has further followed with special attention the expansion of the field of action of the Armed Forces and the police in the field of education. The purpose of their participation in the school environment would be to control the presence of maras and gangs in schools, as well as to control the sale and consumption of drugs. According to information available, more than 56 schools and colleges nationwide have the presence of the National and Military Police.³⁸⁰ In addition, during its visit,

³⁷⁵ Fundación para la Educación Ricardo Ernesto Maduro Andreu, Education: A Pending Debt. Honduras Educational Progress Report 2017, pp. 13-14.

³⁷⁶ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 12.

³⁷⁷ Information compiled in the Permanent Multipurpose Household Survey. Presencia Universitaria, "More than 74% of Ninis youth are in poverty", November 14, 2018. See also El Heraldo, "Some 800,000 young people neither study nor work in Honduras", citing data from the National Institute of Statistics.

³⁷⁸ Secretariat of Education, Honduran education system report in figures, academic period 2014-2016, December 2017, pp. 69, 72, 74.

³⁷⁹ Education: A Pending Debt. Honduras Educational Progress Report 2017, pp. 30-32.

³⁸⁰ El Heraldo. More educational centers are militarized in Tegucigalpa. July 11, 2017; La Nación. Military attempts

the Commission again received information on the “Guardianes de la Patria” program,³⁸¹ emphasizing that it would put children at risk and would promote in the country a military culture contrary to a culture of peace.³⁸² The IACHR expressed its concern about this program in its 2015 country report, and reiterates its concern about this program, since it is not adequate to the objectives that education should pursue and promotes in the country a military culture contrary to a culture of peace, in addition to stigmatizing and putting at risk children from certain social sectors.³⁸³

2. Pregnancy and Child Marriage

231. In Honduras, 39% of women aged 20-24 were reported to have joined or married before the age of 18.³⁸⁴ This is the second country with the highest teenage pregnancy in Latin America, considering that 1 out of every 4 adult women in the country has been pregnant before the age of 18. For the IACHR, it is extremely worrying that, according to available data, 50% of these pregnancies are the result of rape.³⁸⁵ The national average for teenage pregnancy between the ages of 15 and 19 would be around 24%. The figures also show that there has been an increase of 2.5 percentage points in the last 5 years of teenagers between 15-19 years old who have ever been pregnant.³⁸⁶
232. The IACHR highlights that in 2017 the Honduran State modified its legislation to prohibit child marriage of children and adolescents before the age of 18.³⁸⁷ However, deeply rooted gender-based perceptions and stereotypes persist in Honduran society, leading to a high level of prevalence of de facto unions involving persons under the age of 18.³⁸⁸

[to safeguard schools from gang siege in Honduras](#). July 2017; El Heraldo. Honduras: Anxiety and Depression Hit Teachers in Schools and Colleges, June 16, 2018.

381 In 2015, the Committee on the Rights of the Child expressed concern about the functioning of the “Guardianes de la Patria” program and the participation of thousands of children, some as young as 7 years old, in activities carried out by military units. Committee on the Rights of the Child, Concluding Observations on the report submitted by Honduras 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, July, 2015, para. 19.

382 IACHR, “[Childhood and Violence](#)” Hearing” of the 164th session, Mexico City. September 4-8, 2017.

383 IACHR, [Situation of human rights in Honduras](#), OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015, paras. 255 and following.

384 Casa Alianza, [Monthly report on the situation of the rights of children and young people in Honduras](#). July 2017, p. 23.

385 IACHR, [Thematic Hearing “Situation of children’s rights in the context of violence in Honduras”](#) of the 164th session, Mexico City. September 4-8, 2017; UNFPA Honduras, [Telecentro Corporation joins the campaign “I Decide to Fulfill My Dreams”](#), September 28, 2016.

386 National Strategy for the Prevention of Teenage Pregnancy in Honduras. ENAPREAH, Secretariat of Health, Honduras 2012.

387 The National Congress approved the elimination of the third paragraph of Article 16 of the Family Code, which allowed girls to marry at the age of 16.

388 There is abundant evidence and statistics of negative impacts on children and adolescents who enter a marriage or de facto union before the age of 18, among which the following stand out: dropping out of school; early high-risk pregnancies; reduction of socio-economic opportunities and for job development, which

3. Sexual Violence

233. Available information indicates that the prevalence of sexual abuse during childhood is 7.8%, the highest in Central America, according to the United Nations Population Fund.³⁸⁹ The Inter-Institutional Commission against Commercial Sexual Exploitation and Human Trafficking (CICESCT), responsible for following up cases of commercial sexual exploitation in Honduras, registered 84 complaints of cases of commercial sexual exploitation between 2014 and 2016.³⁹⁰ Civil society organizations estimate that there is underreporting because many victims do not report for fear of reprisals, so a large number of cases are invisible. A little more than a quarter (28.3%) of the complaints are prosecuted, and only in 30.19% there is a ruling.³⁹¹ In its observations, the State indicated that during 2018, the Public Prosecutor's Office received 122 complaints of human trafficking and 23 for the crime of commercial sexual exploitation, out of which 32 persons were prosecuted and 17 persons were sentenced for the crime of human trafficking and 24 persons were prosecuted and 11 persons were sentenced for the crime of commercial sexual exploitation. It also indicated that it had attended to 85 victims and had successfully closed 84 of these cases.³⁹²

4. Citizen Security of Children and Adolescents

234. The human rights situation of children and adolescents in the context of violence and insecurity in Honduras is of particular concern to the Commission, as it is one of the groups most affected by gang activity and organized crime. According to the organization Casa Alianza, during the last 20 years, particularly between February 1998 and February 2018, 12,371 cases of murders, arbitrary executions and violent deaths of children and young people under the age of 23 have been registered in the country.³⁹³ Between January and July 2017 there were 119 multiple homicides, by

contributes to circles of poverty; scarce opportunities for leisure, recreation, sports and participation in cultural life; and greater possibilities of suffering violence, affecting girls and adolescents in a situation of poverty in greater proportion. Meeting with civil society organizations, July 31, 2018, Tegucigalpa.

³⁸⁹ UNFPA. Sexual Violence in El Salvador, Guatemala, Honduras and Nicaragua: Analysis of Primary and Secondary Data, 2012, p. 23.

³⁹⁰ CICESCT Statistics, 2017. U.S. Embassy, [Human Trafficking Report 2018 \(Honduras segment\)](#), Level 2.

³⁹¹ U.S. Embassy, [Human Trafficking Report 2018 \(Honduras segment\)](#), Level 2. In this regard, the State told the IACHR that despite these figures, according to the UNODC report 2018, Honduras is one of the countries in the region with the highest number of judgments. It also reported that during 2018 the Public Prosecutor's Office received 122 complaints for the crime of human trafficking and 23 for commercial sexual exploitation, for which there are 32 and 24 persons prosecuted respectively. Likewise, during the same year, 85 victims were attended, 84 cases were successfully closed because it was considered the victim had received adequate support from the institutions (Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 13).

³⁹² Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 9.

³⁹³ Casa Alianza, Monthly report on the situation of children and youth rights in Honduras, February 2018, p. 32.

firearms have been mainly used (66.4%), followed by white weapons (12.3%).³⁹⁴ In 2017, the Special Rapporteur on extrajudicial, summary or arbitrary executions of the United Nations reported cases of violent deaths, in which the corpses repeatedly showed signs of torture. The Special Rapporteur also received worrying reports about the existence of child extermination squads, apparently motivated by considerations of “social cleansing”.³⁹⁵

235. The IACHR has referred to the phenomenon of gangs or maras as a direct form of violence or an affectation of the rights of Honduran children and youth. In the framework of its report on “Violence, Children and Organized Crime”, the Commission warned that children and adolescents are exposed to being linked to the violent activities of the maras, such as kidnappings, attacks on personal integrity, murders, confrontations with members of other gangs and with the police or security forces. Similarly, inside the maras they are also exposed to situations of violence such as initiation practices.³⁹⁶ Girls and adolescents involved in gangs or maras suffer gender-differentiated impacts. They are also victims of violence as they are treated as “sexual objects”,³⁹⁷ often have roles that link them to organized crime, in some cases assigning them tasks of care of facilities or minors, and in others as active members of criminal groups.³⁹⁸
236. According to UNICEF, there are up to 25,000 gang members in Honduras, of whom 4,700 are children and young people.³⁹⁹ The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions stated that children living in areas under the influence of maras live in a state of distress, not only because of the harassment, threats and assaults they face from gang members, but also because they are stigmatized, discriminated against and ill-treated by law enforcement officials, who see them as potential criminals.⁴⁰⁰
237. The authorities do not always understand this situation of vulnerability, pressure, manipulation and deceit to integrate children and adolescents into the maras. The perception in some social sectors, and which has inspired some recent legislative and political initiatives, is that children and adolescents-particularly boys living in the most deprived neighborhoods are the cause of the social climate of insecurity

394 IACHR, Thematic Hearing “Situation of children’s rights in the contexts of violence in Honduras” of the 164th session, Mexico City. September 4-8, 2017.

395 United Nations, Special Rapporteur on extrajudicial, summary or arbitrary executions. A/HRC/35/23/Add.1. 35th session 6-23 June 2017, para. 75.

396 IACHR, Report on Violence, Children and Organized Crime, 2015, paras. 172-175.

397 In Honduras, adolescent girls “are the sexual object members of the mara or gang who wants to have sex with them, as long as they accept it, but the decision space is restricted to whoever requests the sexual favor, if the applicant is a group leader the decision space is nullified and there is no option to refuse. National Program for Prevention, Rehabilitation and Social Reinsertion. Situation of maras and gangs in Honduras. 2011, p. 68.

398 IACHR, Report on Violence, Children and Organized Crime, 2015, para. 239.

399 UNICEF. “UNICEF-supported study sheds light on gangs in Honduras” July, 2012.

400 United Nations, Special Rapporteur on extrajudicial, summary or arbitrary executions. A/HRC/35/23/Add.1. 35th session, June 6-23, 2017, para. 73.

and violence.⁴⁰¹ The Commission considers that it is the duty of the State to review and update its comprehensive public policy with a focus on safeguarding the rights of children in the context of violence. It is the responsibility of the State to prevent the recruitment of children and adolescents by the maras, considering the root causes of this participation in the maras, such as multidimensional poverty and discrimination. Likewise, the IACHR considers it essential that more resources are invested in adequate and effective family and community disassociation and reintegration programs, and that they are provided with sufficient human, technical, and financial resources, strengthening the positive and promising experiences that exist.

238. The IACHR observes that the available figures on the participation of children and adolescents in criminal activities is extremely low (between 5% and 10%) compared to the participation of adults;⁴⁰² and that when boys, girls and adolescents are linked to criminal activities they are usually minor or non-violent crimes in which they are very often used by adults as instruments in the commission of the same. In these cases, and contrary to the view that children go unpunished for their actions, current Honduran legislation makes children from the age of 12 responsible for their activities that are contrary to criminal law.⁴⁰³
239. On the other hand, the State does not have a comprehensive public policy with a focus on guaranteeing the rights of children and adolescents in the context of violence and preventing their recruitment by the maras, which takes into account the root causes of their participation in the maras, such as poverty and discrimination. Nor are there sufficient human, technical or financial resources or programs to implement initiatives to disassociate children and adolescents from the maras and to rehabilitate and reintegrate them into society. In addition, there would be no mechanisms to assess the impact of existing measures, making it difficult to design and adjust public policies.⁴⁰⁴
240. The Commission acknowledges the efforts made by the State in this regard, despite the current shortcomings. The State reported that the Directorate for Children, Adolescents and the Family (DINAF) has designed a Sub-System of Special Protection for situations where there has been a high amount of abuses.⁴⁰⁵ In

⁴⁰¹ The legislative initiative that was promoted in 2017, and finally abandoned, which proposed treating adolescents from 16 years of age as adults within the criminal justice system, as well as an increase in penalties for up to 20 years, is a sample of this unfounded belief as well as of the belief that “iron fist” policies are the best way to address the issue. The initiative seeks to amend article 180-A of the Childhood and Adolescence Code. See, for example, *Recommendations of the Criminal Justice Commission of the Judicial Branch*, June 2017.

⁴⁰² Fundación para la Educación Ricardo Ernesto Maduro Andreu, *Education: A Pending Debt. Honduras Educational Progress Report 2017*.

⁴⁰³ Article 23(1) of the Honduran Penal Code provides that children under the age of 12 cannot be charged. Children and adolescents over that age “but under the age of eighteen (18) years shall be subject to a special law”. Decree No. 144-83.

⁴⁰⁴ Fundación para la Educación Ricardo Ernesto Maduro Andreu, *Education: A Pending Debt. Honduras Educational Progress Report 2017*, pp. 24-27.

⁴⁰⁵ It counts with actions that include the following phases: Activation Phase; Diagnosis, Evaluation and Resolution Phase; Protection and Restitution of Rights Measure Plan; Monitoring, Evaluation and Review of Measures Phase; Closure of the File. This subsystem is being implemented through the establishment of institutional

addition, the Secretariat of Development and Social Inclusion (SEDIS) implements the Comprehensive Care and Social Protection Project for vulnerable children, including children living in poverty and unaccompanied migrants, who operate in the country's main cities, provide services to 5,000 children and operate with a budget of 29,856,800 Lempiras (about 1.2 million US dollars).⁴⁰⁶ The State also explained that the SEDIS is implementing the Comprehensive Care and Social Protection Project for Young People and Women, Children and Girls in Situations of Vulnerability, Domestic Violence and Social Risk, which in 2016 benefited 13,636 vulnerable children, adolescents and women, of whom 4,500 were boys and girls; and in 2017 13,439, of whom 4,253 were girls and boys.⁴⁰⁷

5. Juvenile Justice

241. With regard to juvenile justice, the State of Honduras has recognized that the situation of adolescents in conflict with criminal law represents a national emergency.⁴⁰⁸ At the date of publication of this report, 536 children have been deprived of their liberty.⁴⁰⁹ The Commission has been informed that juvenile justice is based on a punitive policy of confinement and that it does not pursue social rehabilitation. In this sense, the IACHR observes the persistence of a criminalizing and stigmatizing approach against children and adolescents who are somehow linked to maras and gangs. This is because, as indicated above, adolescents are to a large extent considered responsible for the climate of insecurity in the country; and in this context, there are recurrent debates on the need to treat adolescents with a "strong hand", seeking to lower the age of criminal responsibility and increase the length of the deprivation of liberty. This is despite the fact that the figures show that adolescents are not responsible for the situation of violence experienced.⁴¹⁰ In this regard, the State reported that since 2018 the construction of a Public Policy for the Comprehensive Protection of Children in Conflict with the Law began, in which justice operators, civil society organizations and inter-institutional criminal justice commissions are participating.⁴¹¹
242. The detention centers for adolescents in conflict with the law have deficient conditions in terms of unhealthy conditions, infrastructure and food.⁴¹² These

interaction routes, tools and socialization with several institutions. Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 38.

⁴⁰⁶ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 38.

⁴⁰⁷ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 38.

⁴⁰⁸ OHCHR, Annual Report on the Situation of Human Rights in Honduras, 2017, paras. 26 and 27.

⁴⁰⁹ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 13.

⁴¹⁰ IACHR, Report on Violence, Children and Organized Crime, 2015, para. 436.

⁴¹¹ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 14.

⁴¹² IACHR, 164th session "Childhood and Violence Hearing", Mexico City. September 4-8, 2017.

centers are also characterized by negligent medical care, lack of effective social reintegration programs and insecurity.⁴¹³ Similarly, escapes, acts of violence and extortion continue to be registered in these centers, to the detriment of the rights of the adolescents.⁴¹⁴ These conditions, instead of providing an opportunity for social integration and helping to prevent recidivism, on the contrary deepen the problem.

243. In particular, during its visit, the IACHR visited the “Renaciendo Rehabilitation Center”, which to date has a total of 143 adolescents and young people deprived of liberty, between 13 and 23 years of age.⁴¹⁵ Since its on-site visit to the country in 2014 and through subsequent monitoring, the Commission has been following up on their conditions of detention. In particular, the IACHR observed that the adolescents were locked in modules without any educational or recreational activity and lacked, among others, medical care, medicines, toiletries, mattresses, recreational items, bedding and other basic elements.⁴¹⁶ According to the testimonies of the adolescents interviewed by the IACHR, they would have inadequate access to water, and their food is of poor quality. One of the adolescents reported that sometimes insects could be found in the food. They also denounced the difficulties faced by their families in visiting them. It is also of particular concern that custody functions are mostly carried out by military personnel. In this regard, the head of security informed the delegation that there were 44 security personnel, four policemen and 40 military personnel, some of whom were even armed.⁴¹⁷ The IACHR analyzes the militarization in the context of deprivation of liberty in this report.⁴¹⁸
244. In light of the foregoing, the IACHR recalls that these conditions are contrary to international standards in the area of juvenile justice. These standards state that the deprivation of liberty of children and adolescents should be an exceptional measure, and should be governed particularly by the principles of rehabilitation and reinsertion.⁴¹⁹ The Commission urges the Honduran State to review the current functioning of the juvenile justice system and the management of detention centers for children and adolescents. This in order to ensure that they are in accordance with international standards in this area.

⁴¹³ In its response to this report, the State pointed out that during 2018, educational coverage was expanded in all the Pedagogical Centers up to the baccalaureate in Humanities, certified by the Secretariat of Education, two libraries were built in the Centro Sagrado Corazón and Jalteva, vocational workshops were expanded, teachers were hired in various specialized areas, the health area was strengthened, doctors, nurses, dentists and a microbiologist were hired, the integrated care program has been implemented and the food delivery system was implemented. (Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 10).

⁴¹⁴ IACHR, 164th session “[Childhood and Violence Hearing](#)”, Mexico City. September 4-8, 2017.

⁴¹⁵ Information provided by the State during the visit to the Renaciendo Rehabilitation Center, July 31, 2018.

⁴¹⁶ IACHR, [Situation of Human Rights in Honduras](#), 2015, para. 562.

⁴¹⁷ IACHR, On-site visit to the “Renaciendo” Center for adolescents in contact with the criminal law, July 31, 2018.

⁴¹⁸ See section “Militarization of the penitentiary system”.

⁴¹⁹ IACHR, [Report on Violence, Children and Organized Crime](#), OEA/Ser.L/V/II, Doc. 40/15, November 11, 2015, para. 439.

245. Moreover, among the legislative advances that the State has achieved in the area of juvenile justice, the IACHR highlights the establishment of the National Institute for the Care of Juvenile Offenders (INAMI) as the body in charge of administering the functioning of the “Pedagogical Internment Centers for Child Offenders”, and of leading initiatives to consolidate the justice system for adolescents in contact with criminal law.⁴²⁰ However, the information available to the IACHR indicates that notorious challenges would persist to guarantee its effective implementation and functioning.
246. Similarly, in its 2015 country report, the IACHR highlighted the reform carried out through Decree 35-2013, which modified some aspects of the Childhood and Adolescence Code and the juvenile justice system in Honduras to make it more specialized and in line with international standards.⁴²¹ In particular, article 210 of the Act provides for the progressive establishment of the Special Jurisdiction for Children in contact with criminal law. However, to date this aspect constitutes the main challenge for the practical implementation of the law. This is due to the lack of sufficient resources and specialized personnel. The IACHR emphasizes the importance of the role that the law gives to the figure of execution judges, who are responsible for overseeing and controlling the execution of the sanctions imposed on children, reviewing the sanctions at least every 3 months, overseeing the correct application of the rules, and monitoring the conditions of internment through visits to the centers at least once a month.⁴²² In this regard, the IACHR underscores the importance of having execution judges throughout the country and, consequently, of providing them with the necessary resources so that they can efficiently fulfill their mandate.

6. National Comprehensive System for the Safeguard of the Rights of Children and Adolescents in Honduras

247. The Commission has observed that the institutional framework of the Honduran State responsible for guaranteeing children’s rights is weak, inefficient and unstable.⁴²³ From 1996 to 2014, the Honduran Institute for Children and the Family (IHNFA) directed the care of children, but it was eliminated and reduced to a directorate within a Secretary of State, the Directorate for Children, Adolescents and the Family (DINAF), with much less institutional influence and, therefore, a reduced leadership to fulfill its leading role.⁴²⁴

⁴²⁰ Executive Decree number PCM-072-2016.

⁴²¹ IACHR, *Situation of Human Rights in Honduras*, 2015, para. 328.

⁴²² Decree 35-2013, Article 210, published in La Gaceta, Official Journal of the Republic of Honduras on September 6, 2013.

⁴²³ IACHR, *Situation of Human Rights in Honduras*, 2015, para. 259.

⁴²⁴ IACHR, *Situation of Human Rights in Honduras*, 2015, para. 328. Executive Decree PCM 27-2014 created DINAF to replace the Honduran Institute for Children and the Family as a decentralized body attached to the Secretariat of State in the Offices of Development and Social Inclusion and governing body in matters relating to children. Its objectives are to guide, formulate, manage, coordinate and supervise the implementation of national policies and regulations on children, adolescents and the family; to strengthen the State’s capacity to

248. The DINAF has the role of governing body of the Comprehensive System for the Safeguard of the Rights of Children and Adolescents in Honduras (SIGADENAH), which is responsible for implementing the national policy for children. According to the information received by the IACHR, in order for the system to be established and meet its objectives of promoting and safeguarding the rights of children and adolescents, the following challenges persist: i) The strengthening of the normative and institutional framework for the protection of children's rights, since the Childhood and Adolescence Code does not currently provide for the implementation of the institutional framework in this area and it does not establish the powers of DINAF as the governing body; ii) The establishment of a National Policy for Children; iii) ensuring sufficient economic resources from defined and stable allocations to maintain the proper functioning of DINAF, the System and the National Policy for Children; and iv) establishing a system of indicators and collection of information to provide data to measure the effectiveness of public policies and identify areas that require greater attention and resources to effectively guarantee rights.
249. The State of Honduras reported that it has made some efforts to implement and strengthen a genuine Comprehensive System for Safeguarding the Rights of Children and Adolescents with the support of UNICEF and the organization Plan International, as well as with considerable financial support from the Canadian Cooperation.⁴²⁵ Among the developments identified is the establishment of the National Council for Children and Adolescents.⁴²⁶ The IACHR values these efforts and urges the State to accelerate them, since they continue to be slow if one considers the urgency of protecting the rights of children and adolescents in the country, as described in this chapter.
250. During its visit, the IACHR was informed that as part of the redesign and strengthening of the current institutional framework for children, the State seeks to place greater emphasis on ensuring a comprehensive, holistic and cross-cutting vision of child protection, emphasizing the promotion of rights and the prevention of violations, instead of focusing mainly on reactive actions in critical situations of lack of protection.⁴²⁷ The IACHR notes that the State has yet to make profound

promote, articulate and develop and monitor public and private plans, programs and services for the care of children, adolescents and the family; to promote co-responsibility and social participation at the national level in the promotion, defense and protection of the rights of children, adolescents and the family, and others that are compatible with the foregoing. Executive Decree PCM-27-2014 published in La Gaceta, Official Journal, June 6, 2014.

⁴²⁵ Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 38.

⁴²⁶ UNICEF, UNICEF and the Directorate for Children, Adolescents and the Family (DINAF) sign work plan 2018-2019, May 16, 2018. UNICEF, "Government of Honduras, with support from UNICEF, installs the National Council for Children and Adolescents", May 17, 2018.

⁴²⁷ In this sense, the State indicated that SIGADENAH is the result of the experience that has been developed in more than 110 municipalities of the country, through what has been called "Municipal Child Protection Boards" in which representatives of the institutions guaranteeing rights with presence in the municipalities, as well as of civil society organizations meet. To continue with the process of installing the system at the municipal level, the State asserted that in April 2018 a motion was filed before the Assembly of the Association of Municipalities of Honduras (AMHON) to strengthen and create the Municipal Councils for Guarantees of the Rights of Children and Adolescents in the country's 298 municipalities. This was approved by a large majority. The State also reported that work has been done to share the role of the SIGADENAH in front of the different municipal authorities and the members of these spheres in order to reorganize the functional

transformations to the current model, which continues to be deeply rooted in the tutelary and welfare vision. It also highlights the need to develop inter-institutional models to address the structural causes of vulnerabilities to children's rights in the country.

7. Migrant Children

251. Honduras is one of the countries in the region with the highest number of children and adolescents who migrate from the country for various reasons, either to escape the situation of violence and insecurity that the country lives, or in search of better opportunities for their future. Between January and April 2018, approximately 2,065 unaccompanied children and adolescents from Honduras were reported to immigration authorities in Mexico.⁴²⁸ Children and adolescents leave Honduras mainly because of the situation of violence and because of the threats and fear of maras and organized crime, and due to factors such as poverty, inequality and discrimination.
252. According to the information received during the visit, children and adolescents who have been returned to the country would be exposed to the same conditions and risk factors that at the time forced them to leave the country, in addition to possible reprisals for having attempted to emigrate. The Commission warns that Honduras does not have specialized protection protocols against specific risk conditions for returning migrant children and adolescents, such as violence in the family environment, school or death threats or persecution by gangs.⁴²⁹ In addition, civil society organizations have pointed out that the lack of an effectively implemented and decentralized National System for the Comprehensive Guarantee of the Rights of Children and Adolescents is one more obstacle that prevents the articulation of the different instances of the State to ensure comprehensive protection services for migrant children and adolescents.⁴³⁰
253. Finally, the Commission has previously pointed out that legislation and policies relating to children's rights must necessarily be accompanied by adequate levels of economic investment to ensure the realization of rights for all children in the country.⁴³¹ The IACHR recalls that investing in the development of children from a very early age has a positive effect on children's ability to exercise their rights, breaks cycles of poverty and generates a high economic return on the investment

structure of the Municipal Councils. Information provided by the State, Human Rights Secretariat, Monitoring Report to the Recommendations of the IACHR, 2018, p. 37.

⁴²⁸ Secretariat of Government, Statistical bulletins, Situation of minors filed before the immigration authority, by continent, country of nationality, age groups, travel status and sex, Mexico, 2018.

⁴²⁹ RELAF, UNICEF, Save the children "Returned migrant children and adolescents. An Analysis of the contexts and responses of services and protection policies in El Salvador, Guatemala, Honduras and Mexico", 2015, p. 46.

⁴³⁰ Furthermore, in the context of the "zero tolerance" policy in the United States, the IACHR is particularly concerned about the situation of migrant children and adolescents returned to Honduras, since the return of some of these children and adolescents could take place separately from that of their parents as a result of the separation that has occurred in the United States due to the application of this policy.

⁴³¹ IACHR, Towards the effective fulfillment of children's rights: National Protection Systems, OEA/Ser.L/V/II.166, Doc. 206/17, November 30, 2017, para. 101.

made by the State.⁴³² On the contrary, lack of sufficient investment can be detrimental to children’s development, and can reinforce existing deprivations, inequalities and intergenerational poverty. It therefore has profound implications not only for children’s optimal development and exercise of their rights, but also for the social and economic development of society and the country.

254. The Commission urges the State to redouble its efforts to ensure that all Honduran children can fully enjoy their rights.

D. Women

255. During its visit in 2018, the Commission noted the serious situation of violence faced by women in Honduras and the various forms in which it is expressed, in particular gender-based violence, sexual violence and violence against women at particular risk, and the high rates of impunity that persist in such cases. To address this problem, the State must tackle the underlying factors of discrimination that create and exacerbate violence in a comprehensive manner, including the disparity of impacts both between genders and within genders.⁴³³ In this section, the IACHR conducts an analysis of the situation of observed violence, access to health services, as well as women’s labor, civil, and political rights.

1. Violence

256. According to data from the Public Prosecutor’s Office communicated by the Violence Observatory of the National Autonomous University of Honduras (UNAH), in 2017 there were 987 deaths of women due to violent causes, 47 less than the previous year.⁴³⁴ While this information confirms the downward trend in the country’s overall homicide rate, the IACHR warns that gender-based murders of women have not decreased in the same proportion as other homicides in the country. In addition, the Commission is particularly concerned that these crimes are carried out with particular aggression against women and indicate a pattern of extreme violence against them that includes kidnappings, disappearances, torture in so-called “mad houses”, mutilations, dismemberments, face crushing, body burns, and other hate crimes.⁴³⁵

⁴³² IACHR, Towards the effective fulfillment of children’s rights: National Protection Systems, OEA/Ser.L/V/II.166, Doc. 206/17, November 30, 2017, paras. 101 and following.

⁴³³ IACHR, Situation of human rights in Honduras, OEA.Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 128.

⁴³⁴ United Nations, Committee against Torture, Concluding observations on the second periodic report of Honduras, CAT/C/HND/CO/2, August 10, 2016, para. 45. UNAH, Violence Observatory, Special Bulletin on Violent Death of Women January - December 2017, Special Edition No. 60, March 2018.

⁴³⁵ Center for Women’s Studies - Honduras (CEMH), Report of the Center for Women’s Studies presented to the IACHR during its official visit to Honduras, July 30, 2018. Security and Violence Observatory of the Women’s Forum for Life, Information provided to the IACHR in view of its on-site visit to Honduras, June 26, 2018.

257. In this regard, the Commission acknowledges the efforts made by the State to adopt diligent investigative and punitive measures in cases of gender-based violence.⁴³⁶ The State informed the Commission of the adoption of the National Plan to combat Violence against Women 2014-2022, thus expressing its willingness to strategically coordinate the resources allocated, the legal instruments available and the specialized mechanisms to eradicate violence against women in Honduras.⁴³⁷ In addition, the State reported on the presentation to the National Congress of a project that approves a budget line and creates the Special Unit to investigate crimes against women, especially femicide;⁴³⁸ Strengthening the Office of the Prosecutor for Women;⁴³⁹ the creation of the Specialized Integral Care Module (MAIE);⁴⁴⁰ the promotion of the approval of the Protocol on Care for Victims and/or Survivors of Sexual Violence; the establishment of the Inter-institutional Commission to Follow-up on Violent Deaths of Women and Femicide; and the submission to the National Congress of the draft law on Reparation for Victims.⁴⁴¹ The State also reported an increase in the budget for the Women's Violent Deaths Investigation Unit of the Public Prosecutor's Office, as well as for the National Women's Institute and the resources of the Supreme Court of Justice to strengthen and expand the Specialized Domestic Violence Courts.⁴⁴² The Commission also received information regarding the efforts of the State of Honduras to follow up on the recommendations of the IACHR regarding the adoption of a comprehensive, coordinated, and adequately resourced state policy to guarantee access to justice for victims of gender-based violence.⁴⁴³

⁴³⁶ State of Honduras, Monitoring Report to the Recommendations of the IACHR – Human Rights Secretariat, Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴³⁷ National Women's Institute (INAM), National Plan against Violence against Women 2014-2022, July 7, 2015.

⁴³⁸ A total of L. 29,000,000.00 were allocated for recruitment of staff, currently having 30 agents and 8 prosecutors in Tegucigalpa and San Pedro Sula. State of Honduras, Monitoring Report to the Recommendations of the IACHR – Human Rights Secretariat, Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴³⁹ 25 prosecutors were assigned to the Special Prosecutor's Office for Women in the Family Order, Domestic Violence, Instruction, Sexual Offences Section and Domestic Violence Section. State of Honduras, Monitoring Report to the Recommendations of the IACHR – Human Rights Secretariat, Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁴⁰ The MAIE responds to gender-based violence against women at all stages of life and of all vulnerable groups by providing multidisciplinary care and accompaniment to victims. State of Honduras, Monitoring Report to the Recommendations of the IACHR – Human Rights Secretariat, Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁴¹ State of Honduras, Monitoring Report to the Recommendations of the IACHR – Human Rights Secretariat, Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁴² Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 16.

⁴⁴³ The State of Honduras informed the IACHR that it would comply with this recommendation through the preparation of the Comprehensive Public Policy with a gender perspective through the Secretariat of Health (SESAL). SESAL also has a standard procedure to deal with domestic violence in the country in a comprehensive manner. The State also provided information on strengthening the human and logistical resources of municipal women's offices, police gender units and the police investigation department. State of Honduras, Monitoring Report to the Recommendations of the IACHR – Human Rights Secretariat, Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

258. Despite the efforts made by the State, the information provided to the Commission during its visit to the country shows that its coverage is still low and that there is insufficient investigative capacity,⁴⁴⁴ while at the same time not enough resources are allocated to specialized bodies.⁴⁴⁵ Furthermore, despite the criminalization of femicide, impunity prevails, given that in more than 90 per cent of cases, the murders of women continue unpunished.⁴⁴⁶
259. The IACHR remains concerned about the prevalence of sexual violence in Honduras and the special vulnerability of women, girls and adolescents.⁴⁴⁷ According to UNAH data, in in 2017 there were a total of 3,105 cases of sexual crimes, with women accounting for 88.9 % (2,761) of the victims,⁴⁴⁸ 95% of these cases would remain unpunished.⁴⁴⁹
260. In addition, the IACHR is concern about the violence against women at special risk, such as lesbian, bisexual, transgender or intersex (LBTI) women and women human rights defenders. According to information received by the Commission, from 2009 to December 2017 there have been 29 violent deaths of lesbian women and 92 of trans women.⁴⁵⁰ In the case of women human rights defenders, according to the Registry of Aggressions carried out by the National Network of Human Rights Defenders, in 2017 there were 17 instances of aggression against women defenders of sexual and reproductive rights, and in 2018, 6 violent deaths of women defenders of LGBTI rights were registered.⁴⁵¹
261. The Commission reiterates its concern regarding the high levels of impunity in cases of violence against women and warns that impunity enables violence and discrimination against women. It therefore calls for due diligence in the investigation of all acts of violence against women. The Commission also calls on the State to implement comprehensive strategies to eradicate stereotypes and discriminatory patterns against women in order to guarantee their right to live free from violence.

⁴⁴⁴ Center for Women’s Studies of Honduras (CEM-H), Information provided to the IACHR in view of its on-site visit to Honduras, July 27, 2018.

⁴⁴⁵ Center for Women’s Studies of Honduras (CEM-H), Information provided to the IACHR in view of its on-site visit to Honduras, July 27, 2018.

⁴⁴⁶ Somos Muchas, Report on the situation of women in Honduras prepared in the framework of the on-site visit of the IACHR to Honduras, July 30, 2018.

⁴⁴⁷ Proceso Digital, [Dramatic increase in sexual abuse in Honduras](#), February 27, 2018.

⁴⁴⁸ UNAH – IUDPAS Violence Observatory, [Bulletin January-December 2017 on Mortality and Others](#), Issue No. 48, March 2018.

⁴⁴⁹ Center for Women’s Studies of Honduras (CEM-H), Information provided to the IACHR in view of its on-site visit to Honduras, July 27, 2018.

⁴⁵⁰ Somos Muchas, Report on the situation of women in Honduras prepared in the framework of the on-site visit of the IACHR to Honduras, July 30, 2018.

⁴⁵¹ Somos Muchas, Report on the situation of women in Honduras prepared in the framework of the on-site visit of the IACHR to Honduras, July 30, 2018.

2. Access to Health Services

262. With respect to access to health, the IACHR takes note of the efforts made by the State of Honduras to integrate the needs of women, girls, and adolescents into the country's health services. In this regard, it is worth mentioning the adoption of the National Strategy on Gender in Health (ENGS) and its Implementation Plan by the Secretariat of Health in December 2016.⁴⁵² Similarly, the Commission was informed of the inauguration of the first "Women's City" care center in Colonia Kennedy of Tegucigalpa in March 2017⁴⁵³ followed by the Women's City and the Choloma center and the future centers in La Ceiba, Juticalpa to be inaugurated in 2019.⁴⁵⁴ These centers implement a model that integrates several state services for women by trained personnel, following good practice in terms of care and access to basic services from other countries in the region. The Working Group has recognized these centers as good practice on Discrimination against Women in Law and Practice, and during 2018 they provided care to 92,909 women.⁴⁵⁵
263. In addition, the Commission received positive information from the State regarding the adoption of preventive measures in the area of sexual and reproductive rights. These measures include the adoption of the National Sexual and Reproductive Health Policy, the Gender Policy of the Secretariat of Health, the National Adolescent Care Regulation, as well as the adoption of norms and procedures regarding prevention and family planning. In addition, the State informed the Commission that as part of the "Salud Mesoamérica" program, 19 mother-child clinics and six hospitals were improved in 19 municipalities, these centers provide medical assistance in the areas of sexual and reproductive health and sexual violence. As of 2014, the budget for the purchase of contraceptives and family planning was increased and the Multisectorial Plan for the Prevention of Teenage Pregnancy is

⁴⁵² Government of the Republic of Honduras, [Health launches the National Gender in Health Strategy](#), December 14, 2016.

⁴⁵³ El Heraldo, [The first Women's City center in Honduras was inaugurated](#), March 28, 2017.

⁴⁵⁴ State of Honduras, [Obligations of the State of Honduras regarding access to sexual and reproductive health services for girls and women victims of social violence](#), Information provided during the thematic Hearing held on February 14, 2019 within the framework of the 171st Regular Period of Sessions in Sucre (Bolivia); Secretariat of Foreign Affairs and International Cooperation of the Government of Honduras, Obligations of the State of Honduras regarding access to sexual and reproductive health services for girls and women victims of social violence, Communication to the IACHR, Note No.95/DGPE/DPM-19 of March 5, 2019. Archive of the IACHR.

⁴⁵⁵ The IACHR takes note of the State's goal of implementing the "Women's City" program to provide comprehensive services for women aged 15 and over, especially those in a particular situation of social exclusion and vulnerability. Presidency of the Republic of Honduras, [Ciudad Mujer opens its doors to help thousands of Honduran women](#), March 28, 2017. State of Honduras, Observations on the draft Chapter IV of the IACHR Annual Report 2017, communication to the IACHR, February 9, 2018.

also being implemented.⁴⁵⁶ As a result, according to the Secretariat of Health, there was a decrease in the number of teenage pregnancies between 2015 and 2017.⁴⁵⁷

264. In this regard, the Commission also notes that the State has recognized the persistent challenges in terms of access to sexual and reproductive health services and in particular for women victims of sexual violence. The IACHR notes that one of the main current challenges is the absence of a Protocol for the Care of Victims and/or Survivors of Sexual Violence.⁴⁵⁸ According to information communicated by civil society organizations, in March 2016, the National Women's Institute requested the Secretariat of Health to create a Comprehensive Protocol of Care for Victims/Survivors of Sexual Violence, for which different expert organizations on the subject were invited to make a proposal. This document was then shared and reviewed by experts from different entities such as the OHCHR, the Women's Rights Center, the College of Psychologists, the Honduran Society of Gynecology, the Honduran Pediatrics Society, and the Forensic Medicine Department, among others. In addition, the document in question was validated at the operational level by personnel with expertise in the care of victims and/or survivors of sexual violence. The final draft of the Protocol, submitted to the Secretariat of Health in October 2017, is still pending approval.⁴⁵⁹ The Commission notes that the above-mentioned protocol proposal includes the incorporation of the use and guarantee of the Emergency Contraceptive Pill (ECP). However, as it is considered an abortion method, the promotion, use, purchase and sale of the ECP is prohibited in Honduras and is punished with the same penalties, including in the cases of rape victims, under Ministerial Agreement No. 2744-2009.⁴⁶⁰ In view of the foregoing, the Commission in a public hearing on the subject expressed its concern that the absence of a

⁴⁵⁶ State of Honduras, Obligations of the State of Honduras regarding access to sexual and reproductive health services for girls and women victims of social violence, Information provided during the thematic Hearing held on February 14, 2019 within the framework of the 171st Regular Period of Sessions in Sucre (Bolivia); Secretariat of Foreign Affairs and International Cooperation of the Government of Honduras, Obligations of the State of Honduras regarding access to sexual and reproductive health services for girls and women victims of social violence, Communication to the IACHR, Note No.95/DGPE/DPM-19 of March 5, 2019. Archive of the IACHR.

⁴⁵⁷ According to the information provided to the Commission, in 2015 there were 23,853 hospital discharges due to childbirths of girls between the ages of 10 and 18, while in 2017 there were 21,150, representing a reduction of 11%. Secretariat of Foreign Affairs and International Cooperation of the Government of Honduras, Obligations of the State of Honduras regarding access to sexual and reproductive health services for girls and women victims of social violence, Communication to the IACHR, Note No. 95/DGPE/DPM-19, March 5, 2019. Archive of the IACHR.

⁴⁵⁸ Secretariat of Foreign Affairs and International Cooperation of the Government of Honduras, Obligations of the State of Honduras regarding access to sexual and reproductive health services for girls and women victims of social violence, Communication to the IACHR, Note No. 95/DGPE/DPM-19, March 5, 2019. Archive of the IACHR.

⁴⁵⁹ Women's Rights Center (CDM), Somos Muchas, Emergency Contraception Pill Strategic Group (GE-PAE) and the Center for Reproductive Rights (CDR), Situation of sexual and reproductive rights in Honduras, Information provided in the framework of the thematic Hearing held on February 14, 2019 in the framework of the 171st Regular Session in Sucre (Bolivia).

⁴⁶⁰ Center for Reproductive Rights, Honduras Supreme Court Upholds Absolute Ban on Emergency Contraception, Opens Door to Criminalize Women and Medical Professionals, February 29, 2012.

protocol of care for victims or survivors of sexual violence constitutes an obstacle to the full implementation and operationalization of comprehensive care measures.⁴⁶¹

265. Furthermore, on May 4, 2017, the National Congress approved article 196 of the new Penal Code, which maintains the criminalization of abortion in all circumstances, including when the pregnancy puts the woman's life at risk, when the pregnancy is unviable, and in cases of pregnancies resulting from rape.⁴⁶² This decision places Honduras among the only five countries in the Americas that prohibit abortion in all circumstances, despite the recommendations of various international bodies.⁴⁶³
266. According to this law and according to public information, at least three women were arrested for interrupting their pregnancies in 2017.⁴⁶⁴ Also, according to information provided by the Center for Women's Rights, despite the total ban on abortion, more than 50,000 abortions would be registered each year in Honduras, this figure that represents 5% of the causes of death in women.⁴⁶⁵ In addition, according to information available, in 2016 there were 900 reported cases of girls between the ages of 10 and 14 who gave birth, and 24,000 cases of adolescents between the ages of 15 and 19, the vast majority of the pregnancies were the result of sexual violence and lack of access to family planning methods.⁴⁶⁶
267. In its preliminary observations issued at the close of its on-site visit, the Commission warned that the absolute criminalization of abortion, by imposing a disproportionate burden on the exercise of women's rights, is contrary to the State's international obligations to respect, protect and guarantee women's rights to life, health and integrity. As the Commission has pointed out on previous occasions, the absolute criminalization of abortion has direct consequences on maternal morbidity and mortality figures. Without legal, safe and timely options such as life-threatening pregnancies, results of sexual violence, or incompatible with extra-uterine life, many women must undergo dangerous and even deadly practices, abstain from requiring medical services or have obstetric emergencies without the necessary medical care. The Commission recalls that the right to reproductive health addresses all aspects of the reproductive system as well as the ability to enjoy a satisfying and safe sex life. To maintain their sexual and reproductive health, women, girls and adolescents must have access to accurate and timely information and a contraceptive method of their choice that is legal, safe, effective, accessible and acceptable.⁴⁶⁷

⁴⁶¹ IACHR, Thematic Hearing on the situation of sexual and reproductive rights in Honduras held on February 14, 2019 within the framework of the 171st Regular Session in Sucre (Bolivia).

⁴⁶² Diario El Heraldo Honduras, [National Congress approved continued criminalization of abortion](#), May 4, 2017.

⁴⁶³ OHCHR, [Honduras Needs Progressive Reform of Abortion Law to Advance Women's Human Rights](#), April 28, 2017; Human Rights Watch, [Honduras Should Expand Access to Abortion](#), May 4, 2017.

⁴⁶⁴ El País, [Behind bars for abortion in Honduras](#), February 5, 2018.

⁴⁶⁵ Women's Rights Center, Women's Human Rights Observatory, [Open Secret: A Review of Abortion in Honduras \(Secreto a voces: una reseña sobre el aborto en Honduras\)](#), 2015.

⁴⁶⁶ IPAS and others, [Human Rights Situation of Women and Girls in Central America](#), Thematic Hearing before the IACHR, 167th session, Bogotá (Colombia), February 27, 2018.

⁴⁶⁷ IACHR, Press Release 165/17, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights](#), October 23, 2017. IACHR, [Preliminary Observations of the IACHR's Visit to Honduras](#), August 3, 2018, p. 12.

3. Women's Labor Rights

268. In terms of their labor rights, women in Honduras receive almost half of the salary compared to their male counterparts, they work mostly in the informal sector, and are particularly affected by unemployment.⁴⁶⁸ The Commission also received information concerning the conditions of domestic work in the country and the situation of labor exploitation in which approximately 125,000 women and adolescents would find themselves.⁴⁶⁹ According to information received by the Commission during its visit to the country, many women and adolescent who are domestic workers face working hours of more than 15 hours, without social security, with salaries below legal standards, with informal contracts and they are deprived of communicating with their families, in contradiction with national and international labor provisions on the matter.⁴⁷⁰ In this regard, the Commission has become aware of the draft Domestic Work Law under discussion in Congress, which, although it represents a progress in the protection of the rights of persons working in the domestic sphere, it has gaps such as the determination of an adequate minimum salary, the obligation to affiliate the worker to social security, and the regulation of working hours, among others.⁴⁷¹ The Commission also notes that Honduras has not signed International Labor Organization Convention 189 concerning Domestic Workers, and urges the State to consider doing so.
269. The IACHR has continued to follow up on the situation of maquila workers in transnational companies under special regimes. According to the information gathered by the Commission and the testimonies received,⁴⁷² the Honduran general minimum salary in 2017 was approximately L 8,130.10, depending on the various items and, in the case of the maquila, the differentiated minimum salary of L 6,500.⁴⁷³ In this sector, which employs a majority of women, the minimum salary covers only 67% of the cost of the “market basket”.⁴⁷⁴ Women workers find themselves in worrying working conditions that include long working hours, inadequate sanitary conditions, working in overcrowded conditions, lack of respect for rest periods,⁴⁷⁵ lack of medical and social coverage and abusive dismissals,⁴⁷⁶ and conditions that expose working women to serious physical and psychological distress. In addition, the problem of working conditions there are also few

⁴⁶⁸ World Economic Forum, [Global Gender Gap Report – Honduras](#), November 2, 2017.

⁴⁶⁹ Honduran Women's Collective (CODEMUJ), Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁷⁰ Honduran Women's Collective (CODEMUJ), Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁷¹ Honduran Women's Collective (CODEMUJ), Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁷² Honduran Women's Collective (CODEMUJ), Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁷³ Women's Rights Center (WRC), [maquila workers minimum agenda, 2018](#).

⁴⁷⁴ Oxfam, [263,000 women exploited in the maquilas of Central America](#), 2016.

⁴⁷⁵ Radio Progreso, [Maquila Workers between poor salaries and poor working conditions](#), February 26, 2016.

⁴⁷⁶ Business and Human Rights, [Honduras: NGO Denounces Failures in Agreement to Reinstate Delta Apparel Maquila Employees and Bad Working Conditions](#), June 2, 2017. Radio Progreso, [“They fired us because they have already exploited us”, denounce maquila workers in Honduras](#), June 2, 2017. Honduran Women's Collective (CODEMUJ), Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

promotion opportunities presented to women, based on discriminatory gender stereotypes “making them aware almost immediately that they will not be promoted from one position to another [because] they have families and children to care for or because they are unable to make decisions or perform work adequately due to those days of the month”.⁴⁷⁷ The Commission also draws attention to reports of violence committed against women workers in maquilas. For example, a study the access to justice in the maquila industry indicates that labor violence is expressed through shouting, insults, beating, pushing, pulling ears, and humiliation.⁴⁷⁸

270. Previously, the Commission recommended that the Honduran State implement measures to control and surveillance of workplaces and provide adequate care for maquila workers, including appropriate checks on working hours and accessible complaint mechanisms. It also pointed to the need to remedy the salary gap, to review existing legislation, especially in the area of occupational health to prevent risks at work, and to create a diagnostic register on occupational health.⁴⁷⁹ As a follow-up to these recommendations, the State of Honduras informed the Commission of its efforts to review occupational health legislation by launching the National Policy on HIV/AIDS for the maquila sector in 2015 and to supervise workplaces by adopting the Inspections Act. However, in view of the recommendation to develop a comprehensive public policy with a gender perspective and guidelines on prevention, care and health assistance for garment factory personnel, the State informed the Commission that it had not been complied with;⁴⁸⁰ the Commission therefore reiterates its recommendations in this area.

4. Civil and Political Rights

271. Regarding women’s civil and political rights, according to data published in the Global Report on the Gender Gap 2017 of the World Economic Forum, in Honduras women occupy 25.8% of ministerial positions in the country,⁴⁸¹ in contrast, in 2016 they occupied 17%.⁴⁸² Only 27.3% of the seats in Parliament are held by women, a fact corroborated by the information transmitted by the State to the IACHR.⁴⁸³
272. This slow progress has occurred within the framework of the normative efforts made by the State, such as the Law on Equal Opportunities for Women adopted in 2000,⁴⁸⁴ and the Regulations on Parity and Alternation Mechanism in the Political Participation of Women and Men in Electoral Processes adopted in 2016, which

⁴⁷⁷ Women’s Rights Center (WRC), [maquila workers minimum agenda, 2018](#), pp. 16 y 17.

⁴⁷⁸ Women’s Rights Center (WRC), [maquila workers minimum agenda, 2018](#).

⁴⁷⁹ IACHR, [Situation of human rights in Honduras](#), Series. OEA/Ser.L/V/II. Doc.42/15, para. 415.

⁴⁸⁰ State of Honduras, Monitoring Report to the Recommendations of the IACHR - Secretary of Human Rights, Information provided to the IACHR in view of its on-site visit to Honduras, July 2018.

⁴⁸¹ World Economic Forum, [Global Gender Gap Report – Honduras](#), November 2, 2017.

⁴⁸² World Economic Forum, [Global Gender Gap Report – Honduras](#), November 2, 2017.

⁴⁸³ State of Honduras, Observations on the draft Chapter IV of the IACHR Annual Report 2017, communication to the IACHR, February 9, 2018.

⁴⁸⁴ La Gaceta, Official Journal, [Law on Equal Opportunities for Women](#), Decree 34-2000, published on Monday, May 22, 2000.

order the integration of 50% of women in the selection lists of all public levels.⁴⁸⁵ According to the information transmitted by the State, in 2017 all political parties that participated in the primary elections held in March 2017 met the participation requirement;⁴⁸⁶ the Supreme Electoral Tribunal (TSE) has also trained women from political parties under the methodology of Candidate Academy and Parliamentary Academy in different regions of the country. The participation of women in judicial instances, such as the Supreme Court of Justice (out of 15 judges, 5 are women) and the Executive Branch (out of 3 presidential appointees, 2 are women; out of 641 decision-making positions, 299 are occupied by women; out of the total of 24,912, 15,603 are women) is also noted.⁴⁸⁷

273. Without prejudice to these developments, the Commission is concerned about the many obstacles women continue to face in participating in the political life of their country, in particular the political violence of which they are victims. According to information received by the Commission during its visit to the country, at least 40 acts of violence against women candidates, including harassment, armed aggressions, tear gas attacks, threats on social networks, beatings, illegal detentions and threats to their lives, were reported during the 2017 electoral period.⁴⁸⁸
274. The IACHR calls upon the State to take the necessary actions to promote the political participation of all women without discrimination and free from violence, and to adopt and implement appropriate measures to encourage political parties to ensure that all women have fair and equal opportunities to compete for and be elected to all public offices.

E. LGBTI Persons

275. As part of the on-site visit to Honduras, the Commission received information on the situation of violence and discrimination against LGBTI persons in the country. In this regard, the Commission was informed about the number of cases of murders based on sexual orientation and gender identity, as well as about the high degree of impunity in these cases. It also obtained information on structural discrimination committed by State agents and legislative changes that generated possible discriminatory situations against LGBTI persons. In spite of the challenges, the IACHR also learned of important advances in favor of equality and non-

⁴⁸⁵ La Tribuna, [This is how the regulation of parity of men and women for public office was established](#), September 12, 2016.

⁴⁸⁶ According to information provided by the State, the following were proposed: 1 woman for the office of president, 18 for presidential appointees, 924 for deputies, 1,017 for alternate deputies, 553 for mayors, 2,410 for vice-mayor and 10,771 for councilors. However, the results of the elections do not express the same figures for the inclusion of women, given that 1 woman was elected president, 5 women appointees, 143 women proprietary deputies, 170 women alternate deputies, 95 women mayors, 799 women vice-mayors and 2,622 women councilors. State of Honduras, Observations on the draft Chapter IV of the IACHR Annual Report 2017, communication to the IACHR, February 9, 2018.

⁴⁸⁷ State of Honduras, Observations on the draft Chapter IV of the IACHR Annual Report 2017, communication to the IACHR, February 9, 2018.

⁴⁸⁸ Women's Political Observatory N26, Participation and political violence against women. Analysis 2017-2018. Tegucigalpa, February 2018.

discrimination, in the areas of education with sexual diversity and gender perspective towards a cultural change, in addition to the work of State institutions aimed at investigating and sanctioning crimes committed against LGBTI persons.

276. Four years gone by since the issuance of the Report on the Situation of Human Rights in Honduras,⁴⁸⁹ the IACHR notes that LGBTI persons in the country continue to live in contexts characterized by frequent physical, psychological and sexual violence. Furthermore, these persons do not have effective access to justice. In that sense, their claims to justice face obstacles and the respective cases result in widespread impunity. In this regard, despite some convictions in judicial cases of violence against LGBTI persons, rulings are scarce and do not take into account possible motivations based on prejudice as a factor for the commission of crimes. This transmits a social message that legitimizes discrimination and hatred against LGBTI persons.
277. The Commission likewise continues to receive information from civil society on acts of violence committed against persons of diverse sexual orientation and gender identity and expression. The IACHR notes with concern the 155 murders of gays, lesbians, and transgender people⁴⁹⁰ in the last five years, including two cases that occurred during the time the IACHR was conducting its on-site visit on June 30 and July 7, 2018.⁴⁹¹ According to data provided on cases of violence, most of the killings occurred against gay men and trans women. Likewise, regarding trans women, the IACHR notes with concern that according to the information received, all the victims were under 34 years,⁴⁹² which reinforces the low average life expectancy of this population in the hemisphere.⁴⁹³
278. In addition, the IACHR emphasizes that in many of the cases of violence there were high levels of viciousness and cruelty, such as stabbing, riddling, execution, asphyxiation by strangulation, beating, calcination, and beheading. In this regard, the Commission highlights the case of Michelle Hernandez, a 24-year-old trans woman whose body was burned after being beaten to death in the municipality of Villanueva, department of Cortés, in early 2019.⁴⁹⁴ According to what has been reported in the media, to date no suspect has been identified or punished.⁴⁹⁵
279. The IACHR also expresses concern regarding the murders committed against human rights defenders of LGBTI people. Between 2015 and 2016, the Commission had knowledge of the following murders: Juan Carlos Cruz Andara, Angy Ferreira, Violeta Rivas, Jorge Alberto Castillo, Gloria Carolina Hernández Vásquez, Paola

⁴⁸⁹ IACHR, *Situation of human rights in Honduras*, OEA/Ser.L/V/II. Doc.42/15.

⁴⁹⁰ Catrachas, *LGTTBI Community Violent Death Report, 2009-2019*, p. 17.

⁴⁹¹ Information provided by civil society as part of the on-site visit on the murder of two gay men on August 2, 2018.

⁴⁹² Catrachas, *LGTTBI Community Violent Death Report, 2009-2019*, p. 20.

⁴⁹³ IACHR, *Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas*, November 12, 2015, para. 276.

⁴⁹⁴ Information provided by civil society.

⁴⁹⁵ Radio America, *LGBT community members beaten to death and burned in northern Honduras*, March 24, 2019.

Barraza⁴⁹⁶ and René Martínez Izaguirre.⁴⁹⁷ Similarly, the case of David Valle, whom, in 2017, was stabbed by an unknown man in his home in Tegucigalpa.⁴⁹⁸ The IACHR stresses that women human rights defenders face increased vulnerability to violence due to a combination of factors related to their perceived sexual orientation and gender identity, their advocacy role, and the issues they advocate for and work on,⁴⁹⁹ which is why states must ensure their safety. At the same time, the IACHR learned that the violence suffered by LGBTI persons in Honduras is a factor in several cases of forced displacement, both internal and international. According to the information received, LGBTI persons, who through different intersections of vulnerability are more likely to be victims of violence, are forced to seek safer spaces, which often means fleeing and leaving their place of origin. In this sense, violence, death threats, insecurity and impunity force people whose sexual orientation and diverse gender identity and/or expression to consider the possibility of leaving their homes as the only alternative to protect their life and physical integrity.⁵⁰⁰

280. For its part, the State of Honduras informed the IACHR about several measures taken in recent years to guarantee the safety of LGBTI persons in the country. In this regard, they highlighted the plan to prioritize the investigation of homicide cases against “vulnerable populations”, including LGBTI persons. This plan is developed through the creation of the Special Unit “task force” or “Operative Force” on Violent Crimes, which is in line with the protocols and the Police Investigation Directorate.
281. The State also provided information indicating that the Public Prosecutor’s Office of the Republic of Honduras has registered, in the last five years, a total of 92 cases of attempts and murders of members of the LGTBI community, of which, until 2018, only eight rulings have resulted in convictions and five acquittals. In addition, according to the information provided, the institution included social workers and psychologists in the investigation team for cases of violence against LGBTI persons, with the aim of forming a multidisciplinary team to determine the motives and the possible presence of elements of hatred in these crimes.
282. The IACHR takes note of the efforts undertaken by the State to investigate and punish those responsible for acts of violence and discrimination against LGBTI persons. However, it also highlights that according to information provided by the Commissioner for Human Rights (CONADEH), more than 90% of these crimes remain unpunished.⁵⁰¹ In addition, civil society denounced to the IACHR that in the

⁴⁹⁶ IACHR, [IACHR condemns killings and other acts of violence against human rights defenders of LGBT persons in Honduras](#), March 7, 2016.

⁴⁹⁷ IACHR, [IACHR Condemns Killing of LGBT Rights Defender in Honduras](#), June 15, 2016.

⁴⁹⁸ IACHR, [IACHR condemns attack on LGBTI rights defender David Valle in Honduras](#), August 9, 2017.

⁴⁹⁹ IACHR, [Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas](#), OEA/Ser.L/V/II. Rev.2.Doc. 36, para. 335.

⁵⁰⁰ CONADEH, [Forced Internal Displacement in Honduras](#), December 2007, p. 48.

⁵⁰¹ CONADEH, [Actions of Violence against Members of Sexual Diversity Preval in Impunity](#), May 17, 2018.

last five years, only 65 cases involving the murder LGBTI persons were prosecuted out of the total of cases.⁵⁰²

283. The IACHR emphasizes that due to the absence of official statistics on victims of violence based on sexual orientation or gender identity, the numbers provided by civil society to vary from those presented by the State. In this regard, the Commission stresses that, in order to generate statistics on violence due to prejudice, the State must take steps towards the creation of information and reporting systems that expressly incorporate variables on sexual orientation and gender identity. Likewise, the IACHR urges the State to create effective and coordinated inter-institutional mechanisms to train members of the security forces, justice operators and professionals who collect and analyze data on crimes and violence so that they can generate reliable statistics on the situation of violence against LGBTI persons.
284. The Commission further takes note of the concern expressed by civil society, indicating that the “hatred” was deleted in May 2019 from the aggravating grounds of Article 32.8 of the Criminal Code, which has been considered a step backwards in the framework of legal protection.⁵⁰³ This situation would leave without defense the legal protection against discrimination based on sexual orientation and gender identity.⁵⁰⁴
285. In this context, the Commission reminds the State of Honduras that the right to personal integrity and access to justice are fundamental principles of the democratic rule of law. In this regard, given the figures of murdered LGBTI persons, the IACHR calls on the State of Honduras to move forward with thorough and impartial investigations into cases of violence based on sexual orientation, gender identity or expression in its territory, adopting effective measures to try, sanction and redress violence against LGBTI persons. The Commission reiterates that impunity for crimes committed against LGBTI persons conveys a strong social message of legitimization of such acts of violence, which generates more violence.
286. Furthermore, the IACHR recalls that acts of violence and discrimination experienced by LGBTI persons reflect the prejudice rooted in society and, therefore, cultural change through educational processes plays a fundamental role in modifying sociocultural patterns of behavior, including the development of education programs - formal and non-formal - adapted to all levels of the educational process, seeking to counteract prejudices and all types of discriminatory situations against LGBTI persons;⁵⁰⁵ as well as to adopt legislative measures that promote equality and protect people against discrimination.

⁵⁰² Catrachas, LGTTBI Community Violent Deaths Report Catrachas 2009-2019, p. 17.

⁵⁰³ Proceso Digital, [Published in La Gaceta the new Penal Code](#), May 14, 2019.

⁵⁰⁴ Information provided by civil society as part of the on-site visit.

⁵⁰⁵ IACHR, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons*, December 7, 2015, para. 36.

1. Discrimination

287. With regard to the widespread context of discrimination against LGBTI persons, the Commission received information from civil society indicating that in 2004, the right to marriage was restricted only between men and women “who have the quality of such naturally”,⁵⁰⁶ forbidding thereby marriage and de facto union between persons of the same sex and trans persons. Article 116 also prohibited adoption by same-sex couples. With respect to the foregoing, the IACHR learned of the statement of the Public Prosecutor’s Office within the framework of the action of unconstitutionality that analyzes marriage in light of the principles of equality and non-discrimination. In particular, it expressed its opinion on the possibility of granting LGBTI persons “unequal” treatment⁵⁰⁷ regarding the right to marry. The Commission considers that such an opinion may in itself constitute an act of institutional discrimination and recalls that, in order for a restriction on human rights to be based on a prohibited or “suspect” category, State agents cannot base their actions on prejudice and/or stereotypes, they must also comply with the principles of necessity and proportionality.⁵⁰⁸
288. The IACHR reiterates that the right to equality and non-discrimination is a fundamental principle that obliges the State of Honduras to provide equal protection to all persons under its jurisdiction and to adopt measures to eliminate and combat discriminatory practices.⁵⁰⁹ In this sense, on several occasions the Commission has asked the authorities to refrain from spreading stigmatizing messages against LGBTI persons, as well as to contribute strongly to the construction of a climate of tolerance and respect.⁵¹⁰
289. The Commission also learned of the approval of the change to article 22 of the Act on Adoption by the National Congress of Honduras, which expressly prohibits the adoption of children into marriages or de facto unions formed by persons of the same sex, even though such marriages or unions are not legal in the country. In this regard, the IACHR notes that this reform represents a form of differentiated treatment of same-sex couples, representing a violation in the light of the principles of equality and non-discrimination, and considers that this article may in itself constitute an act of discrimination. On this issue, the Commission has repeatedly stated that the limited and stereotyped understanding of the concept of the family ignores current international standards in this area and arbitrarily excludes diverse families.⁵¹¹

⁵⁰⁶ Constitution of Honduras, art. 112.

⁵⁰⁷ Information provided by civil society as part of the on-site visit.

⁵⁰⁸ IACHR, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons*, December 7, 2015, para. 36.

⁵⁰⁹ I/A Court H.R. Request for an Advisory Opinion submitted by the State of Costa Rica, May 18, 2016.

⁵¹⁰ IACHR, *Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas*, November 12, 2015, para. 255.

⁵¹¹ IACHR, *Towards the effective fulfillment of children’s rights: National Protection Systems*, November 30, 2017, para. 408.

290. For its part, the State of Honduras informed the IACHR of 224 training workshops against discrimination based on sexual orientation or gender identity, for public health agents and the police carried out by the National Human Rights Commissioner (CONADEH) between 2015 and 2017.⁵¹²
291. In addition, civil society informed the Commission that important steps have been taken in the health system in terms of access to health services free of stigma and discrimination for LGBTI persons, including the creation of specialized clinics on sexual diversity, such as the Sentinel Surveillance Clinics for Sexually Transmitted Infections (VICITS).⁵¹³
292. The Commission notes with concern the information received that in the country, 11.9% of trans women live with the immunodeficiency virus (HIV).⁵¹⁴ The Commission takes note of the discrimination faced by trans people, in particular, exposing them to a process of exclusion, which in turn makes them more vulnerable, among other causes, because they are more susceptible to HIV infection.
293. Regarding public perceptions of LGBTI persons, civil society organizations denounced to the IACHR that in the framework of the 2017 general elections some media used discriminatory expressions, images, cartoons, and polls against LGBTI candidates who participated in the elections.⁵¹⁵
294. At the same time, the Commission takes note of the information received from the State of Honduras on the development of a component that prioritizes the teaching of gender and sexual diversity in schools, within the framework of the Public Policy and National Plan of Action on Human Rights (2013).⁵¹⁶ The IACHR highlights that discrimination against LGBTI persons, or those perceived as such, is closely linked to the existence of social and cultural prejudices rooted in the American continent societies.⁵¹⁷ In this sense, the IACHR welcomes the initiative of the project and reaffirms that human rights education, particularly the one that contains a gender perspective, plays a transformative role towards cultural changes in society in order to eliminate structural prejudices, historical discrimination, stereotypes and false concepts about LGBTI persons, contributing to a more just, egalitarian and inclusive society.⁵¹⁸
295. In light of the foregoing considerations, the IACHR urges the State to move forward with a legal framework that specifically guarantees comprehensive protection for people against discrimination based on sexual orientation, gender identity or body diversity, including the adoption of a gender identity law, the reform of institutions

⁵¹² Information provided by the State as part of the on-site visit.

⁵¹³ Information provided by the State as part of the on-site visit.

⁵¹⁴ UNAIDS, [Honduras Overview](#), 2019.

⁵¹⁵ Information provided by civil society.

⁵¹⁶ Information provided by the State as part of the on-site visit.

⁵¹⁷ IACHR, *Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas*, November 12, 2015, para. 428.

⁵¹⁸ IACHR, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons*, December 7, 2015, para. 66.

and the implementation of policies to combat discrimination and that guarantee the effective inclusion of LGBTI persons. The Commission reminds the State, within the framework of its international human rights commitments, to refrain from introducing into its legal system laws that generate discriminatory practices against LGBTI persons based on prejudice. The Commission therefore also recommends that the State repeal discriminatory laws such as the Adoption Act and, in the meantime, impose an explicit and formal moratorium on the application of that law.

F. Internally displaced persons

296. Honduras is a country of origin, transit, destination and return of migrants. Internal displacement and migration to other countries are the predominant trend in the country. Throughout the visit, the IACHR received abundant information on how, in recent years, various factors have forced tens of thousands of people to flee their homes both within Honduras and to other countries in the region, contributing to the exodus of displaced persons and refugees from the Northern Triangle of Central America.
297. According to the Inter-Institutional Commission for the Protection of Persons Displaced by Violence, in November 2017, there were approximately 174,000 internally displaced persons in Honduras.⁵¹⁹ For its part, the report by the Network of Civil Society Organizations for the Protection of Displaced Persons indicates that until 2018 the number of internally displaced persons (IDPs) would be 264,481,⁵²⁰ which could even be higher.
298. During the visit, the IACHR gathered 27 testimonies from people who were forced to move internally as a result of various forms of violence, including maras and gang violence; gender and intra-family violence; violence based on sexual orientation and gender identity; violence by state actors in the post-election context; displacement caused by the implementation of extractive industries; as well as displacement caused by climate change and natural disasters.
299. Moreover, the study of characterization of internal displacement in Honduras indicates that the main causes of displacement are the persecution and insecurity of the community (67.9%), threats (20%), murders (17%), personal injuries (12%),

⁵¹⁹ Inter-institutional Commission for the Protection of Persons Displaced by Violence, [Characterization of Internal Displacement in Honduras](#), November 2015, p. 12

⁵²⁰ Based on the interpretation of the statistics obtained from UNHCR concerning Honduran asylum seekers, the IDMC and NRC report, data from the statistical report prepared by the organization Cristosal Honduras, and cases handled by the organizations Pastoral de Movilidad Humana, Casa Alianza Honduras, Red Contra la Violencia Sindical and CIPRODEH. Document prepared by the Network of Civil Society Organizations for the Protection of Internally Displaced Persons (Red OSC), received by the IACHR on the occasion of its on-site visit to Honduras.

extortions (10%), and finally situations of sexual violence, usurpation of housing, kidnapping and forced recruitment (13%).⁵²¹

300. According to information provided by the General Directorate of the Protection System, as of June 30, 2018, 40 cases related to internal and external displacements of persons benefiting from the National Mechanism for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators have been dealt with.⁵²² For its part, the Committee of Relatives of Detained and Disappeared Persons in Honduras (COFADEH) reported that as a consequence of the post-electoral political crisis they have documented the internal displacement of 105 persons and 44 individual displacements to a second country.
301. From the information received, it appears that the main cause of displacement is violence by criminal groups or gangs that seek to control territory and communities by imposing their own rules, in addition to engaging in a variety of criminal activities, including those related to drug trafficking and trade.⁵²³ While these groups are found mainly in metropolitan area districts, their networks and influence extend throughout the country.⁵²⁴
302. The groups most affected by internal displacement are children and adolescents, who are often coerced into gang networks or forcibly recruited, even within their schools;⁵²⁵ people with professions susceptible to extortion, including the so-called “war taxes” imposed by gangs that demand that business owners, bus and taxi drivers, among others, pay money to save their lives; women, witnesses of violence; nurses; teachers; journalists; LGBTI persons; indigenous and Afro-Honduran peoples.⁵²⁶
303. According to the Report of the United Nations Special Rapporteur on the human rights of internally displaced persons on his mission to Honduras, the situation described by community members on situations of violence, threats and intimidation, killings of family members, extortion, sexual violence, murders of women and girls, and an environment of fear and insecurity, often as a result of gang

⁵²¹ Response of the State of Honduras, Note: SSDHJ-0010-2018, dated January 10, 2018, to the questionnaire sent by the IACHR in December 2017.

⁵²² The IACHR observes that, according to CONADEH, during 2017, 688 complaints were received involving violations of the rights to life and personal integrity, which affected 1,424 people, of whom 51% of the cases were at risk of displacement and the remaining 49% were forced displacement due to violence. This report identifies the following as the main causes of risk and/or forced displacement: (i) death threats, (ii) murders, and (iii) extortion. National Commissioner for Human Rights of Honduras (CONADEH), Special Report - Internal Forced Displacement in Honduras (January-December 2017).

⁵²³ [Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Honduras](#), April 5, 2016, para. 7.

⁵²⁴ [Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Honduras](#), April 5, 2016, para. 6.

⁵²⁵ [Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Honduras](#), April 5, 2016, para. 13.

⁵²⁶ National Human Rights Commissioner of Honduras (CONADEH), [Special Report - Internal Forced Displacement in Honduras](#) (January-December 2017); UNHCR, [Eligibility Guidelines for the Assessment of the International Protection Needs of Asylum Seekers from Honduras](#), July 27, 2016.

activities, represents an environment with effects similar to those experienced in some conflict situations.⁵²⁷

304. In addition, CONADEH reported that the criminal activities of gangs and maras have resulted in the arbitrary acquisition of homes, lands and properties of indigenous peoples, in many cases in collusion with local police and military forces,⁵²⁸ dynamics that often cause the internal displacement of these peoples. According to information received by the IACHR, the inauguration and expansion of extractive and energy megaprojects in some areas of the country has been related to the installation of criminal groups in the territories affected by the projects and to the displacement of communities and people active in the defense of lands and territories.⁵²⁹
305. In particular, the Commission received information on the forced eviction and displacement of the Lenca indigenous people from their lands - private and cultural heritage - due to the construction of the hydroelectric project: El Tornillito: scheduled to begin construction in 2018, without prior, free and informed consultation under the terms of ILO Convention 169. The IACHR also heard reports of threats, acts of intimidation and harassment against community leaders. These actions have created division in the communities and caused the displacement of their leaders for reasons of personal security. In this regard, the President of Communities United for the Development of the Biosphere of Rio Ulúa, said that: “I am currently under the protection of the Mechanism for the Protection of Human Rights and Environmental Defenders, finding myself a ‘free prisoner’, unable to carry out my work, enjoy my family, express my ideas and take care of the environment for which several generations of my family have fought for”.
306. The Commission received information on the aggravation of the conflict related to the implementation of the mining project managed by the mining company Inversiones Los Pinares in the sector known as El Guapinol, in the municipality of Tocoa. Throughout 2018, leaders and members of local communities affected by the project expressed their rejection of the project, as well as requested the revision of the concession and consultations with the population. In addition, a camp was reported to have been set up in October 2018 to block access to the mining concession, which would have intensified harassment and criminalization of community leaders and civil society organizations. As a result of this situation, several community leaders and their families have been forced to move internally.⁵³⁰ In addition, according to public information, 18 people who were

⁵²⁷ Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Honduras, April 5, 2016, para. 5.

⁵²⁸ National Human Rights Commissioner of Honduras (CONADEH), [Special Report - Internal Forced Displacement in Honduras](#) (January-December 2017).

⁵²⁹ Information received by the IACHR in the framework of meetings with civil society organizations and internally displaced persons.

⁵³⁰ According to the Study on the Characterization of Internal Displacement, 4.5% of internally displaced households come from Tocoa, which is equivalent to approximately 2,000 households. Inter-institutional Commission for the Protection of Persons Displaced by Violence, [Characterization of Internal Displacement in Honduras](#), November 2015, p. 41.

members of the Municipal Committee for the Defense of Common Goods of Tocoa were forcibly displaced.⁵³¹

307. The IACHR also notes that 41% of the people who claimed to have been victims of forced displacement in 2017 expressed their lack of interest in filing complaints with the security and justice authorities.⁵³² According to the information received, the victims only gave testimony before institutions such as CONADEH, seeking guidance on protection alternatives and options for accessing humanitarian assistance.⁵³³ This trend reveals a high level of mistrust in relation to the national public security and justice systems, which is related to the high rate of impunity in the country.

1. State Response to Internal Displacement

308. The Commission has recognized that the Honduran State was the first country in Central America to recognize the existence of a situation of internal displacement in its territory. In 2013, the State established the Inter-Institutional Commission for the Protection of Persons Internally Displaced by Violence (CIPPDV) and prepared the first report on the characterization of internal displacement in Honduras,⁵³⁴ with the support of the UNHCR National Office in Honduras and the NGO Joint IDP Profiling Service (JIPS). The IACHR highlights the information received by the State regarding the updating and expansion of this study in order to update and deepen the evidence on the magnitude and impact of internal displacement, in order to promote the design of an institutional and legal framework that strengthens the comprehensive response and the search for durable solutions in Honduras. The State informed that it plans to publish the update of the characterization study and to make progress in the design and handling of a Single Registry System for Internally Displaced Persons during 2019.
309. Likewise, the IACHR was informed that the Secretariat of Human Rights delivered the bill for the Prevention, Attention and Protection of Internally Displaced Persons to deputies of the National Congress on March 27, 2019. The IACHR reiterates the recommendation made in its 2015 Report regarding the need for the State to move forward promptly and without delay in the presentation of the aforementioned bill, as well as other institutional and budgetary measures that serve to provide an effective response to guarantee the human rights of internally displaced persons. In this regard, it also emphasizes the need to provide an adequate budget for the CIPPDV.

⁵³¹ Radio Progreso, [State criminalizes water defense and sends environmentalist from Tocoa to prison](#), Colón, February 25, 2019.

⁵³² National Human Rights Commissioner of Honduras (CONADEH), [Special Report - Internal Forced Displacement in Honduras](#) (January-December 2017).

⁵³³ National Human Rights Commissioner of Honduras (CONADEH), [Special Report - Internal Forced Displacement in Honduras](#) (January-December 2017).

⁵³⁴ Inter-institutional Commission for the Protection of Persons Displaced by Violence, [Characterization of Internal Displacement in Honduras](#), November 2015.

310. In addition, the IACHR highlights the definition of the crime of internal displacement in article 248 of the new Criminal Code and the creation of the Directorate for the Protection of Persons Internally Displaced by Violence. The purpose of the latter is to articulate and implement the State's response to the assistance and protection needs of internally displaced persons and to involve Honduras in the trial experience of the Comprehensive Framework for Responding to Refugees. This is part of the Comprehensive Regional Protection and Solutions Framework (CRPSF), in which the State adopted specific commitments and actions regarding internally displaced persons through a 2018-2020 Response Plan.⁵³⁵
311. Despite the progress made, the Commission received information from civil society organizations that indicated that the Honduran State only recognizes displacement caused by criminality, leaving out other types of displacement.⁵³⁶ Civil society organizations highlighted the lack of a real response by the State to the needs of internally displaced persons, beyond formal recognition of the existence of an internal displacement situation. In particular, the organizations pointed out that the CIPPDV does not have an adequate budget to respond effectively to the problem of internal displacement. As a result, no attention of any kind is given to people who come to its facilities, but only to refer them to civil society organizations for humanitarian assistance, shelter, legal advice and psychological care.⁵³⁷ Information was also received on the lack of coordination by the authorities for the creation and operation of a confidential registration system for property and abandoned housing due to displacement.⁵³⁸ For its part, the State informed the IACHR that a working group was formed between the National Agrarian Council (CNA), the National Agrarian Institute (INA), the Property Institute (IP), the Forest Conservation Institute (ICF) and the Association of Honduran Municipalities (AMHON) with the support of UNHCR, which managed to identify 129 abandoned properties by the end of 2018.⁵³⁹
312. The Commission also notes that the State has not yet adopted adequate legislation to prevent internal displacement or measures to investigate and punish perpetrators. In this regard, the IACHR recalls that the State has the obligation to respect and guarantee the right to freedom of movement and residence of all persons under its jurisdiction, including the prohibition of arbitrary

⁵³⁵ UNHCR, [Comprehensive Regional Protection and Solutions Framework \(CRPSF\)](#), 2017.

⁵³⁶ Families from the communities of Barras del Montagua and Barra de Cuyamel affected by the invasion of the sea on the coast could become victims of this type of displacement in the short term. Information obtained in the document "Climate Justice in Honduras", received by the IACHR on the occasion of its on-site visit to Honduras. See also, [En Alta Voz, El mar "devora" a 84 familias de las barras en Omoa y Cuyamel](#), June 12, 2018.

⁵³⁷ In this regard, UNHCR carried out a study in which it identified the need to allocate \$13 million for the care of internally displaced persons. Despite the above, 13 million lempiras (about \$500,000) were earmarked for displaced persons, which was enough to update the report and a pilot program that provided assistance to 9 families. UNHCR, [Protection of land, territory and housing of forced displacement victims in Honduras](#) 2017, pp. 10-14 y 47-48.⁵³⁶

⁵³⁸ In relation to the powers of the Institute of Property in Honduras and its role in relation to the registration of abandoned goods and, more generally, the protection of goods and housing. See UNHCR, [Protection of land, territory and housing of forced displacement victims in Honduras](#) 2017, pp. 10-14 and 47-48.

⁵³⁹ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 20.

displacement.⁵⁴⁰ This right may be violated when a person is the victim of threats or harassment, and the State does not provide the necessary guarantees to move and reside freely in the territory in question. Likewise, the lack of an effective investigation of violent acts, as well as the situation of impunity, can undermine victims' confidence in the justice system and contribute to conditions of insecurity. Moreover, such a situation of impunity may lead to or perpetuate forced displacement or even exile.⁵⁴¹

313. Internal displacement represents a multiple and continuous violation of human rights, a situation that continues until people can return to their places of origin in a voluntary, dignified and safe manner or there is voluntary resettlement in another part of the country.⁵⁴² The IACHR reminds Honduras that it has four main obligations with respect to internally displaced persons: to prevent displacement; to protect and assist displaced persons during displacement; to provide and facilitate humanitarian assistance; and to facilitate the safe return, resettlement, and reintegration of internally displaced persons.⁵⁴³

G. Migrants, People in Need of International Protection and Returnees

314. Honduras has been characterized for being a country of origin of migrants and refugees, and more recently, also of returnees who have been deported from other countries, among which are also people in need of international protection. The migration of Honduran people to other countries is a multi-causal phenomenon. Relatives of migrants and returnees who testified to the IACHR during the visit pointed out that people migrate for economic reasons and in search of better life opportunities, escaping insecurity and violence, seeking family reunification, or a combination of these and other factors.
315. Although Honduras is a country of origin of migrants and persons in need of international protection, the IACHR notes that there are no official figures on the total number of Honduran migrants abroad. As noted above, during the visit, the IACHR received information indicating that in many cases the internal displacement of Honduran persons is a stage before migration to other countries in search of international protection.
316. According to the report “Global Trends: Forced Displacement in 2017” of the United Nations High Commissioner for Refugees (UNHCR), by the end of 2017, 14,427

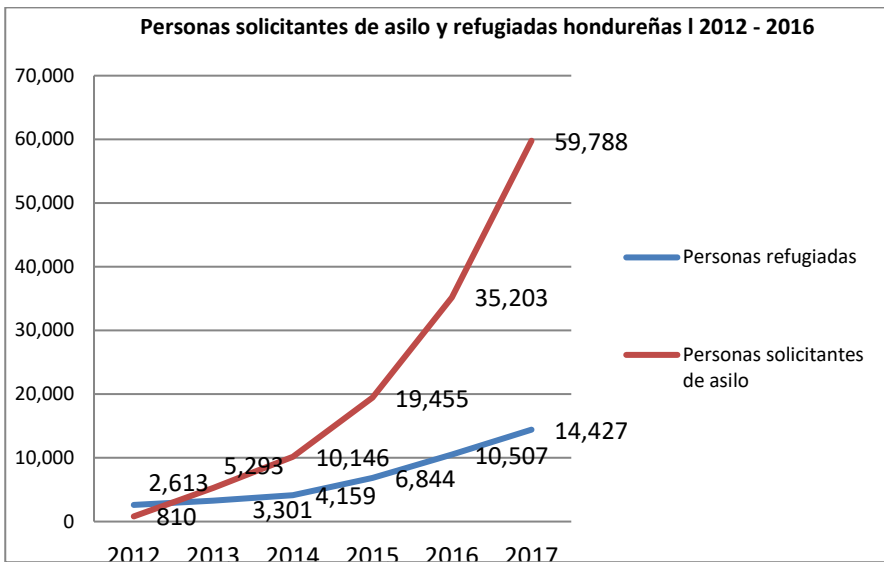
⁵⁴⁰ Article 22 of the American Convention on Human Rights. I/A Court H.R. Case of Manuel Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 26, 2010. Series C No. 213; and I/A Court H.R. Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 192.

⁵⁴¹ I/A Court H.R. Case of V.R.P., V.P.C. et al. v. Nicaragua, Preliminary Objection, Merits, Reparations and Costs. Judgment of March 8, 2018, para. 309.

⁵⁴² UN, Guiding Principles on Internal Displacement, Principle 28. Case of the Ituango Massacres v. Colombia. Judgment of July 1, 2006, para. 212.

⁵⁴³ UN, Guiding Principles on Internal Displacement.

people had been recognized as refugees and 59,788 asylum-seekers were registered worldwide who are pending resolution of Honduran nationality. In this regard, the IACHR notes that between 2013 and 2017 there has been a drastic increase of 337% of people recognized as refugees and 1,030% of asylum seekers from Honduras.⁵⁴⁴ It is a matter of concern to the Commission that most Hondurans are often considered migrants for economic reasons and often do not obtain the international protection they require. This situation is evidenced by the disparity observed between the number of persons who applied for asylum and the number of persons who actually obtained protection as refugees.



Source: United Nations High Commissioner for Refugees (UNHCR) Global Trends Reports 2012 – 2017.

317. Migrants are often victims of various human rights violations while travelling to their country of destination, including kidnappings, sexual violence, extortion, robberies, disappearances and human trafficking.
318. In relation to Honduran migrants disappeared along the migratory route and the investigation of crimes and violations committed against them, the IACHR received information from civil society organizations on the challenges still faced by the families of disappeared migrants in the search for and identification of their loved ones. In this regard, the State reported that from 2012 until the date of publication of this report, it had a record of 499 cases of missing Hondurans, of which 36 have been identified as dead and 46 alive. In addition, 974 DNA tests have been carried out on family members. They also stated that they formed a Roundtable on Missing Migrants, which is made up of government institutions, civil society organizations and the Argentine Forensic Anthropology Team (EAAF).

⁵⁴⁴ UNHCR, Global Trends Reports 2012 to 2017.

319. Due to the dangers of the trip, Central Americans migrants have organized themselves to cross Mexican territory in groups, with the intention of reaching the United States, and in some cases Mexico, which allows them greater visibility, seeking to decrease their situation of vulnerability. Many of these people seek recognition as refugees. In this sense, at the end of 2018 and the beginning of 2019, the so-called “caravans” were formed, composed mainly of Hondurans and Salvadorans. During their journey, the people who make up the caravans have faced quite precarious situations, particularly with regard to lack of access to food, water, health and sanitation services, shelter, as well as the journey in the open, exposed to inclement weather, difficult roads, and altercations with state authorities.⁵⁴⁵
320. According to information received by the IACHR, Honduran people have faced obstacles to leave their country, such as the establishment of at least 7 checkpoints, blockades with human fences formed by agents from different security forces, and filters implemented by the police who requested identity documents at the border point.⁵⁴⁶ There were also reports of the use of force by the Honduran police, who would have thrown tear gas into the caravan, injuring several people, including children and adolescents. This is said to have occurred within the framework of a strong media campaign with the intention of dissuading people from migrating. As a result, many people, including families and children, decided to avoid regular crossings by using more dangerous blind spot routes.⁵⁴⁷ The Commission requests the Honduran State to guarantee the right to leave the country freely and the right to seek and receive asylum in terms of Articles 22.2 and 22.7 of the American Convention on Human Rights.
321. Honduras is also a transit and destination country for migrants. The National Migration Institute (INM) informed the IACHR that in 2016, 26,239 migrants in an irregular situation entered Honduran territory, 4,332 in 2017 and until July 31, 2018, 2,277 migrants in an irregular situation were registered, the majority of whom were of Cuban origin.⁵⁴⁸ In its observations to this report, the State indicated that during 2017, the Internal Commission for the Review, Analysis and Opinion of Refugee Applications decided on 18 cases, out of which 6 were favorable, 3 provided complementary protection and 9 were abandoned.⁵⁴⁹ For its part, INM reported that from January to July 2018 there has been an increase of 24% in the income of Nicaraguans compared to the same period in 2017. Regarding asylum seekers and refugees, INM reported that between 2008 and July 2018, 299 asylum applications were received and 50 people were recognized as refugees in Honduras.⁵⁵⁰ Of the 299 asylum applications that Honduras has received in this time period, the main

⁵⁴⁵ IACHR, Press Release No. 225/18, [IACHR expresses concern over the situation of the "Migrant Caravan" from Honduras and calls on the States of the region to adopt measures for their protection](#), October 23, 2018.

⁵⁴⁶ IACHR, Press Release No. 37/19, [IACHR Urges Honduras and Guatemala to Guarantee the Rights of People in the Migrant and Refugee Caravan](#), February 19, 2019.

⁵⁴⁷ IACHR, Press Release No. 37/19, [IACHR Urges Honduras and Guatemala to Guarantee the Rights of People in the Migrant and Refugee Caravan](#), February 19, 2019.

⁵⁴⁸ National Institute of Migration, Statistical report on irregular migration in Honduras, August 01, 2018.

⁵⁴⁹ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 16.

⁵⁵⁰ 17 of Colombian citizenship, 15 Salvadorans, 11 Nicaraguans, 6 Venezuelans and 1 Namibian citizen.

country of origin of asylum-seekers is Nicaragua with 71 applications. Civil society organizations expressed concern about the long time taken by the Internal Commission for the Review, Analysis and Opinion of Refugee Applications.

322. Refugees in Honduras reported facing strong obstacles to access to local integration in the country, including difficulties in access to services such as health, education, employment and financial services. In addition, refugees face obstacles to access to naturalization, particularly due to requests from Honduran authorities for documents that refugees often do not possess and cannot obtain through their embassies.⁵⁵¹
323. With regard to its migration regulations, the Commission takes note of the Migration and Aliens Act of 2003 and its Regulations of 2004, as well as the Act for the Protection of Honduran Migrants and Members of their Families of 2013. In particular, the Commission is concerned about the text of article 114 of the Regulation of the Aliens Act, which prevents persons with disabilities from entering the country,⁵⁵² as well as “beggars, vagabonds, witches, sorcerers, healers, fortune tellers or charlatans, or those who practice prostitution, drug addicts”, among others. The IACHR urges the Honduran State to adapt them to regional and international human rights standards and norms through a process of broad civil society participation.

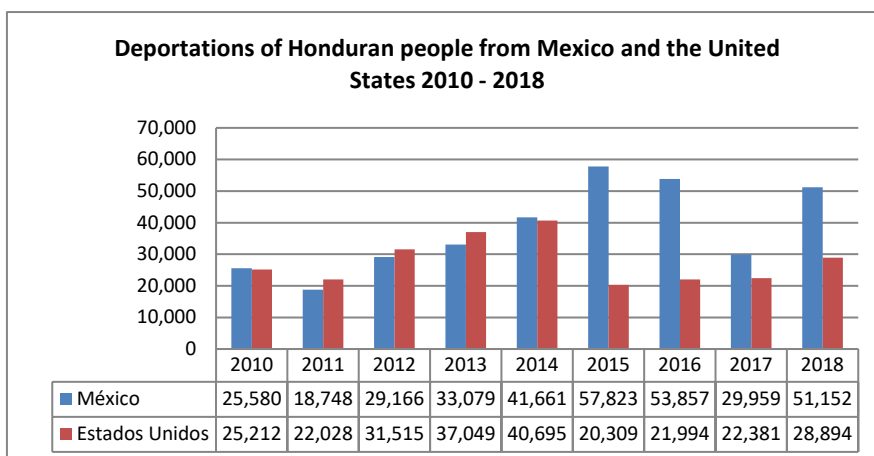
1. Hondurans Returned or Deported

324. Despite the protection needs of many Hondurans who migrate abroad, the Commission notes a significant increase in the number of Hondurans deported due to the tightening of migration policies in the United States and Mexico. Due to the increase in the arrival of migrants and asylum-seekers at the southern border of the United States in the first half of 2014, Mexico implemented the Southern Border Program, which led to an increase in deportations from Mexico along with a 45.95% reduction in deportations from the United States.⁵⁵³ In this regard, the State reported that from 2014 to 2017 there was a decrease in the number of Honduran returnees to the country, however, during 2018 there was a significant increase in the number of returnees and deportees.

⁵⁵¹ National Migration Institute of Honduras (INM), UNHCR, Participative diagnosis of the needs of the refugee population, 2015.

⁵⁵² Article 114.3 of the Regulation to the Migration and Aliens Act, 3 May 2004.

⁵⁵³ U.S. Immigration and Customs Enforcement Fiscal year 2014 - 2016, Expulsions from the country by ICE (ICE Immigration Removals).



Source: Secretariat of the Interior, National Institute of Migration and US Immigration and Customs Enforcement, Immigrations Removals, Fiscal Year 2012-2018.

325. According to the Consular and Migration Observatory of Honduras (CONMIGHO) as of July 27, 2018, 42,636 Hondurans had been returned to Honduras, an increase of 59.9% compared to 2017, equivalent to 15,281 persons.⁵⁵⁴
326. The State informed the IACHR of various measures it has been implementing in the area of migration. In terms of addressing expulsion factors, the creation of the Better Life Program 2014-2017,⁵⁵⁵ which has benefited nearly 3 million people living under poverty, the promotion of job creation, especially through job fairs and the registration of hourly employment contracts, development programs in rural areas and the promotion of youth employment and professional training programs, stand out. In addition, the adoption of the *Plan for All for a Better Life and the Strategic Program for the Comprehensive Care of Honduran Migrant Children and Adolescents and their Families 2015-2019*,⁵⁵⁶ with the purpose of preventing violence as a cause of migration and ensuring quality care for each child returned to Honduras.
327. In addition, the State reported on the establishment of a Migrant Assistance Task Force,⁵⁵⁷ which has the objective of articulating the response of the Honduran government institutions to guarantee respect for the human rights of the migrant population, dignified attention and protection abroad, as well as the strategy of care and reintegration of Honduran returnees to the country. The State also informed the IACHR of the importance of the creation of the Sub-secretariat for Consular and Migratory Affairs to guarantee a greater focus on the protection and care of migrants

⁵⁵⁴ Most of these people were returned or deported from Mexico (26,148) and the United States (16,426). With regard to migrant children, 11,137 children and adolescents returned in 2016, while 4,823 persons were returned in 2017, representing a reduction of 66%; however, only as of July 27, 2018, 5,205 were returned. Consular and Migratory Observatory of Honduras CONMIGHO, Update of the Report for the Visit of the Inter-American Commission on Human Rights, 2015-2018.

⁵⁵⁵ Presidency, [Better Life Program 2014-2017](#).

⁵⁵⁶ Directorate for Children, Adolescents and the Family DINAF, [DINAF Strategic Plan](#), 2015.

⁵⁵⁷ Executive Branch Gazette, Republic of Honduras, Executive Decree PCM 33-2014, July 11, 2014.

- and returnees. Information was also received regarding the Honduran Migrant Solidarity Fund (FOSMIH), created by the Law for the Protection of Honduran Migrants and their Families, which has a budget of \$5 million annually for the care and protection of Honduran people abroad and returnees.⁵⁵⁸ Along these lines, the Integrated Center for the Protection of Honduran Migrants in Mexico and the Integrated Center for the Protection of Honduran Migrants in Houston (Texas, USA) were inaugurated in 2017 to provide assistance to Hondurans in these countries.⁵⁵⁹
328. In relation to the care of persons returned to Honduras, the State indicated that three Centers for the Care of Returning Migrants (CAMR)⁵⁶⁰ have been installed and remodeled, which are the point of entry for returned migrants. In these centers, advice is provided so that people have access to different State programs and they are provided with food services, immediate medical care, psychological care (obligatory in the case of children and family units), accommodation for 48 hours for those who cannot return immediately to their places of origin, transport to the place of origin and assistance is provided in filling out a socio-economic file to follow up cases in the reintegration phase to their communities of origin. As part of its visit, the IACHR visited the Bethlehem Migrant Child and Family Care Center in San Pedro Sula and was able to observe a significant improvement in the conditions and services provided to returned children and families in this center, compared to what was observed during its 2014 visit.
329. With regard to the reintegration of returned migrants, the State has indicated that since 2017 it has been implementing the Municipal Units to Support Returnees (UMAR) in the 16 municipalities with the highest number of migrants expelled in Honduras. The State also reported that since 2017 it has been working in an inter-institutional roundtable for the design and elaboration of a Honduran migration policy that includes return and reintegration in the country. The State reported on the development of the National Program for the Educational Care of Returned Migrant Children and Adolescents, for the registration, control and follow-up of cases.⁵⁶¹
330. Despite these developments, the Commission notes with concern that the measures adopted by the Honduran State for the care of returnees and deportees focus almost exclusively on the prevention of and response to economic migration and on the reintegration of migrants into the country through labor insertion. In this regard, the State does not have adequate programs to identify and assist deportees in need of protection, i.e. Hondurans who were forced to flee the country and are unable to return to their place of residence because of the risk that this would pose to their lives and physical integrity. As a consequence, people identified with protection

⁵⁵⁸ Secretariat of Foreign Affairs and International Cooperation, [Approval of Regulation for the Use of the Honduran Migrant Solidarity Fund](#), September 14, 2017.

⁵⁵⁹ Report of the Human Rights Secretariat of Honduras monitoring the Recommendations of the IACHR.

⁵⁶⁰ Secretariat of Foreign Affairs and International Cooperation, [Development of Protocol to Reinforce the Work of the Attention Centers for Returning Migrants](#), April 2, 2017.

⁵⁶¹ Report of the Human Rights Secretariat of Honduras monitoring of the Recommendations of the IACHR.

needs are often referred to civil society organizations for assistance and protection.⁵⁶²

331. In addition, the Commission received information that only children and adolescents, families with minor children and persons deported by air are automatically taken to the CAMR for reception and care. In the case of adults who are deported or returned by land, they are not usually taken to a CAMR, but directly to the San Pedro Sula bus terminal, where the only assistance they receive is the bus ticket to reach their destination, without any additional support. Similarly, only children and adolescents, families with minor children would be assisted by the UMAR,⁵⁶³ while adults who are deported alone would not have access to their services.⁵⁶⁴ In this regard, the IACHR encourages the State to extend the services of CAMR and UMAR to all deported persons.
332. The IACHR considers that the State should ensure that reintegration programs are offered. In order to ensure effective and human rights-centered reintegration, the Honduran State should, among other measures, ensure that economic, socio-cultural and psychosocial support is provided to returnees and home communities before, during and after return. The Commission also recalls that States have an obligation to ensure the protection of the fundamental rights of persons who were forced to flee their country because of a risk of persecution and lack of effective protection by State authorities and who have not had due access to international protection in another country and have been deported back. In this regard, the necessary measures should be taken to identify persons in this situation of vulnerability and give them appropriate attention, referring them to programs created for that purpose.

2. Victims of Human Trafficking

333. The Honduran State is primarily a country of origin and transit for the crime of human trafficking primarily for the purpose of sexual and labor exploitation; however, it is also a destination country for victims of human trafficking, especially women and children.⁵⁶⁵ In this regard, the Honduran State has implemented the National Plan of Action against Commercial Sexual Exploitation and Human Trafficking 2016-2020 through the Inter-institutional Commission against

⁵⁶² Refugees International, Putting lives at risk: Protection failures affecting Hondurans and Salvadorans deported from the United States and Mexico, February 2018, pp. 18-19. The State informed the Commission that the Ministry of Foreign Affairs and the Human Rights Secretariat of Honduras have signed a cooperation agreement providing a comprehensive response to 30 cases of Honduran migrant returnees in need of protection (Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 24).

⁵⁶³ Report of the Human Rights Secretariat of Honduras monitoring the Recommendations of the IACHR.

⁵⁶⁴ Refugees International, Putting lives at risk: Protection failures affecting Hondurans and Salvadorans deported from the United States and Mexico, February 2018, p. 18.

⁵⁶⁵ UODC, Global Report on Trafficking in Persons 2016, p. 33.

Commercial Sexual Exploitation and Human Trafficking in Honduras (CICESCT).⁵⁶⁶ Although these developments are positive, the IACHR urges the Honduran State to continue its efforts against the crime of human trafficking, especially with regard to combating impunity and providing proper care for victims. It is essential to draw up guidelines for the identification of victims of this crime, which also include deportees, as well as their proper care, avoiding re-traumatization and providing them with assistance, security, and mental health services.

H. Persons Deprived of Liberty

334. The Commission has been monitoring the precarious situation of persons deprived of liberty in Honduras for the past 20 years. Based on what it has observed through its monitoring work, the Commission assesses the measures adopted by the State in order to guarantee the rights of this population. These measures include an increase in the budget allocated in 2017;⁵⁶⁷ the improvement of penitentiary establishments; the processes initiated to identify persons subject to pre-release benefits⁵⁶⁸ as well as those who for humanitarian reasons may be released,⁵⁶⁹ the establishment of electronic surveillance as an alternative to pre-trial detention,⁵⁷⁰ and the issuance of Decree No. 98-2017 for the holding of virtual hearings.⁵⁷¹ Despite the foregoing, the situation of persons deprived of liberty in Honduras continues to be of particular concern to the Commission. This situation is characterized by high levels of overcrowding (88% overcrowding), excessive use of pretrial detention (53% of the total prison population), militarization of the prison function, and deplorable conditions of detention. In addition, in recent years, the State has focused its efforts on the construction of the so-called “mega prisons”. This has increased the use of maximum-security regimes, and therefore, the application of prolonged isolation.

⁵⁶⁶ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the initial report of Honduras, September 13, 2016, para. 56.

⁵⁶⁷ State of Honduras, “Recommendations from the IACHR Report on the Condition of Persons Deprived of Liberty in Honduras”. Information provided to the IACHR on August 1, 2018. In this sense, Information provided to the IACHR by the Cabinet of Prevention, Security and Defense, during the meeting of July 28, 2018; and Information provided to the IACHR by prison authorities during the meeting of August 2, 2018.

⁵⁶⁸ State of Honduras, “Recommendations from the IACHR Report on the Condition of Persons Deprived of Liberty in Honduras”. Information provided to the IACHR on August 1, 2018.

⁵⁶⁹ In this regard, the State reported that the INP, through the Interdisciplinary Technical Councils, submitted a proposal to the Secretariat of General Government Coordination (SCGC) to release 685 persons in situations of “accentuated vulnerability”; in particular, 303 elderly persons with some form of disability, 158 persons with mental disabilities, and 224 persons belonging to family groups arrested on charges against a single member. Human Rights Secretariat, “Monitoring Report to the Recommendations of the IACHR”. Information provided to the IACHR on August 1, 2018.

⁵⁷⁰ In this regard, some of the efforts made by the State in this area have been recognized by OHCHR. In this sense, see UN, Human Rights Committee. Concluding observations on the Second Periodic Report of Honduras. CCPR/C/HND/CO/2, 22 August 2017, para. 30.

⁵⁷¹ Human Rights Secretariat, “Monitoring Report to the Recommendations of the IACHR”. Information provided to the IACHR on August 1, 2018.

335. According to data from the National Penitentiary Institute (INP), until July 2018 there were a total of 20,356 persons deprived of liberty in Honduras.⁵⁷² These persons are held in 29 detention centers, including three “remand prisons” operating within three military battalions.⁵⁷³ The following chart presents relevant statistics regarding the current prison population in Honduras:

Total population		Men		Women	
N = 20.356		n = 19.251 (94.6%)		n = 1.105 (5.4%)	
Convicted	Accused	Convicted	Accused	Convicted	Accuseds
9.577 (47%)	10.779 (53%)	9.221 (47.9%)	10.030 (52.1%)	356 (32.2%)	749 (67.8%)

Source National Penitentiary Institute (INP). [Parte Diario de la Población Penal](#), July 2018.

336. In particular, the IACHR notes with concern that the proportion of women in the penitentiary system has grown at a significantly faster rate than that of men. From 2015 to 2018, the rate of growth of women in the prison system was 52.8% while that of men was 27.3% during the same period.⁵⁷⁴

1. Overcrowding and Pre-Trial Detention

337. Currently the occupation of the penitentiary centers –with capacity to lodge 10.814 people⁵⁷⁵– exceeds almost twice its actual capacity, with an 88% overpopulation rate. The current prison population represents a growth of 73.6% in the last six years.⁵⁷⁶ In particular, the IACHR warns that since the data provided during its visit in December 2014, this population has increased by 37.5%.⁵⁷⁷ Pretrial detention is also one of the main causes of the high levels of overcrowding and is one of the most

⁵⁷² National Penitentiary Institute (INP). [Registry of the Prison Population](#), July 2018.

⁵⁷³ National Penitentiary Institute (INP). [Registry of the Prison Population](#), July 2018.

⁵⁷⁴ This data is obtained based on reports published by the National Penitentiary Institute (INP) between the months of July 2015 and July 2018. National Penitentiary Institute (INP). [Registry of the Prison Population](#), July 2018.

⁵⁷⁵ National Penitentiary Institute, “Capacity chart v. Prison Population”, July 27, 2018. Information provided to the IACHR on August 1, 2018. In this regard, the World Organization Against Torture reported that the capacity was equivalent to 11,000 people. World Organization Against Torture, Honduras: [End of Mission Communiqué: Torture, a hidden reality that urgently needs to be addressed](#), June 25, 2018.

⁵⁷⁶ This comparison is based on the fact that in April 2012, a total of 11,727 persons deprived of their liberty were reported. IACHR, [Situation of Human Rights in Honduras](#), OEA/Ser.L/V/II. Doc. 42/15 December 31, 2015, paras. 509 and 510.

⁵⁷⁷ In November 2014, the number of persons deprived of liberty was 14,805. IACHR, [Situation of Human Rights in Honduras](#), OEA/Ser.L/V/II. Doc. 42/15 December 31, 2015, paras. 509 and 510.

serious problems faced by persons deprived of their liberty in Honduras. This problem is reflected in the high percentage of persons detained under this regime, which constitutes more than half of the total prison population. Similarly, the IACHR warns that pretrial detention disproportionately affects women. According to state figures, while 52.1% of men have not been sentenced, 67.8% of women are under this regime.⁵⁷⁸

338. According to information available to the Commission, the increase in the use of pretrial detention is mainly due to the adoption of Decree No. 65-2013, which amended article 184 of the Code of Criminal Procedure (CCP),⁵⁷⁹ and which had the purpose of ensuring public safety and strengthening the fight against corruption, drug trafficking and other crimes of a serious nature. With this reform, the application of alternative measures to pretrial detention was abolished with respect to 21 crimes.⁵⁸⁰ At the time of approval of this report, the Supreme Court of Justice was considering amendments to article 184.⁵⁸¹ This is linked to the request for an opinion sent by the National Congress on August 22, 2018, related to a draft bill that proposes the disappearance of the 21 crimes punishable with prison.⁵⁸²
339. In this context, the Commission recalls that according to the constant jurisprudence of the organs of the Inter-American System, the application of mandatory pretrial detention on the basis of the type of crime does not only constitute a violation of the right to personal liberty, in the terms of Article 7.3 of the American Convention on Human Rights,⁵⁸³ but makes pre-trial detention an early penalty,⁵⁸⁴ and constitutes an illegitimate interference by the legislator in the powers of assessment vested to

⁵⁷⁸ Human Rights Secretariat, "Monitoring Report to the Recommendations of the IACHR". Information provided to the IACHR on August 1, 2018.

⁵⁷⁹ In this sense, CONAPREV, Annual Report to the Nation. Honduras, 2017, p. 27; Information provided to the IACHR by penitentiary authorities during the meeting of August 2, 2018, and CPTRT, "Follow-up report of the Recommendations of the Inter-American Commission on Human Rights to the National Penitentiary System of Honduras", July 30, 2018.

⁵⁸⁰ These crimes are: 1) homicide: except in cases where, after evaluation of the evidence evacuated at the initial Hearing, it is determined that the accused acted under a justifiable cause, as set out in article 24 of the Criminal Code; (2) murder; (3) parricide; (4) rape; (5) human trafficking; (6) child pornography; (7) kidnapping; (8) counterfeiting of currency and bank notes; (9) theft of land motor vehicles, aircraft, ships and other similar property and, theft of livestock, (10) assassination of head of state or national or foreign government; (11) genocide; (12) unlawful association; (13) extortion; (14) crimes related to weapons of war; (15) terrorism; (16) smuggling; (17) tax fraud; (18) crimes related to illicit drug trafficking; (19) money laundering; (20) prevarication; and, (21) feminicide. Article 184 of the Code of Criminal Procedure: Substitution of Pretrial Detention.

⁵⁸¹ La Prensa, [Rolando Argueta in favor of the reform of \(article\) 184](#), August 27, 2018.

⁵⁸² La Prensa, [Rolando Argueta in favor of the reform of \(article\) 184](#), August 27, 2018 and, La Prensa, [Congress asks the Court for an opinion on the reform of article 184](#), August 23, 2018.

⁵⁸³ IACHR, [Situation of human rights in Honduras](#), OEA/Ser.L/V/II. Doc. 42/15 December 31, 2015, para. 558; I/A Court H.R. Case of Suarez Rosero v. Ecuador. Judgment of November 12, 1997. Series C No. 35, para. 98; I/A Court H.R. Case Acosta Calderón v. Ecuador. Judgment of June 24, 2005. Series C No. 129, para. 135; I/A Court H.R. Case of López Álvarez v. Honduras. Judgment of February 1, 2006. Series C No. 141, para. 81. As in the Inter-American System, the European Court considers that "any system of mandatory pre-trial detention on remand is per se incompatible with Article 5(3) of the European Convention". ECHR, Case of Iljokov v. Bulgaria (Application No. 33977/96), Judgment of 26 July 2001 (Fourth Section of the Court), para. 84.

⁵⁸⁴ IACHR, [Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 91; IACHR, Merits Report No. 86/09, Case 12.553. Merits. Jorge, Jose y Dante Peirano Basso. Uruguay. August 6, 2009, par. 141.

the judicial authority.⁵⁸⁵ In order for the pretrial detention regime to be compatible with international standards, the application of this measure must be based on consideration of the right to the presumption of innocence and take into account its exceptional nature. In addition, it must be applied in accordance with the criteria of legality, necessity and proportionality. The deprivation of liberty of the accused person must be of a procedural nature only, and therefore can only be based on legitimate procedural purposes, i.e. to reasonably avoid the danger of escape or to prevent the hindering of investigations.⁵⁸⁶

340. In the past, the IACHR has recommended that States repeal all provisions requiring the mandatory application of pretrial detention based on the type of crime.⁵⁸⁷ In particular, both in its report on the Situation of Human Rights in Honduras and in its recent Preliminary Observations at the end of the visit to the country, the IACHR expressed its concern about the reform of article 184 of the 2013 CPC, which is not in harmony with inter-American standards regarding deprivation of liberty. On both occasions, the IACHR called on the Honduran State to repeal this provision in order to comply with the international obligations assumed by the State.⁵⁸⁸ The IACHR reiterates the same call to the Honduran State.
341. In order to make rational use of incarceration, the IACHR urges the State to take actions aimed at efficiently applying existing initiatives that provide for the application of release benefits, which in addition to reducing the prison population, promote the social reinsertion of persons deprived of their liberty. In particular, in the case of programs such as pre-release and progressive prison treatment, the State should, among other issues: a) implement comprehensive measures to avoid the bureaucratization of the processes, and to give speed and certainty to the processing of the same; b) implement an automated and unified system of registration and evaluation with respect to the cases that are being processed under these regimes, or with respect to those that could be subject to the application of the benefits in reference; c) guarantee the continuity of these programs, despite the change of penitentiary authorities, and d) ensure that detained persons have the necessary legal advice to access them. To this end, the IACHR emphasizes that it is essential to strengthen the work of enforcement judges so that they may have the necessary elements to fulfill their mandate.

⁵⁸⁵ IACHR, Situation of human rights in Honduras, OEA/Ser.L/V/II. Doc. 42/15 December 31, 2015, para. 558; IACHR, Report on the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II, Doc. 46/13, December 30, 2013, para. 137.

⁵⁸⁶ IACHR, Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 231. Recommendation A “General recommendations pertaining to State policy”, para. 1.

⁵⁸⁷ IACHR, Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 91; IACHR, Report on the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II, Doc. 46/13, December 30, 2013, para. 326. Recommendation C “Legal framework and application of pretrial detention”.

⁵⁸⁸ In particular, in its 2015 report, the IACHR recommended: “Review, amend, or, if applicable, repeal Decree 65-2013, which establishes obligatory preventive custody for 21 offenses, in accordance with the relevant international obligations assumed by the State and the applicable international standards”. IACHR, Situation of human rights in Honduras, OEA/Ser.L/V/II. Doc. 42/15 December 31, 2015, para. 579.61.

2. Mega-Prisons and their main problems

342. The State has adopted the construction of mega prisons as a measure to generate more penitentiary spaces.⁵⁸⁹ To date, the following penitentiary establishments of this nature have been built: (a) the “El Porvenir” Penitentiary Center, in the municipality of the same name, with a capacity of 2,000 persons; (b) the “Ilama” Penitentiary Center, known as “El Pozo”, in the municipality of Ilama, Santa Barbara, for 1,500 persons; and (c) the Morocelí Penitentiary Center, known as “La Tolva”, in the municipality of Morocelí, with a capacity of 1,400 persons.⁵⁹⁰ For its part, the organization Prevention, Treatment and Rehabilitation Center for Torture Victims indicates that despite the construction of these prisons, overcrowding will continue to prevail.⁵⁹¹ Similarly, the National Mechanism and Committee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CONAPREV) reports that despite the fact that there have been several transfers from overcrowded prisons –as in the case of the National Penitentiary of San Pedro Sula, closed at the end of 2017– most of the new prisons are still overcrowded.⁵⁹² This entity has also pointed out that with the construction of these prisons, the participation of inmates in self-government has increased.⁵⁹³
343. With regard to the construction of this type of prison, the Commission has pointed out that this measure does not constitute a suitable solution to the current problems of the Honduran prison system, nor does it represent a sustainable solution over time.⁵⁹⁴ This is due to the fact that the growth of the prison population is a direct consequence of the implementation of the State’s criminal policy.⁵⁹⁵ In addition, the Commission has pointed out that mega prisons cause various problems, such as the creation of conditions contrary to the principle of individualization of the execution of the punishment, the increased vulnerability of persons belonging to groups at special risk, and the difficulty for custodial agents to effectively exercise internal control of the facilities.⁵⁹⁶

⁵⁸⁹ Observations by the State of Honduras to the draft of Chapter V, Annual Report 2017, para. 96.

⁵⁹⁰ Human Rights Secretariat, “Monitoring Report to the Recommendations of the IACHR” Information provided to the IACHR on August 1, 2018.

⁵⁹¹ Center for the Prevention, Treatment and Rehabilitation of Torture Victims (CPTRT), “Follow-up report on the Recommendations of the Inter-American Commission on Human Rights to the National Penitentiary System of Honduras”, July 30, 2018.

⁵⁹² CONAPREV, Annual Report to the Nation, Honduras, 2017. p. 12.

⁵⁹³ CONAPREV, Annual Report 2017, p. 143.

⁵⁹⁴ IACHR, *Situation of human rights in Honduras*, OAS/Ser.L/V/II. Doc. 42/15 December 31, 2015, para. 522. See also: IACHR, Report of the Inter-American Commission on Human Rights on the situation of persons deprived of liberty in Honduras, OAS/Ser.L/V/II.147, 18 March 2013, para. 91; IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, OAS/Ser.L/V/II, December 31, 2011, para. 461.

⁵⁹⁵ IACHR, *Situation of Human Rights in Honduras*, OEA/Ser.L/V/II. Doc. 42/15 December 31, 2015, para. 522. See also: IACHR, Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia, OAS/Ser.L/V/II. Doc. 49/13, December 31, 2013, chap. 6(G), para. 1125.

⁵⁹⁶ For more information, see: IACHR, *Situation of human rights in Honduras*, OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 524. Several of the IACHR’s concerns regarding mega-prisons match the aspects highlighted by the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD). The above criteria are a synthesis of the information presented by ILANUD consultant and researcher Guillermo Arroyo Muñoz in a series of forums held on the topic: “Overpopulation and Human

344. With the establishment of this type of prisons and the measures adopted for their operation, the State privileges the security model over its duty to guarantee the human rights of persons deprived of their liberty and their families. In this regard, among the measures taken to guarantee the security of prisons at the national level, which are contrary to international standards in this area, are the indefinite application of solitary confinement regimes and the transfer of persons held in other prisons.
345. With respect to isolation practices, the IACHR has received information indicating that the operation of mega prisons is based on a maximum-security model that attempts to control criminal activity that may be generated inside prisons. In this sense, the State informed that the most dangerous people are transferred to these new prisons, seeking to improve the “coexistence” inside the centers.⁵⁹⁷ In this regard, the Commission has received information indicating that the security model on which the prison complexes in question are based would have resulted in solitary confinement regimes carried out arbitrarily and in contravention of international standards in this area. With regard to the length of time for which solitary confinement is used in Honduras, the Commission was informed that such a regime would be applied indefinitely and for a prolonged period of time to all persons considered “highly dangerous or with aggressive behaviour”, without consideration of an individualized risk assessment, and based solely on membership in gangs. In this regard, both national and international bodies have expressed their concern and rejection of the application of this type of regime.⁵⁹⁸ As for the conditions in which the persons in isolation find themselves, they would remain in cells of a few meters that do not have adequate ventilation and lighting, they do not have hours in the sun –more than half an hour every 15 days–, they are not in contact with other inmates, and they do not carry out any type of recreational activity.⁵⁹⁹ In addition, the IACHR was informed that visits would be extremely restricted, being made for

Rights” in March 2014. These contents are linked to the document “Prison Management Manual”, 2012, addressed to prison staff in Panama and El Salvador. In the same vein, see: Ramón Parés I Gallés, *Effects of Overpopulation on the Penitentiary Organization of Catalonia*, in: *Criminal Justice and Prison Overcrowding: Possible Answers*, Elías Carranza (Coordinator), Siglo XXI, Mexico, 2001, p. 200.

⁵⁹⁷ Human Rights Secretariat, “Monitoring Report to the Recommendations of the IACHR”. Information provided to the IACHR on August 1, 2018.

⁵⁹⁸ UN, Committee against Torture, *Concluding Observations on the Second Periodic Report of Honduras, CAT/C/HND/CO/2*, August 26, 2016, para. 21, and MNP-CONAPREV, *Annual Report to the Nation*. Honduras, 2017. p. 103.

⁵⁹⁹ Information provided to the IACHR by a relative of a person deprived of liberty during a meeting on July 30, 2018, and a letter addressed to prison authorities by relatives of persons deprived of liberty at the La Tolva Penal Center, July 27, 2018. Information provided to the IACHR on July 30, 2018. In this regard, see CPTRT, *Annual Report Honduras*. Cited in *Prison Insider*, February 2017. World Organization Against Torture, [Honduras: End of Mission Communiqué: Torture, a hidden reality that urgently needs to be addressed](#), June 25, 2018.

15 minutes each week, and with a glass that avoids physical contact.⁶⁰⁰ In addition, the inmates would receive their relatives with hands and feet shackles.⁶⁰¹

346. The Commission condemns the arbitrary and excessive use of solitary confinement, which can constitute ill treatment and even torture.⁶⁰² The IACHR recalls the international prohibition of indefinite and prolonged isolation,⁶⁰³ and recalls that this regime is only permitted as a strictly time-limited measure and as a last resort.⁶⁰⁴ In addition, isolation orders must be authorized by a competent authority, and be subject to judicial review.⁶⁰⁵ In this context, the use solitary confinement on an exceptional basis, based on an individualized risk assessment, limited to the shortest possible time, and as a last resort. Isolation orders must be authorized by a competent authority, and be subject to independent review. In this regard, the State should amend Decree No. 101/2015 (Labor Act for Persons Deprived of Liberty and Permanence for Highly Dangerous and Aggressive Inmates) to bring it into line with international standards, especially with regard to the length of isolation and the review of which it should be subject.
347. With regard to transfers to mega prisons, the Honduran State reported that in order to guarantee the security of the prisons, highly dangerous persons that would “destabilize” the prison system have been transferred.⁶⁰⁶ In this regard, the State indicated that this measure has reduced violent deaths in prisons by more than one third.⁶⁰⁷ For its part, and on several occasions, the IACHR was informed that in most cases, family members and judicial authorities had not been notified of the transfers,

⁶⁰⁰ Information provided to the IACHR by a relative of a person deprived of liberty during a meeting on July 30, 2018, and a letter addressed to prison authorities by relatives of persons deprived of liberty at the La Tolva Penal Center, July 27, 2018. Information provided to the IACHR on July 30, 2018.

⁶⁰¹ Information provided to the IACHR by relatives of persons deprived of their liberty in Ilama, during the meeting of August 2, 2018.

⁶⁰² In this regard, IACHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, OAS/Ser/L/V/II.131, Document approved by the Commission at its 131st regular session, March 3-14, 2008, Principle XXII.3.

⁶⁰³ United Nations, UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), A/RES/70/175, Resolution adopted by the General Assembly, December 17, 2015, Rule 44.

⁶⁰⁴ IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, December 31, 2011, para. 411; IACHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, OAS/Ser/L/V/II.131, Document approved by the Commission at its 131st regular session, March 3-14, 2008, Principle XXII.3; and United Nations, UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), A/RES/70/175, Resolution adopted by the General Assembly, December 17, 2015, Rule 45.

⁶⁰⁵ IACHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, OEA/Ser/L/V/II.131, Document approved by the Commission at its 131st regular session, March 3-14, 2008, Principle XXII.3; and United Nations, UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), A/RES/70/175, Resolution adopted by the General Assembly, December 17, 2015, Rule 45.

⁶⁰⁶ State of Honduras, “Recommendations from the IACHR Report on the Condition of Persons Deprived of Liberty in Honduras”. Information provided to the IACHR on August 1, 2018.

⁶⁰⁷ In particular, the State indicates that in 2016 there were 17 and as of October 2017 there have been 7, 3 of which were inside the centers and the other 4 correspond to individuals who were with pre-release measures. Observations by the State on the draft Chapter IV, Annual Report 2017, para. 94.

and that the persons transferred had been beaten during the transfers. OHCHR has also made statements on these types of irregularities.⁶⁰⁸

348. In this context, the IACHR recalls that when transfers are carried out arbitrarily or against the human rights of prisoners, they can constitute “grey zones” that encourage abuses by state agents.⁶⁰⁹ In this sense, and regardless of the reason for the transfer of the persons deprived of their liberty, they have the right to immediately inform a person of trust of their transfer to another prison.⁶¹⁰ Furthermore, in order to ensure effective judicial control of transfers –irrespective of the competent authority to authorize and execute them– the judge or court following up the case of the person deprived of liberty should be informed before the transfer is carried out.⁶¹¹ Exceptionally, this authority must be notified immediately after the event, within no more than 24 hours.
349. Similarly, the Commission reiterates that, in accordance with inter-American standards in this area, transfers of persons deprived of liberty must take into account the need for persons to be deprived of liberty in places close to or close to their family, community, defender or legal representative, and the court of justice hearing their case.⁶¹² In particular, the IACHR recalls that when access to prisons by family members becomes extremely difficult or onerous, to the point of making regular contact impossible, it inevitably affects the right of both parties to maintain family relations, and in this case, could constitute a violation of the right to protection of the family, and eventually of other rights such as the right to personal integrity or due process.⁶¹³

3. Militarization of the penitentiary system

350. Both the Commission and various United Nations agencies have expressed concern about the militarization of the penitentiary system in Honduras, and have called for

⁶⁰⁸ In particular, it noted that for the transfer of 45 inmates to the maximum security prison in Ilima, relatives and judicial authorities were not notified. Also, during the transfer, the privacy of the transferred persons would not have been respected. OHCHR, [Annual report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras](#), A/HRC/3/34/3/Add.2, February 9, 2017, para. 15.

⁶⁰⁹ IACHR, Report No. 1/17, Case 12.804, Merits, Néstor Rolando López and others, Argentina, January 26, 2017, para. 115.

⁶¹⁰ In this regard, see IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), December 31, 2011, para. 498.

⁶¹¹ IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), December 31, 2011, para. 500.

⁶¹² In addition, transfers must not be carried out with the intention of punishing, repressing or discriminating against persons deprived of liberty, their families or representatives; nor may they be carried out under conditions that cause them physical or mental suffering, in a humiliating manner or that favor public exhibition. [Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas](#), OEA/Ser/L/V/II.131, Document approved by the Commission at its 131st regular session, March 3-14, 2008. Principle IX.

⁶¹³ IACHR, Report No. 1/17, Case 12.804, Merits, Néstor Rolando López and others, Argentina, January 26, 2017, para. 116. IACHR, [Report on the Rights of Persons Deprived of Liberty in the Americas](#). Approved by the Inter-American Commission on Human Rights on December 31, 2011, para. 594.

the transfer of the management of penitentiary centers to civilian authorities.⁶¹⁴ In particular, during its visit, the IACHR heard from state officials about a commitment to demilitarize the penitentiary system. In this sense, and after the direction of the INP had fallen to an active military officer in the last few years, it should be noted that the current director does not belong to the Armed Forces.⁶¹⁵ In spite of the above, the IACHR observes that there is still a notable involvement of the Armed Forces in the penitentiary system. This involvement is reflected in the appointment of military personnel to the management of prisons, the use of military elements as custodial guards, including detention centers for adolescents, and the installation of penitentiaries in military premises.⁶¹⁶ On the other hand, the IACHR points out that with Executive Decree No. PCM-009-2018 of March 2018, the INP, –which previously depended on the Secretariat of the Government– came under the coordination of the Cabinet of Prevention, Security and Defense.⁶¹⁷ The foregoing shows that the approach of the prison system is that of security, and not one that responds to reinsertion.

351. With respect to the military administration of the penitentiary function, the IACHR was informed that military officials would carry out the day-to-day management of most of the de facto prisons. In this regard, both the Committee against Torture and the UN Special Rapporteur on Extrajudicial Executions have expressed their concern.⁶¹⁸ This is particularly alarming for the Commission, considering that the National Penitentiary System Act provides that civil authorities should occupy positions within the prison administration.⁶¹⁹

⁶¹⁴ In this sense, see UN, Human Rights Committee. Concluding observations on the Second Periodic Report of Honduras. CCPR/C/HND/CO/2, August 22, 2017. para. 31; Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Report on his mission to Honduras, A/HRC/35/23/Add.1, April 11, 2017, para. 103; OHCHR, Annual Report 2016, A/HRC/3/34/3/Add.2, February 9, 2017, paras. 27 and 60; UN, Committee against Torture, Concluding observations on the second periodic report of Honduras, CAT/C/HND/CO/2, August 26, 2016, para. 16.

⁶¹⁵ Cabinet of Prevention, Security and Defense, Honduras Information provided to the IACHR on July 28, 2018, within the framework of the on-site visit.

⁶¹⁶ In particular, Honduras has three preventive detention centers operating in military facilities: the Cobras Squadron of the National Police, the First Infantry Battalion of the Armed Forces of Honduras, and the Third Infantry Battalion of the Armed Forces. The Commission was informed that the State published in the Official Journal “La Gaceta” a resolution of the Directing Council of the INP that authorizes “the creation of three penitentiary establishments, in the modality of 'Preventive Centers' taking advantage of the physical facilities located at the Central District and in Naco, Department of Cortes, located a) At the facilities of the Cobras Squadron of the National Police, [...] b) At the facilities of the First Infantry Battalion of the Armed Forces of Honduras, [...] and, c) At the facilities of the Third Infantry Battalion of the Armed Forces of Honduras”. Certification of the Secretariat for Human Rights, Justice, Governance and Decentralization, published in Gazette No. 33.401, April 9, 2014.

⁶¹⁷ Executive Decree No. PCM-009-2018, published in the Official Journal of the Republic of Honduras on March 23, 2018.

⁶¹⁸ Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Report on his mission to Honduras, A/HRC/35/23/Add.1, 11 April 2017, para. 103, and UN, Committee against Torture, Concluding observations on the second periodic report of Honduras, CAT/C/HND/CO/2, August 26, 2016, para. 15.

⁶¹⁹ Article 37.1 of the National Penitentiary System Law provides that “a person may not enter the National Penitentiary System Personnel Career if [...] is active or discharged from military or police service”. Article 39 of this law stipulates that “in order to occupy a position established by [the hierarchies within the staff of the National Penitentiary Institute], it is indispensable to have entered the Penitentiary Service Personnel Career, pursuant the provisions established by this Law. This suggests to the IACHR that the appointment of military

352. In addition to the involvement in the penitentiary administration, the IACHR learned during its visit that the tasks of custody and security in various penitentiary centers also fall into the hands of the Armed Forces. In particular, according to information received by the Commission, in maximum-security prisons all those in charge of security and custody of the establishment are military.⁶²⁰ For its part, the United Nations Committee against Torture has pointed out that, following the incorporation of Armed Forces personnel in custody, there have been incidents of access to prisons by the Public Prosecutor's Office and execution judges.⁶²¹ Similarly, the IACHR was informed that due to military training it is common to use disproportionate force against persons deprived of their liberty. In this regard, the Commission received testimonies from doctors specialized in prison monitoring, who said that it is common for military personnel in charge of security to fire tear gas at imprisoned persons.⁶²² Furthermore, during its visit to the First Battalion, the Commission was informed by the detainees of the threats made against them by military personnel, and of the fact that their actions are a factor of intimidation for their families during the visits. In this regard, one of the inmates told the IACHR: "Military personnel are not prepared to treat us [...]. These centers are created, not to rehabilitate, but to destroy us".
353. The IACHR recalls that according to inter-American standards in this area, the main purpose of the deprivation of liberty is social reintegration.⁶²³ In view of this, public civil officers, duly trained, are ideal for meeting psychological, educational, labor, educational, and social reinsertion needs,⁶²⁴ as well as to perform administration and internal security functions with respect to persons deprived of liberty. Considering the disproportionate effects described above, as well as the increased risk of violations of the rights of persons deprived of liberty within a militarized penitentiary system, the IACHR has established that military formation is not

personnel outside the Penitentiary Service Personnel Career could be contrary to the provisions of the law itself. [Law of the National Penitentiary System](#), published Gazette, No. 32.990, December 3, 2012.

⁶²⁰ CPTRT, Information provided to the IACHR during meeting on 30 July 2018. In this regard, the World Organization Against Torture points out that in the mega prison of Ilima, military elements are in charge of the custody of the prisoners, and go with their faces covered, armed and without identification. World Organization Against Torture, Honduras: [End of Mission Communiqué: Torture, a hidden reality that urgently needs to be addressed](#), June 25, 2018.

⁶²¹ UN, Committee against Torture, Concluding observations on the second periodic report of Honduras, CAT/C/HND/CO/2, August 26, 2016, para. 27.

⁶²² For instance, in the Ilima prison, relatives of persons deprived of their liberty indicated that military personnel are in charge of administering transfers, and during transfers it is common for inmates to be beaten. Meeting with relatives of persons deprived of liberty in Ilima, August 2, 2018. Information in this regard received at: Meeting with civil society organizations on the rights of persons deprived of liberty, July 30, 2018.

⁶²³ American Convention on Human Rights, adopted in San José, Costa Rica, November 7-22, 1969, Article 5.6, and IACHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II.131, Document approved by the Commission at its 131st regular session, celebrated on March 3-14, 2008.

⁶²⁴ IACHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II.131, Document approved by the Commission at its 131st regular session, March 3-14, 2008, Principle XX, and IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II, adopted on December 31, 2011, paras. 215 and 217. See also, IACHR, Report No. 119/18. Case 12.814. Merits. Orlando Edgardo Olivares Muñoz and Others (Deaths at the Vista Hermosa Prison). Venezuela; IACHR, [Situation of Human Rights in Guatemala](#). OEA/Ser.L/V/II. Doc. 208/17. December 31, 2017. para. 424.

suitable for prison management and custody.⁶²⁵ Likewise, having military personnel in prison management violates what is contained in the internal regulations. This is due to the fact that as a result of military training itself, particular violations of human rights may occur, such as the excessive use of force in custody and security work, the application of stricter regulations for the control of the population deprived of liberty, as well as the lack of a focus on the rehabilitation and eventual reinsertion of imprisoned persons.

354. Based on the above, the State should establish a strategy for the progressive detachment of the Armed Forces from penitentiary functions that allows for the transfer of management, both formally and materially, from penitentiary centers to the INP. In order to measure this progression, it is necessary to establish clear objectives to determine compliance. Immediately, the State must ensure that the custody of penitentiary centers is in the hands of penitentiary agents, as well as put an end to the detention of persons in military installations.

4. Detention Conditions

355. The Commission is particularly concerned about the conditions of detention that are common in the prisons in Honduras, which pose a risk to the life and integrity of persons deprived of their liberty. These conditions are characterized mainly by alarming levels of overcrowding, lack of separation between accused and convicted persons, poor infrastructure, lack of hygiene, and lack of sanitary services and decent places to spend the night. Similarly, negligent medical care, insufficient and low nutritional value food, scarce and inadequate access to water, and the absence of effective social reinsertion programs prevail in penitentiary establishments. In general, the conditions described above were observed directly by the Commission in the detention centers visited. The IACHR visited the National Women's Penitentiary of Social Adaptation (PN-FAS), the "Renaciendo" Pedagogical Center in the village of Támara; the National Penitentiary of Choluteca, in La Trinidad, Choluteca; the First Infantry Battalion of the Honduran Armed Forces, in the municipality of Tegucigalpa; and the Third Infantry Battalion, in Naco, Cortés. In particular, the IACHR highlights some concerns arising from its documentation in the field, such as negligent medical care, the lack of a gender perspective in prison treatment, and ineffective social reintegration programs.
356. In relation to the precarious situation of health services in Honduran prisons, the Commission observed and was informed about negligent medical care provided, resulting mainly from the lack of medical personnel, lack of medicines and equipment, and the difficult access to general hospitals.⁶²⁶ In particular, the IACHR

⁶²⁵ IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II, adopted December 31, 2011, para. 215. In this regard, see also IACHR, Situation of Human Rights in Honduras, OEA/Ser.L/V/II. Doc. 42/15 31 December 2015, paras. 548 and 549.

⁶²⁶ Information provided to the IACHR by the wife of a person deprived of liberty during a meeting on July 30, 2018. CPTRT, "Follow-up report on the IACHR Recommendations to the National Penitentiary System of Honduras", July 30, 2018. Information provided to the IACHR by a relative of a person deprived of liberty in Ilima, during a meeting on August 2, 2018.

warned that overcrowding, lack of hygiene and inadequate ventilation constitute a serious threat to the health of detainees. This is due to the increased risk of infectious diseases, such as tuberculosis. In particular, the Commission has information on the presence of this disease in the mega prisons of Ilima and Tolva. Relatives of people deprived of their liberty told the IACHR: “We can’t stand it any longer [...]. Our relatives suffer from tuberculosis, and there is no medicine for them.”⁶²⁷ For its part, CONAPREV has pointed out that in Ilima people with tuberculosis do not have space allocated for their treatment and to avoid contagions.⁶²⁸ This situation would have increased the number of internal population with this disease. Thus, for example, this entity reported that in 2017 alone there was an increase from 7 to 72 cases of tuberculosis in this penitentiary.⁶²⁹ In this regard, the State informed the IACHR that in order to improve health services and support measures to control communicable diseases, on August 31, 2018, the Framework Agreement for Interinstitutional Cooperation on Comprehensive Health Care for the Population Deprived of Liberty was signed.⁶³⁰

357. With regard to the gender perspective adopted in penitentiaries, during its visit to the prisons of Támara and the National Penitentiary of Choluteca –where 39 women are deprived of their liberty– the IACHR noted the lack of a gender perspective approach with respect to the treatment received by the women detained there. In this regard, the Commission noted the lack of gynecological medical care, the absence of hormonal treatment for trans women, and the lack of effective programs for their social reintegration. In particular, with respect to medical care, the Commission observed that women do not receive gynecological services, and that they only have access to general care, the director of the National Women’s Penitentiary in Támara confirmed this situation. In particular, the IACHR observed that in this penitentiary, general medical attention is insufficient due to the long waits that women go through in order to get their “turn” and receive medical attention, which in many cases is urgent. On the other hand, the inmates in Choluteca would be forced to buy their feminine articles.
358. In this regard, the Commission recalls that according to the *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*, women deprived of liberty have the right of access to specialized medical care that adequately responds to their physical and biological characteristics, as well as to their reproductive health needs.⁶³¹ In addition, States must regularly provide

⁶²⁷ Society of persons deprived of liberty in Ilima. Information provided to the IACHR during the meeting of July 30, 2018. Information provided to the IACHR by relatives of persons deprived of liberty, “Situation of Persons Deprived of Liberty in the La Tolva Penitentiary Center” July 31, 2018.

⁶²⁸ MNP-CONAPREV, Annual Report Honduras, 2017. p. 61.

⁶²⁹ MNP-CONAPREV, Annual Report Honduras, 2017. p. 61.

⁶³⁰ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 24.

⁶³¹ [Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas](#), OEA/Ser/L/V/II.131, Document approved by the Commission at its 131st regular session, March 3-14, 2008. Principle X, Health.

women with the essentials for their gender-specific health needs.⁶³² With respect to trans women, States have an obligation to provide medical care that recognizes any particular need on the basis of gender identity.⁶³³

359. In relation to state efforts in the area of social reintegration, the IACHR highlights the approval of the 2015 Labor Law for Persons Deprived of Liberty,⁶³⁴ actions aimed at involving the private sector in the reintegration of detainees, and the design of different types of training.⁶³⁵ In addition, the State reported that more than twice as many people compared to the previous year had participated in educational programs.⁶³⁶ For its part, OHCHR highlighted that between 2016 and 2017, the number of detainees involved in rehabilitation and education activities at the national level increased by 20 per cent, reaching about 23 per cent of the total prison population.⁶³⁷ In spite of the above, during its visit on-site, the IACHR was able to verify the ineffectiveness of the programs aimed at the reinsertion of persons deprived of liberty. In this sense, CONAPREV has expressed its concern about the “lack of rehabilitation mechanisms”.⁶³⁸ In particular, in the Choluteca penitentiary center, with a population of almost 900 people deprived of liberty, the IACHR received information indicating that although there are bakeries, there is not even an oven. In the First Battalion, the IACHR observed that there are no areas for recreational or labor activities. In the Morocelí and El Porvenir prisons, the IACHR learned that despite having several buildings and programs for reintegration, they would not be used by the prison population.⁶³⁹
360. For its part, the IACHR observes that the fact that detention centers operate under extremely precarious conditions of confinement in terms of overcrowding, insalubrity, insecurity, and violence, exposes detainees to greater abuses and violations of their rights, and consequently, prevents effective social reinsertion. In addition, the Commission is particularly concerned about the lack of effective programs in this area, given that under Honduran law,⁶⁴⁰ their participation is an essential requirement for persons to be subject to the application of release benefits, such as pre-release and progressive prison treatment. Regarding the importance of

⁶³² [Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas](#), OEA/Ser/L/V/II.131, Document approved by the Commission at its 131st regular session, March 3-14, 2008. Principle XII, Accommodation, hygiene conditions and clothing.

⁶³³ In this regard, [Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity](#), Principle 9.B.

⁶³⁴ State of Honduras, “Recommendations from the IACHR Report on the Condition of Persons Deprived of Liberty in Honduras”. Information provided to the IACHR on August 1, 2018.

⁶³⁵ Information provided to the IACHR by prison authorities during a meeting on August 2, 2018.

⁶³⁶ In particular, the State reported that formal education in the present period would have increased from 2,000 students in 2017 to 4,407 students during 2018. National Penitentiary Institute, Results Report, July 2018. Information provided to the IACHR on August 2, 2018.

⁶³⁷ OHCHR, [Annual report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras](#), A/HRC/3/34/3/Add.2, February 9, 2017. para. 28.

⁶³⁸ CONADEH, Honduras, Annual Report 2017, p. 39.

⁶³⁹ CONAPREV, Honduras, Annual Report 2017, p. 25. Information provided to the IACHR by relatives of persons deprived of their liberty, “Situation of Persons Deprived of Liberty in La Tolva Penitentiary Center”, July 31, 2018.

⁶⁴⁰ In this sense, see [General Regulations of the National Penitentiary System Act](#), Executive Agreement No. 322-2014, March 12, 2015, article 110.

programs that seek to apply release benefits and thereby facilitate social reintegration, the IACHR considers that there is a direct relationship between the application of such benefits and its international obligations under Article 5.6 of the American Convention concerning the purpose of the punishment. In this sense, the arbitrary action of the State with respect to such benefits may imply that a deprivation of liberty becomes arbitrary.

361. Another of the complaints the Commission received from the detainees, their families, and organizations representing them, consisted of serious obstacles to regular visits. In particular, the Commission was informed that the difficulty in carrying out the visits would derive mainly from the obligation to comply with all the requirements for the acquisition of the visiting card. In this regard, article 10 of the Regulations on Visits to Establishments of the National Penitentiary System provides that the visitors' register shall contain at least the following data, which must be presented five working days in advance, by the persons interested in carrying out the visit: a) copy of the identity card of each of the visitors or passport if foreign; b) proof of residence in the municipality where the visitor resides; c) proof of a valid criminal record; d) proof of a valid police record; e) three recent photographs, passport size; f) three letters of personal references of the visitor; g) certification indicating the relationship with the person to be visited; h) marriage certificate in the case of being the spouse of the person to be visited or sworn statement duly authenticated by a Notary, in the case of a free union, and i) name of the person deprived of liberty to be visited.⁶⁴¹
362. In addition to the high number of card requirements, the IACHR learned that there are other obstacles to visits. Among these are the high cost of obtaining them (approximately US\$100), the short duration of the registration of visits for only six months, and the supposedly slow and disorganized issuance process.⁶⁴² In this regard, the State informed that the National Congress approved article 245 of the General Budget of Income and Expenditure of the Republic of 2019 that according to the certificates and other documents required for the issuance of the card will be free of charge.⁶⁴³ Likewise, during its visit to prisons, the Commission noted that the difficulty of making visits is reflected in the low percentage of family members who have a visiting card, and therefore have the possibility of having contact with their families. In this sense, on the day of the Commission's visit to the National Penitentiary Center of Támara, of the 780 women deprived of liberty, only 400 had relatives who had a visiting card, which is equivalent to 51.2% receiving visits. In

⁶⁴¹ [Regulation of Visits in the Establishments of the National Penitentiary System](#), Agreement 001-2016 of the Directing Council of the IPN, published in the Gazette No. 34,171, October 27, 2016.

⁶⁴² CONAPREV, Honduras. Information provided to the IACHR on July 28, 2018, within the framework of the on-site visit; CONADEH, Honduras. Information provided to the IACHR on July 29, 2018, as part of the on-site visit; Information provided to the IACHR by relatives of persons deprived of their liberty, "Situation of persons Deprived of Liberty in La Tolva Penitentiary Center", CPTRT, "Follow-up Report on the IACHR Recommendations to the National Penitentiary System of Honduras", July 30, 2018 and Amnesty International, [Protest prohibited: Use of force and arbitrary detention to suppress dissent in Honduras](#), May 2018, p. 15.

⁶⁴³ Government of the Republic of Honduras, Factual observations and comments to the draft report of the IACHR on the human rights situation in Honduras in relation to the on-site visit carried out from July 30 to August 3, 2018, August 1, 2019, p. 24.

Choluteca, the percentage of people receiving visits was even lower, constituting only 27% of the total population.⁶⁴⁴

363. On the basis of the foregoing, the Commission considers that the numerous requirements for the issuance of visiting cards and the costs of obtaining them make regular contact between detainees and their families difficult and disproportionately affect people living in poverty or on low incomes, including foreigners. In this context, the Commission stresses that, in accordance with the relevant standards, the right to visit constitutes a central element for the dignified and humane treatment of persons deprived of their liberty, as well as a relevant factor for the sentence to have a re-socializing purpose.⁶⁴⁵ When access to detention facilities becomes extremely difficult or onerous for family members, to the point of making regular contact impossible, the right of both parties to maintain family relations is inevitably affected. Depending on the particularities of the case, this lack of access could constitute a violation of the right to protection of the family, or of other rights such as the right to personal integrity or due process.⁶⁴⁶

⁶⁴⁴ In particular, out of a total population of 894, only 250 had a visitor's card. Information provided by the director of the prison. Visit to the National Penitentiary of Choluteca, August 1, 2018.

⁶⁴⁵ See IACHR, Report No. 1/17, Case 12.804, Merits, Néstor Rolando López and others, Argentina, January 26, 2017, para. 124.

⁶⁴⁶ See IACHR, Report No. 1/17, Case 12.804, Merits, Néstor Rolando López and others, Argentina, January 26, 2017, para. 116, and IACHR, Report on the Rights of Persons Deprived of Liberty in the Americas, approved by the Inter-American Commission on Human Rights on December 31, 2011, para. 594.

CHAPTER 5

CONCLUSIONS AND
RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS

364. The Commission recognizes the efforts made by the State of Honduras in the area of human rights, in particular the measures taken to reduce the homicide rate and the adoption of policies and the creation of institutions to guarantee human rights. The IACHR also takes note of the statements made by the State at the end of the visit, in which it “takes note of all the recommendations and that its shares views with the IACHR since many issues are in the process of being implemented[...]”.⁶⁴⁷
365. The Commission highlights that in order for there to be full enjoyment of fundamental rights, it is essential that Honduras advance in its process of democratic institutionalization, guarantee a true separation of powers and strengthen the rules of law. In this context, it is crucial that citizens regain confidence in their State institutions. To this end, the State must take decisive measures in the administration of justice and the fight against impunity and corruption, as well as reforms to the electoral system in accordance with the international recommendations made in this regard.
366. The State must likewise ensure a real and effective transformation of the situation of poverty, exclusion and persistent structural inequality in the country, which have an impact on the exercise and enjoyment of human rights, especially in groups at particular risk. This requires the adoption of effective measures in accordance with applicable international standards.
367. On the basis of the observations made during the on-site visit and the analysis of the additional information included in this report, the Commission makes thirty recommendations addressed to the State of Honduras:⁶⁴⁸
1. Ensure that the rights to life, personal integrity and personal liberty of the demonstrators are protected during social mobilizations carried out in exercise of their right to peaceful assembly and demonstration.
 2. To carry out diligently and impartially investigations with the purpose to identify and punish those responsible for the acts of violence, murder, and ill-treatment in the context of post-election protests.

⁶⁴⁷ Government of Honduras. Press Release. IACHR highlighted progress on important issues such as: reduction of homicides and human rights defenders, August 6, 2018.

⁶⁴⁸ The IACHR takes up again the twenty-five recommendations that were established in its Preliminary Observations of the on-site visit.

3. Ensure due process, access to comprehensive defense for all persons detained in the post-election context in accordance with inter-American human rights standards.
4. Strengthen the capacities of the police in order to advance the implementation of the plan for the gradual replacement of the armed forces in public security tasks, in accordance with inter-American human rights standards. Likewise, establish a strategy for the progressive disengagement of the Armed Forces from penitentiary functions that allows for the transfer of management, at both formal and material levels, from penitentiary centers to the INP.
5. To develop an access to justice plan to ensure that victims, family members and human rights defenders have broad access to investigations and prosecutions related to human rights violations in order to strengthen an independent and impartial justice system.
6. To review national legislation and remove crimes that may restrict the exercise of the right to freedom of expression and the work of journalists.
7. To strengthen the Office of the Prosecutor for Crimes against Life, provide it with protocols, sufficient personnel and an adequate budget to combat impunity for crimes against human rights defenders and journalists, with a differentiated approach and a gender perspective. In addition, urgently provide a budget for the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators.
8. To review the Law for the Classification of Public Documents Related to National Security and Defense and the regulations adopted subsequently, to ensure their compatibility with the principles developed by international human rights law.
9. To ensure sufficient, equitable and sustainable financing of health services that seeks universal access to quality facilities, goods and services.
10. To adopt legislation and public policies focused on the construction of fiscal policies aimed at the eradication of extreme poverty and the reduction of social inequality.
11. To develop a business and human rights national plan. This includes the design, implementation and effective application of an adequate normative framework and public policy for the protection of human rights in the framework of business activities, observing international standards in the matter.
12. To adopt a human rights approach in anticorruption policies.

13. To investigate, judge and punish, with a gender perspective and as a matter of priority, violations against women's human rights, especially femicides against trans women. Also, to diligently investigate acts of violence against human rights defenders and other groups at particular risk identified in this report.
14. To adopt plans, policies and legislation aimed at guaranteeing and overcoming all the obstacles for the full exercise of the sexual and reproductive rights of girls, adolescents and women.
15. To ensure that the National Policy on Childhood responds to the protection needs of children and is based on a realistic and participatory diagnosis, covering all rights, identifying groups in a particular situation of vulnerability, and including indicators to measure the progress and effectiveness of the policy.
16. To review and construct a national strategy for the prevention of violence against children that addresses the structural causes that make this population suffer the effects of criminal groups. In this sense, the State should prioritize the prevention and eradication of sexual violence, and include a broad participation of children and adolescents and civil society organizations.
17. To refrain from approving regulations that discriminate or have discriminatory effects against LGBTI persons. In addition, it is recommended that all necessary measures be taken to implement the due diligence standard in the prevention, investigation, punishment and redress of violence against LGBTI persons.
18. To take urgent measures to avoid judicial harassment of human rights defenders, such as protocols and training for justice officials, in order to prevent judicial investigations from subjecting human rights defenders to unfair or unfounded trials.
19. Immediately implement in an appropriate and effective manner, precautionary measures granted by the Commission. In this regard, the State must ensure that the measures adopted are appropriate and effective. Likewise, the Commission urges the State to strengthen the investigation of the sources of risk give rise to the precautionary measures, in order to mitigate them.
20. To strengthen the Mechanism for the Protection of Human Rights of Defenders and Journalists so that it can meet the increased demand for protection measures and ensure their effective implementation. Additionally, it is recommended to urgently adopt a comprehensive public policy of prevention and protection for human rights defenders and to allocate the necessary budget for its effective implementation.

21. To adopt judicial, legislative, administrative and other measures required for the application of pretrial detention in accordance with international standards. The State should promote, regulate and implement alternative measures to pretrial detention; and should repeal the provisions requiring a mandatory application of pretrial detention based on the type of crime, in particular Article 184 of the Code of Criminal Procedure. In addition, the IACHR urges the State to take action to efficiently implement existing initiatives that provide for the application of release benefits.
22. To ensure the right of regular visits. In particular, reform Article 10 of the Regulations on visits to establishments of the National Penitentiary System, in order to provide only for the compliance with those essential requirements to guarantee the security inside the penitentiary centers, and that these requirements do not represent a disproportionate expense for people in a situation of poverty or with scarce resources.
23. Use solitary confinement on an exceptional basis, based on an individualized risk assessment, limited to the shortest possible time, and as a last resort. In this regard, the State should amend Decree No. 101/2015 (Labor Act for Persons Deprived of Liberty and Permanence for Highly Dangerous and Aggressive Inmates) to bring it into line with international standards, especially with regard to the duration of the isolation and its review.
24. To adopt the necessary measures to demarcate, title and rehabilitate the lands and territories claimed by indigenous peoples as appropriate.
25. To initiate a culturally appropriate procedure to give effect to the right to free, prior and informed consultation and consent, which incorporates the provisions of Convention 169 and international standards in the matter.
26. Implement public policies that address the needs of the peoples in the Moskitia, in particular, socio-economic marginalization through effective measures that combat poverty and improve education, employment and health. This includes: guaranteeing the right to preserve their culture and language through the application of a public policy of bilingual education, considering and strengthening their values and transmission of ancestral knowledge; implementing a public policy of comprehensive health care, water and food in the Miskito territory, in which all the urgent needs of this population are addressed and urging employers and fishing companies in the region to comply with the labor rights of Miskito divers and effectively monitor and punish those who fail to comply with these obligations.
27. To develop and implement public policies and a specific law aimed at preventing internal displacement, as well as guaranteeing protection, humanitarian assistance and durable solutions for internally displaced persons, in accordance with the international human rights obligations of the Honduran State and the Guiding Principles on Internal Displacement. Such measures should guarantee the participation of displaced persons and civil society organizations, as well as adequate budgetary resources for their

functioning. In addition, ensure that evictions of indigenous communities, peasants and other vulnerable groups are carried out only in accordance with human rights norms and standards and the principles of exceptionality, legality, proportionality and suitability.

28. To adopt a public policy aimed at ensuring an effective and human rights-focused reintegration of returning migrants, especially migrants in vulnerable situations and/or with particular protection needs, such as children, victims of trafficking, persons with disabilities, LGBT persons, older persons and persons with medical needs. In addition, the State should implement measures for the search for and identification of missing migrants.
29. To implement a special follow-up mechanism with the IACHR to verify the implementation of the recommendations issued in the framework of the visit and this report. In this regard, the IACHR welcomes the willingness to move forward with the establishment of a Special Technical Advisory Board to support compliance with the IACHR's human rights recommendations. As of the date of approval of this report, significant progress has been made with respect to its establishment and installation.
30. Periodically and comprehensively report on progress and challenges in complying with the recommendations set forth in this report.