

## INTRODUCTION

### A. Origin, Legal Basis, Structure, Purposes, Mandates

1. The Inter-American Commission on Human Rights (“IACHR” or “Inter-American Commission”) is an autonomous organ of the Organization of American States (OAS), headquartered in Washington, D.C. Its mandate is established in the OAS Charter, the American Convention on Human Rights (“American Convention”) and the IACHR Statute. Along with the Inter-American Court of Human Rights, headquartered in San Jose, Costa Rica, the Inter-American Commission is one of two organs of the Inter-American system responsible for the promotion and protection of human rights.

2. The IACHR is comprised of seven members, who act independently of each other and do not sit in representation of any country. The Commissioners are elected by the OAS General Assembly for a four-year period and are eligible to be reelected once. The Inter-American Commission convenes regular and special sessions several times each year. Under Article 13 of the IACHR Rules of Procedure, the Executive Secretariat of the Inter-American Commission performs the tasks entrusted to it by the Commission and provides legal and administrative support to the Commission so that it can fulfill its duties.

3. In April 1948, in Bogota, Colombia, the OAS approved the American Declaration on the Rights and Duties of Man (“American Declaration”), which was the first international human rights instrument of a general nature. The IACHR was created in 1959 and held its first session in 1960.

4. In 1961, the IACHR began to conduct *in situ* visits to different countries in order to observe the human rights situation first hand on the ground. Since that time, it has conducted more than 107 such visits to Member States of the Organization. Based partly on these fact-finding missions, the IACHR has thus far published 121 country and thematic reports.

5. In 1965, the IACHR was expressly authorized to hear complaints or petitions pertaining to specific human rights violations. Final published reports on these individual cases can be found in the Annual Reports of the IACHR and can also be viewed on the IACHR Web page under the *Petitions and Cases* tab.

6. The American Convention on Human Rights was approved in 1969 and came into force in 1978. As of December 2015, twenty-three OAS Member States are parties to this treaty: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Suriname and Uruguay. The IACHR has, at various times, expressed deep concern about the consequences of the denunciation of the American Convention by the Bolivarian Republic of Venezuela<sup>1</sup> and Trinidad and Tobago.

7. The American Convention defines the human rights that the ratifying States have agreed to respect and ensure. This instrument created the Inter-American Court of Human Rights and established the functions and procedures of the Inter-American Commission and Court. In addition to considering complaints of violations of the American Convention committed by States Parties to that instrument, the IACHR has the legal authority, under the OAS Charter and its own Statute, to examine alleged violations of the American Declaration by OAS Member States that are not yet parties to the American Convention.

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<sup>1</sup> IACHR, [‘IACHR Regrets Decision of Venezuela to Denounce the American Convention on Human Rights’](#) Washington, D.C., September 12, 2012; IACHR, [‘IACHR Deeply Concerned over Result of Venezuela’s Denunciation of the American Convention’](#) Washington D.C., September 10, 2013.

8. In fulfillment of its mandate, the duties of the IACHR are to:
  - a) Receive, examine and investigate individual petitions alleging human rights violations, in keeping with Articles 44 to 51 of the American Convention, Articles 19 and 20 of its Statute and Articles 23 to 52 of its Rules of Procedure.
  - b) Observe the general human rights situation in the Member States and publish special reports on the situation in a particular Member State, when it is deemed necessary, as provided under Article 60 of its Rules of Procedure.
  - c) Conduct *in situ* visits to countries in order to carry out a thorough analysis of the general situation and/or to investigate a specific situation, as provided for under Article 18 of its Statute and Article 53 of its Rules of Procedure. In general, these visits result in the preparation of a report on the human rights situation of the country concerned, which is published and submitted to the OAS Permanent Council and General Assembly.
  - d) Raise public awareness about human rights in the Americas. For this purpose, the IACHR conducts and publishes studies on specific themes in keeping with Article 15 of its Rules of Procedure. Examples include: what measures must be adopted to ensure greater access to justice; the effect of internal armed conflicts on particular groups of persons; the human rights situation of children, women, LGBTI persons, migrant workers and their families, persons deprived of liberty, human rights defenders, indigenous peoples and persons of African descent; racial discrimination, freedom of expression and economic, social and cultural rights.
  - e) Organize and host visits, conferences, seminars and meetings with representatives of governments, academic institutions, non-governmental entities and others, in order to disseminate information and foster broad awareness of the work of the Inter-American human rights system, in accordance with Article 41 of the American Convention on Human Rights and Article 18 of the IACHR Statute.
  - f) Recommend that OAS Member States adopt measures that contribute to the protection of human rights in the countries of the hemisphere, in accordance with Article 41 of the American Convention on Human Rights and Article 18 of the IACHR Statute.
  - g) Request Member States to adopt precautionary measures, as provided for by Article 25 of the Commission's Rules of Procedure, in order to prevent irreparable harm to persons in serious and urgent cases. Additionally, in keeping with Article 76 of its Rules of Procedure, the IACHR may request that the Inter-American Court orders the adoption of provisional measures in cases of extreme gravity and urgency to prevent irreparable harm to persons.
  - h) Bring cases and appear before the Inter-American Court of Human Rights during the processing and consideration of the cases, in accordance with Article 61 of the American Convention on Human Rights and Articles 45 and 74 of the IACHR Rules of Procedure.
  - i) Request advisory opinions from the Inter-American Court, in accordance with Article 64 of the American Convention and Article 19 of the IACHR Statute.
9. Every person, group of persons or non-governmental entity legally recognized in one or more OAS Member States may submit petitions to the Inter-American Commission regarding violations of a right recognized in the American Convention, the American Declaration or other relevant instruments, in

accordance with the respective provisions thereof, the IACHR Statute and the Rules of Procedure. Additionally, in the circumstances described and regulated under Article 45 of the American Convention, the IACHR may consider interstate communications. Petitions may be submitted in any of the four official OAS languages (Spanish, French, English or Portuguese), either by the alleged victim of the human rights violation or by a third party; and in the case of interstate communications, by a government.

**B. Status of Ratification of Inter-American Instruments**

**CURRENT STATUS OF RATIFICATION OF THE AMERICAN CONVENTION AND ACCEPTANCE OF THE JURISDICTION OF THE COURT**

SIGNATORY COUNTRIES	SIGNING	RATIFICATION/ ACCESSION	DEPOSIT	ACCEPTANCE OF JURISDICTION OF THE COURT
Antigua and Barbuda				
Argentina	02-02-84	08-14-84	RA 09-05-84	09-05-84
Bahamas				
Barbados	06-20-78	11-05-81	RA 11-27-82	06-04-00
Belize				
Bolivia		06-20-79	AC 07-19-79	07-27-93
Brazil		07-09-92	AC 09-25-92	12-10-98
Canada				
Chile	11-22-69	08-10-90	RA 08-21-90	08-21-90
Colombia	11-22-69	05-28-73	RA 07-31-73	06-21-85
Costa Rica	11-22-69	03-02-70	RA 04-08-70	07-02-80
Dominica		06-03-93	RA 06-11-93	
Ecuador	11-22-69	12-08-77	RA 12-28-77	07-27-84
El Salvador	11-22-69	06-20-78	RA 06-23-78	06-06-95
United States	06-01-77			
Grenada	07-14-78	07-14-78	RA 07-18-78	
Guatemala	11-22-69	04-27-78	RA 05-25-78	03-09-87
Guyana				
Haiti		09-14-77	AC 09-27-77	03-20-98
Honduras	11-22-69	09-05-77	RA 09-08-77	09-09-81
Jamaica	09-16-77	07-19-78	RA 08-07-78	
Mexico		03-02-81	AC 03-24-81	12-16-98
Nicaragua	11-22-69	09-25-79	RA 09-25-79	02-12-91
Panama	11-22-69	05-08-78	RA 06-22-78	05-09-90
Paraguay	11-22-69	08-18-89	RA 08-24-89	03-26-93
Peru	07-27-77	07-12-78	RA 07-28-78	01-21-81
Dominican Republic	09-07-77	01-11-78	RA 04-19-78	03-25-99
San Kitts and Nevis				
Saint Lucia				
St. Vincent & Grenadines				
Suriname		11-12-87	AC 11-12-87	11-12-87
Trinidad & Tobago		04-03-91	AC 05-28-91*	05-28-91
Uruguay	11-22-69	03-26-85	RA 04-19-85	04-19-85
Venezuela	11-22-69	06-23-77	RA 08-09-77**	08-09-77

Source: Department of International Law of the OAS General Secretariat

\* Denunciation submitted in May 1998      \*\* Denunciation submitted in September 2012  
 RA = RATIFICATION                                      AC = ACCESSION

10. With respect to the eight additional instruments, which make up the Inter-American system, the table below shows ratification or accession by OAS Member States:

**CURRENT STATUS OF RATIFICATION OF ADDITIONAL PROTOCOLS TO THE AMERICAN CONVENTION AND OTHER INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS**

States	APACAESCR <sup>2</sup>	PACHRADP <sup>3</sup>	IACPPT <sup>4</sup>	IACFDP <sup>5</sup>	IACPPEVW <sup>6</sup>	IACEDPD <sup>7</sup>	IACDI <sup>8</sup>	IACRRDI <sup>9</sup>	IACPHROP <sup>10</sup>
Antigua and Barbuda					A 12-08-98			S 07-06-13	
Argentina	R 03-30-03	R 06-18-08	R 11-18-88	R 10-31-95	R 04-09-96	R 09-28-00	F 06-07-13	S 06-07-13	S 06-15-15
Bahamas					A 05-03-95				
Barbados					R 02-08-95				
Belize					A 11-25-96				
Bolivia	R 07-12-06		R 08-26-96	R 09-19-96	R 10-26-94	R 02-27-03	S 03-10-15	S 03-10-15	S 06-09-16
Brazil	A 08-08-96	R 07-31-96	R 06-09-89	R 07-26-13	R 11-16-95	R 07-17-01	F 06-07-13	F 06-07-13	S 06-15-15
Canada									
Chile		R 08-04-08	R 09-15-88	R 01-13-10	R 10-24-96	R 12-04-01	S 10-22-15	S 10-22-15	S 06-15-15
Colombia	A 10-22-97		R 12-02-98	R 04-01-10	A 10-03-96	R 12-04-03	S 09-08-13	S 09-08-14	
Costa Rica	R 09-29-99	R 03-30-98	R 11-25-99	R 03-20-96	R 07-05-95	R 12-08-99		R 12-12-16	R 12-12-16
Cuba									
Dominica					R 06-30-95				
Ecuador	R 02-10-93	R 02-05-98	R 09-30-99	R 07-07-96	R 06-30-95	R 03-01-04	S 06-07-13	S 06-07-13	
El Salvador	R 05-04-95		R 10-17-94		R 11-13-95	R 01-15-02			
United States									
Grenada					R 29-11-00				
Guatemala	R 05-30-00		R 12-10-86	R 07-27-99	R 01-04-95	R 08-08-02			
Guyana					R 08-01-96				
Haiti					A 07-04-97	R 29-05-09	S 25-06-14	S 25-06-14	
Honduras	A 09-14-11	A 09-14-11		R 04-28-05	R 07-04-95	A 09-14-11			
Jamaica					R 11-11-05				

<sup>2</sup> Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, adopted in San Salvador, El Salvador, on November 17, 1988, 18<sup>th</sup> Regular Session of the General Assembly.

<sup>3</sup> Protocol to the American Convention on Human Rights to Abolish the Death Penalty, adopted in Asunción, Paraguay, on June 8, 1990, 20<sup>th</sup> Regular Session of the General Assembly.

<sup>4</sup> Inter-American Convention to Prevent and Punish Torture, adopted in Cartagena de Indias, Barranquilla, Colombia, on December 9, 1985, 15<sup>th</sup> Regular Session of the General Assembly.

<sup>5</sup> Inter-American Convention on Forced Disappearance of Persons, adopted in Belém do Pará, Brazil, on June 9, 1994, 24<sup>th</sup> Regular Session of the General Assembly.

<sup>6</sup> Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, adopted in Belém do Pará, Brazil, on June 9, 1994, 24<sup>th</sup> Regular Session of the General Assembly.

<sup>7</sup> Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disability, approved in Guatemala City, Guatemala, June 7, 1999, 29<sup>th</sup> Regular Session of the General Assembly.

<sup>8</sup> Inter-American Convention against All Forms of Discrimination and Intolerance, adopted in Guatemala City, on June 5, 2013, 43<sup>rd</sup> Regular Session of the General Assembly.

<sup>9</sup> Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, adopted in Guatemala City, Guatemala, on June 5, 2013, 43<sup>rd</sup> Regular Session of the General Assembly.

<sup>10</sup> Inter-American Convention on Protecting the Human Rights of Older Persons, adopted in Washington, D.C., on June 15, 2015, Forty-fifth regular session of the OAS General Assembly.

Mexico	R 03-08-96	R 06-28-07	R 02-11-87	R 02-28-92	R 06-19-98	R 12-06-00			
States	PACAMDESC	PCADHAPM	CIPST	CIDFP	CIPSEVM	CIEFDPD	CICTFDI	CICRDFCI	IACPHROP
Nicaragua	R 12-15-09	R 03-24-99	A 09-23-09		R 10-06-95	R 07-15-02			
Panama	R 10-28-92	R 06-27-91	R 06-27-91	R 07-31-95	R 04-26-95	R 01-24-01	S 06-05-14	S 06-05-14	
Paraguay	R 05-28-97	R 10-31-00	R 02-12-90	R 08-26-96	R 09-29-95	R 06-28-02			
Peru	R 05-17-95		R 02-27-90	R 02-08-92	R 04-02-96	R 07-10-01	S 10-25-16	S 10-25-16	
Dominican Republic		A 12-19-11	R 12-12-86		R 01-10-96	R 12-28-06			
San Kitts and Nevis					R 03-17-95				
Santa Lucia					R 03-08-95				
San Vincent and the Grenadines					R 05-23-96				
Surinam	A 02-28-90		R 11-12-87		R 02-19-02				
Trinidad and Tobago					R 01-04-96				
Uruguay	R 11-21-95	R 02-08-94	R 09-23-92	R 02-06-96	R 01-04-96	R 05-24-01	S 07-06-13	S 06-07-13	R 11-18-16
Venezuela		R 04-06-94	R 06-25-91	R 07-06-98	R 01-16-95	R 06-06-06			

Source: Department of International Law of the OAS General Secretariat

R = RATIFICATION S = SIGNING

A = ACCESSION

### C. Progress Achieved

11. This section highlights several measures taken by OAS Member States in 2016, which stand as evidence of the progress that has been made toward achieving the goals enshrined in the American Declaration, the American Convention and other regional human rights instruments.

12. They relate, in particular, to progress on the ratification of instruments of the Inter-American Human Rights; the peace process in Colombia; the electoral process in Haiti; access to justice, truth and reparation; access to information; and public policies and other initiatives with a human rights focus.

#### 1. Ratification of Conventions, adoption of Declarations and other initiatives

##### Ratification of Conventions

13. The IACHR has highlighted the importance of the universal ratification of the instruments of the Inter-American System as a critical element for the full respect and guarantee of human rights in the Americas. In this regard, the IACHR welcomes the ratifications by Costa Rica and Peru of the international human rights protection instruments set out below.

14. On August 5<sup>th</sup>, 2016 Costa Rica, ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance.

15. Costa Rica also ratified the Inter-American Convention on Protecting the Human Rights of Older Persons. This Convention will enter into force for the ratifying countries, Costa Rica and Uruguay, thirty days after Costa Rica deposited its ratification instrument, which occurred on December 13, 2016.

16. The Commission urges other member States to follow the above-mentioned examples and ratify these and other Conventions, as universal ratification of the Inter-American instruments is indispensable for the full protection of the human rights of all persons in the hemisphere.

## Adoption of Declarations and other initiatives within the OAS

17. The IACHR highlights the important progress made with the adoption of the American Declaration on the Rights of Indigenous Peoples within the framework of the 46<sup>th</sup> Regular Session of the OAS General Assembly on June 15, 2016, after 17 years of negotiations. The text includes various issues related to fundamental rights such as self-determination, ancestral lands, racial discrimination, racism, intolerance and violence.

18. The Commission also welcomes the recent creation of the OAS Core Group on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex persons (LGTBI) made up by Argentina, Brazil, Canada, Colombia, United States of America, Chile, Mexico and Uruguay. The IACHR notes that in the LGBTI Core Group's first joint statement, adopted on June 15, 2016 at the 46th OAS General Assembly, the founding States committed, among other things, to support the implementation of mandates contained in OAS resolutions on human rights, sexual orientation, and gender identity and expression. The Core Group also committed to support regional and OAS efforts aimed at ensuring that all people can exercise their right to live free from violence and discrimination, recognizing the need to address the multiple forms of discrimination they face due to different factors.

### 2. Progress on access to justice, truth and reparation

19. The IACHR notes that overcoming the high rates of impunity prevailing in the hemisphere requires prioritizing the adoption of comprehensive measures aimed at providing victims of human rights violations effective access to justice, restitution and compensation for the damage caused, knowledge of the truth, and guarantees of non-repetition, all from a human rights approach. In this context, the IACHR welcomes a series of developments in the field of justice, truth and reparation adopted by some member States of the region which are set out below.

20. The Commission recognizes the decision of the Canadian government to adopt a National Plan of Action and pursue a national investigation into the issue of indigenous women and girls disappeared and murdered in **Canada**, and specifically in British Columbia. This, pursuant to the recommendations of the IACHR contained in the Report "Missing and Murdered Indigenous Women in British Columbia, Canada."<sup>11</sup>

21. The IACHR welcomes the decision of the Constitutional Chamber of the Supreme Court of Justice of **El Salvador** to declare the unconstitutionality of the General Amnesty Law for the Consolidation of Peace. With this judgment, El Salvador commences compliance with the decisions rendered by the Inter-American Human Rights System in the 1990s. On multiple occasions, the Commission determined that El Salvador's Amnesty Law was incompatible with the State's international obligations in the field of human rights, and urged that the law be eliminated to ensure that victims would have effective access to judicial protection and judicial guarantees. The Commission welcomes the decision of said Chamber, which is a milestone in the road to justice, truth and reparation.

22. Likewise, the IACHR notes the legal agreement reached in the State of California, **United States of America**, in September, to ensure access to justice in Los Angeles' courts for people with little command of the English language, and so that it expands availability of interpreters, as well as oral and written assistance in the services of the Court.<sup>12</sup>

23. The Commission also welcomes the investigation and arrest of 18 soldiers accused of involvement in forced disappearances and crimes against humanity committed during the armed conflict in **Guatemala**. As part of the investigation of this case, known as "Plan de Sánchez," the skeletal remains of

<sup>11</sup> IACHR, [Missing and Murdered Indigenous Women in British Columbia, Canada](#), OEA/Ser.L/V/II. Doc. 30/14, 21 December 2014.

<sup>12</sup> See, *La Opinión*, [Garantizan el acceso a al justicia en tribunales de Los Ángeles para personas con poco inglés](#), September 20, 2016.

hundreds of indigenous persons, including the elderly and children, were exhumed. In 2004, the Inter-American Court of Human Rights found that the State of Guatemala bore international responsibility for these events, but at that time the State did not recognize its responsibility. The Court ordered the State to find the victims' remains, as well as to investigate and punish the perpetrators and intellectual authors. The investigation and arrest of those responsible represent a fundamental step towards achieving truth, justice and reparation for victims of violations of human rights.

24. Also with regard to the investigation, prosecution and punishment of human rights violations committed during the armed conflict in **Guatemala**, the IACHR notes with satisfaction the progress made in Guatemala in *inter alia* the cases of Molina Theissen,<sup>13</sup> CREOMPAZ<sup>14</sup> and Sepur Zarco.<sup>15</sup> The decision to bring to trial former members of the armed forces on charges of forced disappearance, sexual slavery and crimes against humanity committed during the internal armed conflict in Guatemala is a breakthrough in the fulfilment of the obligation to investigate, prosecute and punish the perpetrators of violations of the right to life and humane treatment and other human rights violations committed during the armed conflict. The ruling in the case of Zarco Sepur has become a milestone decision, since it was the first time that a national court tried and sentenced officers of the armed forces for the crime of sexual slavery.<sup>16</sup>

25. The IACHR salutes the Government of **Jamaica** for the creation in June 2016 of an *ad hoc* Committee to review the recommendations made by the West Kingston Commission of Enquiry, especially those in which security forces could have been involved in the events that took place in May 2010 in West Kingston. The *ad hoc* Committee issued two reports, and based on the same and the recommendations of the Commission of Enquiry, a Committee of Compensation was created and scheduled to begin work at the end of 2016.

26. The Commission welcomes the creation of the Crimes Investigation Unit for Migrants (UIDPM) and the Mexican Foreign Support Mechanism of Search and Investigation attached to the UIDPM by the Attorney General of the Republic of **Mexico**.<sup>17</sup> This mechanism entails a set of actions and measures aimed at ensuring access to justice to migrants and their families who are in another country and for the search of disappeared migrants.<sup>18</sup>

27. In **Panama**, on 1 December 2016, the crime of forced disappearance was modified to establish the continuity and permanence of this type of crime according to the Inter-American Convention on Forced Disappearance of Persons, as well as the non-applicability of statutory limitations. This reform was carried out in accordance with the ruling of the Inter-American Court of Human Rights' in the Heliodoro Portugal Case (2008), which found the State of Panama responsible for the forced disappearance of the political leader, Heliodoro Portugal.

<sup>13</sup> IACHR, [IACHR Welcomes Arrest of Individuals Accused of Forced Disappearance and Crimes against Humanity in Guatemala](#), January 13, 2015.

<sup>14</sup> International Justice Monitor, *CREOMPAZ Hearings Conclude; Tribunal to determine if Case goes to trial*, June 7, 2016, at: <https://www.ijmonitor.org/2016/06/creompaz-hearings-conclude-tribunal-to-determine-if-case-goes-to-trial/>; NISGUA, *CREOMPAZ: Eleven retired military officers indicted on charges of crimes against humanity*, January 19, 2016, at: <http://nisgua.org/creompaz-eleven-retired-military-officers-indicted-on-charges-of-crimes-against-humanity/>.

<sup>15</sup> Un Women, [Landmark ruling in Guatemala a victory against sexual violence in armed conflict](#), March 3, 2016. Also see: [UNDP, A historic milestone against sexual slavery as an act of war](#), April 6, 2016. .

<sup>16</sup> Avocats sans Frontières (Canada), *Blogue : Le procès Sepur Zarco d'un point de vue de droit autochtone*, April 4, 2016.

<sup>17</sup> IACHR, Press Release 009/2016. [IACHR Welcomes the Creation of Institutions for the Protection of the Rights of Migrants in Mexico](#). February 8, 2016.

<sup>18</sup> According to the agreement, the Foreign Support Mechanism is charged with, among other functions, the following: (i) to receive complaints of facts that would probably constitute a crime and would have taken place in national territory, as well as the evidence regarding the investigations; (ii) receive requests for search for missing migrants in Mexican territory and inform in writing the result of the search; and (iii) arrange with competent authorities for a defense attorney or legal adviser to assist them from national territory. This mechanism works through the Attaché offices of the Attorney General at the embassies of Mexico. See: Agreement A/117/15 which creates the [Crimes Investigation Unit for Migrants and the Mexican Foreign Support Mechanism of Search and Investigation](#), and establishes its powers and organization, December 18, 2015.

28. The Commission also notes the announcement made by **Paraguay** about the identification of the skeletal remains of three persons who were victims of forced disappearance in the 70's. The IACHR welcomes the efforts of Argentina and Paraguay, which allowed for the identification of victims of forced disappearance on Paraguayan soil. The identification of the skeletal remains of Miguel Angel Soler, Rafaella Filipazzi, and José Agustín Potenza is a fundamental step towards truth and justice for grave human rights violations committed during the dictatorship of general Alfredo Stroessner (1954-1989) in Paraguay, and within the framework of the Condor Plan, under which the authoritarian governments of the Southern Cone coordinated their illegal operations of kidnapping, torture, illegal imprisonment and disappearance of political dissidents.

29. The IACHR welcomes the enactment in **Peru**, on June 22, 2016, of Law No. 30470 ("Law on the Search for Missing Persons" who disappeared during 1980-2000 period of violence in Peru.) The law establishes to "give priority to a humanitarian approach during the search for those who disappeared during the 1980-2000 period of violence, coordinating and arranging for measures related to the search for and recovery, analysis, identification, and return of human remains." To that end, the law assigns to the Ministry of Justice and Human Rights the responsibility of designing, approving, implementing, and carrying out the National Plan to Search for Missing Persons, and also creates a National Registry of Missing Persons and Burial Sites.<sup>19</sup>

### **Developments aimed at ensuring judicial independence**

30. The new Law of Judicial Career in **Guatemala**, which entered into force in November 2016, seeks to contribute to judicial Independence and impartiality by separating the administrative and jurisdictional functions of the Supreme Court of Justice, guaranteeing the appointment, promotion and dismissal of judges shall be based only on an analysis of the ability, fitness, honesty and reputation of each candidate, and by ensuring that guarantees of due process are included in the disciplinary procedures.

### **Follow-Up Mechanism to the Ayotzinapa Case**

31. During 2016, the IACHR launched the implementation phase of the special follow-up mechanism to Precautionary Measure 409/14, granted with regard to the students from the "Raúl Isidro Burgos" rural school in Ayotzinapa, Mexico. The establishment of a special follow-up Mechanism was decided by the IACHR on July 29, 2016, through a resolution that seeks to follow up on the recommendations made by the Interdisciplinary Group of Independent Experts (*Grupo Interdisciplinario de Expertos Independientes*, or GIEI) in its two Reports, as well as on the precautionary measure, especially Resolution 42/16. The mechanism will be comprised of and coordinated by the Rapporteur for Mexico, who will also be the spokesperson, with the assistance of technical staff of the IACHR Executive Secretariat. Other Commissioners could also participate. According to the Commission's Resolution 42/16, the follow-up mechanism will have full access to necessary information in the files and other sources of information in the case. The Special Follow-Up Mechanism carried out its first visit to Mexico on 9-12 November 2016 with the purpose of presenting its Work Plan. The Work Plan contains four basic objectives: progress in the investigation, the search for the disappeared, comprehensive attention to victims and family members, and structural measures of non-repetition. The Work Plan also lays out a tentative schedule of the visits to be made, in coordination with the State, within a 12-month timeframe, as well as follow-up to be done through public hearings and working meetings.<sup>20</sup>

32. It is important to note that, on 3 October 2014, the IACHR requested that the Mexican State adopt precautionary measures in favor of 43 students from the "Raúl Isidro Burgos" rural school in Mexico. In

<sup>19</sup> See IACHR, Press Release 099/16. [IACHR Welcomes Enactment of Law on Search for Missing Persons from Period of Violence in Peru](#), of July 25, 2016. El Comercio, [Promulgan ley de búsqueda de desaparecidos en período 1980-2000](#), June 22, 2016 and El Peruano, Legal Regulations, [Law No. 30470](#), June 22, 2016.

<sup>20</sup> IACHR, [IACHR Presents its Work Plan for the Follow-Up Mechanism to the Ayotzinapa Case](#), November 10, 2016.



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

33. The IACHR urges the State to continue with its commitment in this case to progress toward establishing the facts and the corresponding responsibilities.<sup>21</sup>

### 3. Access to Information

34. The Special Rapporteurship for Freedom of Expression and the Inter-American Commission welcome the recently adopted measures by Argentina, the United States of America and Peru to guarantee access to information in the Americas, in accordance with international standards on human rights.

35. On 14 September 2016, **Argentina** enacted the Law on Access to Public Information. The new law recognizes the principles of maximum disclosure, good faith and non-discrimination that should govern the State administration to ensure the full exercise of the right of access to information.

36. Meanwhile in **Chile**, Law 20,900 for "the Strengthening and Transparency of Democracy" - regulating the financing of electoral campaigns -<sup>22</sup> and Law 20,915 - aiming to "strengthen the public and democratic character of political parties and facilitate modernization" - were enacted. The latter also incorporates active transparency obligations to political parties and subjects them to the control of the Council for Transparency in terms of compliance with these obligations.<sup>23</sup>

37. On 30 June 2016, the **United States of America** enacted the "Freedom of Information Improvement Act of 2016." This law codifies a presumption in favor of disclosure, by which, in cases of doubt, federal agencies should favor openness, as well as the principle of good faith that imposes on federal agencies the duty to explain the reasons for their replies and inform the applicant about their rights. Similarly, the law seeks to modernize the disclosure procedure by strengthening proactive disclosure of information in digital format, incorporates obligations of monitoring and control of the requests for information processed, the disclosures made, the applied exceptions and appeals submitted by each agency, as well as all the information related to the implementation of the processes set out in the Act.

38. The IACHR stresses the importance of the entry into force of the order adopted by **Paraguay** and made to those bound by the law to provide open citizen access to public information and government transparency, and to facilitate citizens online access to public information held by government institutions.<sup>24</sup>

39. On 12 September 2016, the government of **Peru** established a working group charged with the duty of drafting a bill for the creation of an autonomous entity [the National Authority of Transparency, Access to Information and Personal Data Protection] to promote and guarantee the effective exercise of

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

<sup>22</sup> [Law N° 20,900 for the Strengthening and Transparency of Democracy](#). April 11, 2016.

<sup>23</sup> [Law N° 20,915](#). Strengthens the public and democratic character of political parties and facilitates modernization, April 11, 2016.

<sup>24</sup> Official Gazette. [Law 5282 Of Open Citizen Access to Public Information and Government Transparency](#) of September 19, 2014; SENATICS. 2015. [Management Report. Projects 2015 \(p. 11\)](#); Presidency of the Republic/Ministry of Justice. September 17, 2015. [Decree N° 4064 \(Art. 9\)](#); OGP. July 27, 2016. [Transition between the end of the second plan and the beginning of the third action for open government in the Republic of Paraguay](#); ABC Color. March 18, 2016. [Use of the Portal is mandatory](#); La Nación. June 15, 2016. [Paraguay will present the progress made in transparency and innovation](#); Inter-American Press Association (*Sociedad Interamericana de Prensa-SIP*). April 11, 2016. [Paraguay Report. Mid-year meeting. Punta Cana](#).

the right to information in the country.

#### 4. Public policies and other initiatives in the field of human rights

40. The IACHR celebrates the decision of the Supreme Court of Justice of **Belize** in the case *Caleb Orozco v. Attorney General*, which declares the unconstitutionality of the criminalization of consensual sexual relations between adults of the same sex. The President of the Supreme Court stated that the aforementioned law violated the right to human dignity, privacy, freedom of expression, non-discrimination and equality before the law.

41. In **Bolivia**, on 20 May 2016, the Plurinational Legislative Assembly passed the Gender Identity Law which establishes administrative procedures that allow transgender persons older than 18 years of age to legally change their name, sex and image data in official documents. It also states that those persons that denigrate or discriminate against transexual or transgender persons will be punished according to Law 045 against Racism and All Forms of Discrimination.

42. The IACHR welcomes the initiative of **Canada** to implement a program to receive thousands of refugees of Syrian origin. The Program “Welcome Refugees” is supported by the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and civil society organizations. The program was designed to integrate refugees to Canadian life and community with the aim of permanent settlement. When celebrating this gesture from Canada, the Inter-American Commission is reminded of the long-standing humanitarian tradition in the region and calls for more States to exercise good practices for the resettlement of refugees.

43. In **Chile**, the Sub-secretariat of Human Rights, created by Law No. 20,885, began functioning. It is bound to be an organ that promotes and coordinates public policies on human rights, as well as to encourage the promotion and protection of human rights. Its mission is to draft and propose the National Human Rights Plan and to coordinate its implementation with other state entities. It can also design, promote and coordinate training and promotion programmes in human rights for public officials, as well as coordinate spaces for participation and dialogue with civil society in general.<sup>25</sup>

44. On the other hand, in August 2016, the Human Rights Commission of the Chilean Senate passed a replacement project of law on gender identity - in the pipeline since 7 May 2013 - establishing that the Civil Registry has competence to receive requests for the rectification of identity documents of adult trans persons - Chilean or foreign permanent residents in Chile - rather than the courts.

45. The Commission acknowledges the efforts made by the State of **Colombia** to arrive at the signing of the Peace agreement, initially signed on 24 August 2016, as well as its renegotiation in response to proposals made by the groups that objected to the previous agreement and had called on citizens to vote against it in the October 2 *referendum*.<sup>26</sup> The Commission welcomes the signing and approval of the new Final Agreement on the Termination of the Conflict and the Construction of a Stable and Lasting Peace (hereinafter “the Final Agreement”) reached on 12 November 2016, between the Colombian government and the Revolutionary Armed Forces of Colombia–People’s Army (FARC-EP).<sup>27</sup> The Commission also notes the efforts made by the State for the implementation of the Final Agreement, as well as for its approval by the Senate and the House of Representatives of the Colombian Congress, on November 29 and 30, 2016, respectively. It also commends the unanimous approval of the mechanism that allows a fast track to pass the laws and constitutional reforms needed for the implementation of the Final Agreement and the approval of Law 1820 of December 30, 2016, “by which provisions for amnesty, pardon, special criminal treatment and other” are

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<sup>25</sup> See, Ministry of Justice and Human Rights. [Human Rights Subsecretariat](#).

<sup>26</sup> IACHR, Press Release No. 122/16, [IACHR Welcomes the Signing of Agreement for the Construction of Peace in Colombia](#), August 29, 2016.

<sup>27</sup> See IACHR, Press Release No. 178/16, [IACHR Reaffirms its Support for the Peace Process in Colombia and Is Monitoring Compliance with Inter-American Standards](#), December 1, 2016.

enacted as well as Decree 277 of 17 February 2017, “which establishes the procedure for the effective implementation of said law”. The Commission also welcomes the Peace dialogue initiated with the National Liberation Army (*Ejército de Liberación Nacional-ELN*.)

46. The Commission maintains its conviction that the consolidation of peace is an essential requirement for the exercise and observance of human rights. It is also aware of the great challenge and responsibility Colombia is facing in the implementation of the Agreement. The Commission reiterates its commitment to the search for peace in Colombia, and will continue to collaborate in this effort with the State and civil society, and will follow the implementation of the agreement within the scope of its functions, so that the effective implementation of the peace agreement may meet international standards for truth, justice, and reparation in the context of the transition to peace.<sup>28</sup>

47. The IACHR also welcomes the Constitutional Court of Colombia’s ruling of April 7, 2016 that approved same sex marriage.

48. The IACHR hails **Costa Rica** for signing a National Pact for the fulfillment of the Sustainable Development Goals (SDG) in September 2016. The agreement was signed by senior officials of the three branches of government, as well as representatives of local government, the private sector, social and religious organizations, and the academic sector, among other groups. The Pact seeks to promote improvement in the quality of life of the population of the country and promote the mobilization of resources for the achievement of the objectives, the strengthening of institutional capacities for the development of policies, plans, programmes and projects and accountability on progress and gaps in the implementation of the SDGs.<sup>29</sup> The Commission also welcomes the decision of **Costa Rica** in June 2016 to extend pension benefits for widowhood to same sex couples in all the pension schemes depending on the National Budget.

49. In **Ecuador**, the National Assembly enacted in February 2016 the “Law Organizing Identity and Civil Data Management,” which allows, *inter alia*, modifications to the name and change in the “sex” category for “gender” in identification documents for persons older than 18 years of age.

50. The Executive Act in Virginia that allows convicted felons who have completed their sentences and detention to register to vote in the state of Virginia, **United States of America**, is another commendable development in 2016. Public information suggests that in Virginia the prohibition to vote on convicted felons has historically had a disproportionately negative impact on Afro-American constituents. In this regard, the Act represents a significant advancement for the right to vote of approximately 206,000 American citizens, especially Afro-american residents of Virginia.

51. The Defense Secretary of the **United States of America** announced on 30 June 2016 the adoption of new rules that would allow transgender people to serve openly in the military without discrimination and according to their gender identity. Other inclusion measures are being considered, such as amendment of the International Religious Freedom Act signed by then President, Barack Obama. Among its amendments, the Act extends protection to recognise the rights of atheists and non-believers to not profess or practise any religion. This move was hailed by the UN Special Rapporteur on freedom of religion and belief, Ahmed Shaheed.<sup>30</sup>

52. The IACHR welcomed the announcement made by the Government of **Guatemala** about prioritizing the prevention of chronic malnutrition and the launch of a National Strategy for the Prevention of

<sup>28</sup> See IACHR, Press Release No. 178/16, [IACHR Reaffirms its Support for the Peace Process in Colombia and Is Monitoring Compliance with Inter-American Standards](#), December 1, 2016.

<sup>29</sup> See, Presidency of the Republic of Costa Rica. [Costa Rica. Primer país del mundo en firmar pacto Nacional por los Objetivos de Desarrollo Sostenible](#). September 9, 2016.

<sup>30</sup> See, News and Media United Nations Radio, [UN welcomes US move to equally protect atheists and non-believers](#), December 28, 2016.

Chronic Malnutrition 2016-2020.<sup>31</sup> The strategy aims to reduce by 10 percent chronic malnutrition among children younger than 2 years of age in the next four years by including a systematic comprehensive approach with the participation of the pertinent state entities, local government, civil society and community organizations.<sup>32</sup>

53. The IACHR hails the elections held in Haiti on November 20 that resulted in the election of Jovenel Moïse, candidate of the Haitian Political Party Tet Kale (PHTK). The elections, originally scheduled for October 2015, were annulled several times because of accusations of fraud, protests and violent events in different areas of the country, as well as due to the consequences of Hurricane Matthew. Since 14 February 2016, Jocelerme Privert had been temporary, interim President as the National Assembly gave him such authority for a term of 120 days. Privert remained as interim president, without renewal of a mandate, until 7 February 2017, when Jovenel Moïse took office. The Commission has acknowledged that representative democracy, the popular election of those who exercise political power being one of its key elements, is the organizational form that has explicitly been adopted by the member States of the OAS. The IACHR calls for the State of Haiti to continue advancing the strengthening of its democratic institutions by promoting and respecting the fundamental rights of all persons under its jurisdiction.

54. On the prevention of violence, the Ministry of Women and Vulnerable Populations of **Peru** approved on 31 March 2016 a ministerial resolution that establishes a series of guidelines to attend to LGBT persons under the national program against family and sexual violence (*Programa Nacional Contra la Violencia Familiar y Sexual-PNCVFS*). This measure is one of the pioneers at the regional level in providing care free of stigma and discrimination to LGBT victims of domestic violence.

55. Finally, on 7 August 2016, the educational guide “Education and Afro-descendancy,” was launched. It is a booklet to assist teachers in **Uruguay** to face situations of racial discrimination within the classroom and, at the same time, prevent these through practical awareness exercises. This development was promoted by the national administration of public education (*Administración Nacional de Educación Pública-ANEP*), through the direction of human rights of the Central Directive Council (*Consejo Directivo Central-CODICEN*) and the Gender network of the ANEP, together with the Institute of Women (INMUJERES) of the Social Development Ministry (MIDES) in collaboration with the United Nations Development Program (UNDP) and the Swiss Embassy in Uruguay.<sup>33</sup>

56. The IACHR extends an invitation to the member States of the OAS to keep it informed about progress made in the matter of public policy as well as other human rights initiatives, in order to keep record of them and, if pertinent, make them known in the region.

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<sup>31</sup> SESAN, National Strategy for the Prevention of Chronic Malnutrition 2016-2020 ([Estrategia Nacional para la Prevención de la Desnutrición Crónica 2016-2020](#).) Government of Guatemala, 2016.

<sup>32</sup> The strategy is closely related to the program “Window of a Thousand Days” (*Ventana de los Mil Días*), which started in 2012 to provide health services and nutritional support to women during the thousand days in which chronic malnutrition most affects the child’s development, from conception to 2 years of age. Government of Guatemala, National Strategy for the Prevention of Chronic Malnutrition is Launched ([Presentan Estrategia Nacional para la Prevención de la Desnutrición Crónica 2016-2020](#)), March 4, 2016; Food and Agriculture Organization of the United Nations, [Guatemala presenta la Estrategia Nacional para la Prevención de la Desnutrición Crónica 2016-2020](#), March 10, 2016; Government of the Republic of Guatemala, President Morales proposes Mayors to unify efforts against malnutrition ([Presidente Morales plantea a alcaldes unificar esfuerzos contra la desnutrición](#)), May 15, 2016.

<sup>33</sup> See, UNDP, Educational Guide “Education and Afrodescendancy” ([Guía didáctica “Educación y afrodescendencia”](#)), August 17, 2016.