

CHAPTER V

FOLLOW-UP ON RECOMMENDATIONS ISSUED BY THE IACHR IN ITS COUNTRY REPORTS OR THEMATIC REPORTS

SECOND REPORT ON FOLLOW-UP ON RECOMMENDATIONS ISSUED BY THE IACHR ON THE SITUATION OF HUMAN RIGHTS IN GUATEMALA

I. INTRODUCTION

1. The present chapter is aimed at monitoring the recommendations made in the report “Situation of Human Rights in Guatemala,” approved by the Inter-American Commission on Human Rights (“the Commission” or “the IACHR”), on December 31, 2017 (hereinafter “Country Report”),¹ in compliance with subparagraph 9 of Article 59 of its Rules of Procedure. Pursuant to this provision, on the basis of Chapter V of its Annual Report, the Commission shall follow up on the measures adopted to comply with the recommendations it made in the Country Report.

2. At the invitation of the Republic of Guatemala (“Guatemala” or “State”), the IACHR made an on-site visit to the country between July 31 and August 4, 2017. The IACHR drafted the Report on the Situation of Human Rights in Guatemala (Country Report), which was approved by the IACHR on December 31, 2017, with a series of recommendations to the state, on the basis of the findings and information obtained, before, during, and subsequent to the on-site visit. In the Country Report, the Commission pointed out that the information consistently received during the visit indicated that, essentially, more than 20 years after the Peace Accords were signed, many of the reasons leading to the internal armed conflict have persisted: an economy based on the concentration of economic power in the hands of the few; a weak state structure, with few resources because of limited tax collection and high levels of corruption. Structural problems persist, such as racial discrimination, social inequality, widespread severe poverty and exclusion, chronic child malnutrition, low levels of education, and the lack of access to justice, which constitute an obstacle to full respect for human rights in Guatemala. There are also parallel power structures hampering the fight against impunity and corruption, and preventing the strengthening of the rule of law.

3. In the conclusions of its Country Report, the IACHR believes it is indispensable for the state to redouble its commitment to continuing the efforts undertaken to combat impunity, violence, intolerance, and corruption, on the basis of the policies and programs of prevention and respect for human rights, as well as justice that is strengthened, independent, and impartial. In particular, it underscores the importance of guaranteeing conditions so that the International Commission against Impunity in Guatemala (*Comisión Internacional contra la Impunidad en Guatemala—CICIG*), along with the Office of the Public Prosecutor (*Ministerio Público*) can carry out its work efficiently, as well as approving constitutional reform of justice in line with the highest human rights standards. It also urged the state to move ahead with its efforts to adopt laws, policies, and programs aimed at bridging the persistent inequality and exclusion gap. Finally, the Commission stated its willingness and readiness to contribute and collaborate with the state of Guatemala to implement a human rights agenda aimed at guaranteeing and protecting the rights of its inhabitants.

4. In 2018, the IACHR submitted its first follow-up report on the Country Report. This year, by means of communications on September 19 and 20, the IACHR requested the state and its Human Rights Ombudsperson (*Procurador de Derechos Humanos—PDH*) to submit information on compliance with the recommendations contained in the Country Report, granting it a 30-day delay. On October 4, 2019, the Commission requested civil society organizations to provide information about compliance with the report.

¹ IACHR, [Situación de derechos humanos en Guatemala](#) [Situation of Human Rights in Guatemala], OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017.

The State responded by means of a note on October 10, 2019,² and November 5³ and 6, 2019;⁴ and the PDH replied on October 17, 2019.⁵ Various civil society organizations responded to the IACHR's request for information.⁶ On December 26, 2019, the IACHR transmitted to the state a copy of the preliminary draft of this document, which is part of Chapter V in its 2019 Annual Report, in accordance with its Rules of Procedure, and requested that it forward its observations within a month. The State submitted its response on January 13, 2020 requesting to include the note that was sent on November 6, 2019 and received on January 21, 2020.⁷ That note was incorporated, as pertinent, in this final versión approved by the Commission on February 6, 2020. The Commission appreciates and thanks the state for the information it has received, whose relevant parts were included in the present report. The IACHR also thanks civil society organizations and the PDH for the information they provided.

5. The present review is divided into five sections focusing on the measures adopted by the state in 2019 in order to comply with the recommendations made by the Commission and pending challenges. The structure used in the IACHR report, subject of the monitoring concerning the recommendations, is followed. Each section refers to recommendations made by the IACHR in the respective chapters, where the principal aspects of the progress and challenges identified are examined, and conclusions about their compliance are presented.

6. This review is conducted in light of the information submitted by the state and civil society organizations, as well as information that the Commission has gathered when monitoring the general human rights situation in the country. To this end, the Commission has used the information received from the state, public hearings,⁸ investigations conducted ex officio, inputs from the individual petitions and cases mechanism, precautionary measures, and requests for information under the authority set forth in Article 41 of the American Convention on Human Rights (American Convention),⁹ as well as information available from other public sources and the decisions and recommendations made by specialized international institutions, among others.

7. The IACHR reiterates the importance for Guatemala to fully comply with the recommendations made in the report. It also reiterates its readiness to collaborate with the state in the framework of its mandate and duties, to ensure the effective enjoyment of human rights of all persons.

² Owing to a technical matter, the IACHR did not receive the response until November 6, 2019. Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

³ Republic of Guatemala, Supplementary report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

⁴ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," of November 6, 2019.

⁵ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁶ *Impunity Watch*, Law Firm for Human Rights (*Asociación Bufete Jurídico de Derechos Humanos—BDH*), Center for Forensic Analysis and Applied Sciences (*Centro de Análisis Forense y Ciencias Aplicadas—CAFCA*), Center for Justice and International Law (CEJIL), Amnesty International, and Unit for Human Rights Defenders of Guatemala (*Unidad de Defensoras y Defensores de Derechos Humanos—UDEFEQUA*).

⁷ Republic of Guatemala, MFA, Note of January 13, 2020.

⁸ IACHR, Hearings on: human rights of older peasant adults in Guatemala and reports of threats to judicial independence in Guatemala, May 10, 2019, and obstacles, setbacks, and challenges to progress in human rights in Guatemala, September 23, 2019.

⁹ IACHR, Requests to the state for information on the initiative for Law No. 5272 relative to "the protection of life and the family" of January 30, 2019; on adoption of the initiative for Law 5257 of April 5, 2019; and on conservation of the Historical Archive of the National Police (*Archivo Histórico de la Policía Nacional—AHPN*) of June 12 and August 6, 2019.

II. FOLLOW-UP ON RECOMMENDATIONS

A. General recommendations

- Create, together with the IACHR, a Follow-Up Mechanism to the Recommendations of the instant report.
- Make sure that the CICIG, under the direction of its Commissioner, Iván Velásquez, is able to fulfill its mandate with the proper protections, without harassment, threats or undue interference, in accordance with the Agreement creating it.
- Endow the Presidential Commission for the Coordination of Executive Policy on Human Rights (*Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de Derechos Humanos—COPREDEH*) and the Office of the Human Rights Ombudsperson with sufficient human and budgetary resources to be able to fully comply with their mandates.
- Ratify the Inter-American Convention against All Forms of Discrimination and Intolerance, the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, the Inter-American Convention on Protecting the Rights of Older Persons, and the Additional Protocol to the American Convention on Human Rights to Abolish the Death Penalty.
- Continue with efforts to eradicate extreme poverty and hunger, especially, to adopt emergency measures to eliminate the serious issue of child malnutrition, such as programs and policies to prevent maternal and infant mortality in the country.
- Adopt urgent measures to ensure the economic, social, cultural and environmental rights of the population, in particular, the persons living in a situation of major exclusion described in the instant report.

8. With respect to the recommendation to **create, together with the IACHR, a Mechanism to Follow Up on Recommendations of the Report**, the State has kept in contact with the IACHR in regard to this last year. The Commission took note of the state's intention, as indicated in its 2018 observations, to be in communication with the IACHR in 2019, through the Presidential Human Rights Commission (COPREDEH), in order to incorporate the Commission's recommendations and to launch the System for Monitoring Recommendations for Guatemala of the International Protection of Human Rights System (SIMOREG) this year in order to follow up on the judgments of the Inter-American Court of Human Rights (I/A Court H.R.). The Commission also takes note that points of contact in COPREDEH have been designated for the Inter-Agency Forum, which helps to follow-up on the IACHR's recommendations.¹⁰ Nevertheless, this year no specific headway has been made in creating a follow-up mechanism. Therefore, compliance with this recommendation remains partial.

9. Regarding the recommendation to **make sure that the CICIG, under the direction of its Commissioner, Iván Velásquez, is able to fulfill its mandate with the proper protections, without harassment, threats, or undue interference, in accordance with the Agreement creating it**, the IACHR observes that, since 2018, the state expressly indicated that it would not comply with the recommendation. It stated that "it considers the recommendation inappropriate and an intrusion in domestic affairs, in the sense that no respect is being given to a sovereign decision taken by the Constitutional President of the Republic, who as Head of State declared said Commissioner *persona non grata*."¹¹ In its observations submitted on March 14, 2019, the state reiterated its position that it would not comply with this recommendation.¹²

¹⁰ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

¹¹ State of Guatemala, Observations from the State of Guatemala on the Report on the Situation of Human Rights in Guatemala 2017, October 25, 2018, p. 3.

¹² State of Guatemala, [Observaciones del Estado de Guatemala al Proyecto del Informe del Capítulo V Seguimiento de Recomendaciones Formuladas por la CIDH en el informe "Situación de Derechos Humanos en Guatemala](#) [Observations from the State of Guatemala on the Draft Report of Chapter V Follow-up on the Recommendations Issued by the IACHR in the report "Situation of Human Rights in Guatemala"], March 14, 2019, p. 2.

10. Regarding this, over the past three years, the Guatemalan government's highest-ranking authorities have undertaken various actions aimed at undermining the CICIG's capacities and ultimately terminating its mandate, which has led to serious setbacks to the progress that had been made in fighting corruption and impunity, owing to the joint work of the CICIG, the Office of the Public Prosecutor, and the National Civilian Police (*Policía Nacional Civil—PNC*).¹³

11. The IACHR has stated its steadfast support to the CICIG and has acknowledged the important role it has played in combating corruption and dismantling criminal networks and the structures of organized crime along with the Office of the Public Prosecutor, as well as its support for training and promoting legal reforms aimed at ensuring greater effectiveness of justice, in line with its mandate.¹⁴ This was evident in how institutional capacity building was impacting human rights in Guatemala, which unfortunately was being undermined by the government itself.

12. On January 9 this year, President Morales announced that the CICIG would no longer be conducting its activities in Guatemala.¹⁵ The state informed that it had requested the United Nations “on various occasions to change the Commissioner, because he had overstepped the duties assigned to him in the agreement creating the CICIG” and in view of their refusals, decided to not extend his term of office. It indicated that the absence of the CICIG does not prevent competent domestic bodies from continuing the processes that had begun.¹⁶

13. After the President's announcement, the entire staff, both national and foreign, of the CICIG had to leave the country in order to safeguard their security.¹⁷ The IACHR stated that these measures could undermine the fight against corruption and impunity.¹⁸ At the same time, President Morales instructed the Office of the Chief Prosecutor of the Nation (*Procuraduría General de la Nación—PGN*) and the Ministry of Foreign Affairs (MFA) to file proceedings for the “crimes” perpetrated by the CICIG, the prosecutors working with it, and the judges issuing rulings in its cases.¹⁹

14. On January 9, 2019, the Constitutional Court (*Corte de Constitucionalidad—CC*) granted a provisional protection measure (*amparo*) that suspended the executive branch's decision. Nevertheless, in that same month, an investigator of the CICIG, Ylsen Osorio, was detained for 23 hours by migration authorities at the La Aurora international airport when he attempted to enter the country. Mr. Osorio was able to enter the country after the CC's intervention and with support from the Office of the Public Prosecutor.²⁰

¹³ IACHR, Press Release No. 127/17, [CIDH expresa su alarma ante la declaración de persona non grata y expulsión de Velásquez, comisionado titular de la Comisión Internacional contra la Impunidad en Guatemala \(CICIG\)](#) [IACHR Expresses Alarm Declaration of Persona Non Grata of Iván Velásquez, Head of the International Commission against Impunity in Guatemala Order for his Expulsion], August 27, 2017; IACHR, Resolution No. 1/17, [Derechos humanos y lucha contra la impunidad y la](#) [Human Rights and the Fight against Impunity and Corruption], September 12, 2017; IACHR, [Situación de los derechos humanos Guatemala](#) [Situation of Human Rights in Guatemala], December 31, 2017; IACHR, Annual Report 2018, [Capítulo V Seguimiento recomendaciones a Guatemala](#) [Chapter V Follow-up on Recommendations to Guatemala]; IACHR, Press Release No. 007/19, [La expresa preocupación por medidas adoptadas que pueden debilitar la lucha contra la impunidad y la corrupción en Guatemala](#) [IACHR Expresses Concern over Measures that May Hamper the Fight against Impunity and Corruption in Guatemala], January 10, 2019.

¹⁴ IACHR, Press Release No. 7/19, [La CIDH expresa preocupación por medidas adoptadas que pueden debilitar la lucha contra la impunidad y la corrupción en Guatemala](#) [IACHR Expresses Concern over Measures that May Hamper the Fight against Impunity and Corruption in Guatemala] January 10, 2019.

¹⁵ Republic of Guatemala, Government Agreement 2-2019.

¹⁶ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Report for 2019, October 10, 2019 and Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

¹⁷ CICIG, [La CICIG confirma que continuará con su labor a pesar de la salida del país de su personal](#) [CICIG confirms it will continue its work although its staff have left the country], January 9, 2019.

¹⁸ IACHR, Press Release No. 7/19, [La CIDH expresa preocupación por medidas adoptadas que pueden debilitar la lucha contra la impunidad y la corrupción en Guatemala](#) [IACHR Expresses Concern over Measures that May Hamper the Fight against Impunity and Corruption in Guatemala], January 10, 2019.

¹⁹ *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019.

²⁰ IACHR, Press Release No. 7/19, [La CIDH expresa preocupación por medidas adoptadas que pueden debilitar la lucha contra la impunidad y la corrupción en Guatemala](#) [IACHR Expresses Concern over Measures that May Hamper the Fight against Impunity and Corruption in Guatemala], January 10, 2019.

15. This series of actions, as well as the other decisions taken by the executive aimed at constraining the capacity of the CICIG's staff, were affecting the CICIG's work and the institutional framework established to combat corruption.²¹ In September, at the hearing before the IACHR on the obstacles, setbacks, and challenges for promoting human rights in Guatemala, civil society also reported the dismantling of special investigation units involved in seeking justice and combating impunity and corruption. It indicated that the appointment of a new Minister of the Interior in January 2018 meant that the units in the PNC would start being closed and undermined, and that three senior authorities and key positions specializing in criminal investigation who supported the CICIG would be removed from office.²² Since then, the joint work of the Special Prosecution Service against Impunity in Guatemala (*Fiscalía Especial Contra la Impunidad en Guatemala—FECI*) and the CICIG was systematically hindered by the government, and the collaboration between the FECI and PNC stopped, entailing constraints in gaining access to information from certain databases and on the FECI's capacity to engage in operations and seizures on a timely basis.²³

16. It is noteworthy that, in October 2019, the IACHR granted precautionary measures to protect three judges of the Constitutional Court (CC), who had allegedly been the targets of threats and harassment in the context of their work as judges. The request for precautionary measures was filed when, in December 2018 and January 2019, the CC was in the process of examining protection measures (*amparos*) to enable CICIG members to remain and enter the country after the executive branch's attempts to withdraw their visas and prevent them from entering the country.²⁴

17. Civil society also stated that another change that impacted the situation in the country was the involvement and incorporation of former military in the PNC, which would be a breach of the Peace Accords and the Alliance for Prosperity, in view of the commitment made to remove army servicemen from public security activities. In this specific context, more than 100 police officers had been dismissed on the basis of nonexistent procedures,²⁵ which involved undermining the police force's institutionality, since most of the staff dismissed specialized in seeking justice and fighting corruption.²⁶

18. As for the PDH, it reported that "the President of the Republic had promoted a series of actions that undermined the work" of the CICIG and that, in 2019, complaints and requests for preliminary trials

²¹ *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019; BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019S; CEJIL, Follow-up on the Report of the Situation of Human Rights in Guatemala, November 4, 2019; Amnesty International, Guatemala, inputs for the Annual Report of the Inter-American Commission, November 7, 2019.

²² IACHR, [Audencia sobre obstáculos, retrocesos y retos para el avance de los derechos humanos en Guatemala](#) [Hearing on [Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], September 23, 2019.

²³ Amnesty International, [Última oportunidad de justicia: peligrosos retrocesos para los derechos humanos y la lucha contra la impunidad en Guatemala](#) [Last opportunity for justice: dangerous setbacks for human rights and the fight against impunity and corruption in Guatemala], p. 5, July 9, 2019. *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019; see *Prensa Libre*, [MP denuncia fuga de información en capturas en caso de corrupción](#) [Office of the Public the Public Prosecutor (MP) denounces information leaks in seizures in corruption case], April 13, 2018; *Nómada*, [Juan Francisco Sandoval: Sandoval: Nos han cerrado la puerta en el Ministerio de Gobernación](#) [Juan Francisco Sandoval: They have shut the door on us at the Ministry of the Interior], May 17, 2018.

²⁴ IACHR, MC No. 28-19, [Resol 56/2019](#) of October 25, 2019 for the benefit of Constitutional Court (CC) judges José Francisco de Francisco de Mata Vela, Bonerge Amílcar Mejía Orellana, José Mynor Par Usen, and María Cristina Fernández.

²⁵ Human Rights Federation of Guatemala (*Convergencia por los Derechos Humanos de Guatemala*): Association for Studying and Promoting Security in Democracy (*Asociación para el Estudio y Promoción de la Seguridad en Democracia—SEDEM*), Unit for Human Rights Defenders (*Unidad de Defensoras y Defensores de Derechos Humanos—UDEFEQUA*), Central for Legal Action in Human Rights (*Centro para la Acción Legal en Derechos Humanos—CALDH*), International Center for Human Rights Research (*Centro Internacional para Investigaciones en Derechos Humanos—CIIDH*), CAFCA, Community Studies and Psycho-social Action Team (*Equipo de Estudios Comunitarios y Acción Psicosocial—ECAP*); National Guatemalan Women's Unit (*Unidad Nacional de Mujeres Guatemaltecas—UNAMG*), Institute for the Comparative Study of Penology of Guatemala (*Instituto de Estudios Comparados en Ciencias Penales de Guatemala*), Human Rights Office of the Archbishopric of Guatemala (*Oficina de Derechos Humanos del Arzobispado de Guatemala—ODHAG*). Request for Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala, August 2019.

²⁶ IACHR, [Audencia sobre obstáculos, retrocesos y retos para el avance de los derechos humanos en Guatemala](#) [Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], September 23, 2019; Human Rights Federation of Guatemala, Request for Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala, August 2019.

against various judges of the CC had continued to be filed, thus undermining the separation of powers and the independence of the judicial branch in Guatemala.²⁷

19. In 2019, despite constraints to effectively discharge their duties, the CICIG and the Office of the Public Prosecutor continued their anti-corruption work in a more precarious situation. On August 20, the CICIG submitted its concluding report “Legacy of Justice in Guatemala,” in which it documented its activities since 2007, reviewed the cases that were investigated, and referred to the re-appearance of the Illegal Bodies and Clandestine Security Apparatuses (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad—CIACS*).²⁸ On August 29, it submitted its final report “Guatemala: A State in Captivity,” in which it highlighted evidence that criminal networks had taken possession of the state and was upholding a system of corruption. The report confirms the depth at which the CIACS have taken hold of strategic institutions of the state for their own purposes.²⁹

20. Finally, on September 3, 2019, ahead of schedule, the CICIG concluded its mandate because of the government’s unilateral termination of the United Nations agreement. After the departure of the CICIG, the Congress of the Republic (hereinafter “the Congress”) adopted Agreement 12-19, which set up a committee to investigate the administration of the CICIG, which had been planned to function until January 13, 2020. This agreement indicates that the CICIG had not been supervised or audited over the 12 years of its functioning, as a result of which it was imperative to check the actions of its domestic and foreign members to determine if they broke the law.³⁰

21. This committee is authorized to gather, assess, and systematize information about persons and public or private institutions that have been the victims “of illegal or arbitrary actions by the CICIG.” Among other powers, this committee can request reports from civil servants or state institutions regarding “possible illegal actions by the CICIG” and subpoena its financial supporters to question the use of resources, as well as request the extradition of its employees if an investigation is launched.³¹ According to information received, this congressional committee is engaging in activities that could be construed as retaliations against civil servants who independently carried out a widely recognized work combating corruption in the country, in particular against justice operators.

22. On September 30, 2019, this committee started its activities. The CC ruled that the appeals for protection on constitutional grounds (*amparo*) filed by Citizen Action (*Acción Ciudadana*) and Alfonso Carrillo Marroquín against this agreement were admissible.³² That Court issued a ruling that temporarily suspended the above-mentioned committee because it violated the autonomy of the Office of the Public Prosecutor as the exclusive authority responsible for public criminal prosecutions.³³ Despite this ruling the congressional committee continued its activities, receiving statements from persons indicted and convicted as a result of CICIG investigations, and the Executive Board requested a preliminary trial against the judges of the CC.³⁴

²⁷ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁸ CICIG, [Informe de cierre: el legado de la justicia en Guatemala](#) [Concluding Report: Legacy of Justice in Guatemala], 2019.

²⁹ During its mandate, the CICIG promoted the dismantling of 70 criminal structures, submitted 120 high-impact cases requests for lifting the immunity of civil servants, and 1,540 persons were indicted as a result of investigations by the Office of Prosecutor. CICIG, [Informe temático Guatemala: un Estado capturado](#) [Thematic Report Guatemala: A State in Captivity], August

³⁰ Republic of Guatemala, Congress, Agreement 12-19, published on September 27, 2019.

³¹ Republic of Guatemala, Congress, Agreement 12-19, published on September 27, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

³² *el Periódico*, [CC da trámite a amparos contra comisión legislativa Anti-CICIG](#) [CC processes appeals on constitutional grounds against the Anti-CICIG Legislative Committee], October 1, 2019, *El Universo*, [Impiden investigación contra la Cicig, la ex misión de la ONU contra corrupción en Guatemala](#) [Investigation against CICIG, the former UN mission against corruption in Guatemala, is prevented], October 2, 2019.

³³ *Prensa Libre*, [CC suspende la comisión que investiga a la Cicig](#) [CC suspends the committee investigating the CICIG], October 7, 2019.

³⁴ *La Hora*, [Diputados que integraron la Comisión anti CICIG siguen con audiencias](#) [Congresspersons members of the Anti-CICIG Committee continue holding hearings], October 10, 2019; [Transmisión de audiencias por la cuenta de Twitter del Congreso de la República](#) [Broadcast of hearings via the Twitter account of the Congress of the Republic], Blanca Stalling hearing, October 31, 2019; *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

23. The IACHR regrets that the legislative branch has established a committee, with criminal prosecution powers, to investigate the CICIG, which has played a preeminent role in fighting corruption in Guatemala by dismantling criminal networks and structures of organized crime along with the Office of the Public Prosecutor, as well as in providing training and promoting legal reforms aimed at ensuring greater effectiveness of the justice system in line with its mandate.

24. The Commission is also concerned that, before CICIG's departure from Guatemala, timely measures had not been adopted to guarantee continuation of the work of the prosecution services, such as the Special Prosecution Service Against Impunity (FECCI), although there were professionals such as the Guatemalan staff of the CICIG (among which financial and criminal, forensic, and technical analysts, among others) with the experience and competencies needed to carry out these activities, nor were measures taken to safeguard their personal integrity from acts of intimidation and threats targeting them. This failure to ensure continuity affects ongoing investigations into serious human rights violations and acts of corruption which go unpunished.³⁵

25. The Commission regrets that the CICIG was terminated and deems that its departure from the country and the weakening fight against corruption is unmistakably connected with the exercise and enjoyment of human rights. Because of the above, not only has this recommendation been rejected by the state but it has also undertaken actions contrary to the recommendation.

26. With regard to the recommendation to **endow the Presidential Human Rights Commission (COPREDEH) and the Office of the Human Rights Ombudsperson (PDH) with sufficient human and budgetary resources to be able to fully comply with their mandates**, this year, the state has not provided any information about the human and budget resources for the PDH or COPREDEH.³⁶

27. The IACHR underscores the work of the Human Rights Ombudsperson (PDH), Jordán Rodas, who has been essential for defending the institutions in charge of combating corruption and impunity and protecting human rights independently and autonomously. This year, the IACHR has observed a series of actions that are undermining the normal evolution of his institutional duties, which have been reported as acts of intimidation. The Commission expressed its concern over a series of actions and a new proceeding aimed at removing the PDH.³⁷

28. Civil society organizations have been indicating that there is campaign to smear, discredit, and threaten the PDH, in retaliation for his having upheld the autonomy of the institution, in particular for having defended the continuation of the CICIG's mandate and his work fighting corruption and impunity.³⁸ At a public hearing held in September, civil society reiterated the existence of this retaliation campaign. The

³⁵ See Amnesty International, [Guatemala: Alerta roja por amenazas a la justicia y los derechos humanos](#) [Guatemala: Red Alert Red Alert for threats to justice and human rights], July 9, 2019; and International Federation for Human Rights (FIDH), [Guatemala: Justicia Guatemala: Justicia y Estado de derecho en la encrucijada](#) [Guatemala: Justice and Rule of Law at a Crossroads], August 2019; Amnesty International, Guatemala, inputs for the Annual Report of the Inter-American Commission, November 7, 2019; Amnesty International, [Última oportunidad de Justicia: peligrosos retrocesos para los derechos humanos y la lucha contra la impunidad en Guatemala](#) [Last opportunity for justice: dangerous setbacks for human rights and the fight against impunity and corruption in Guatemala], July 9, 2019.

³⁶ In 2018, the state reported that the allocation for the PDH from 2011 to 2016 rose by 14 million quetzales, upheld until the financial exercise for the year 2017. State of Guatemala, Observations from the State of Guatemala on the Report on the Situation of Human Rights in Guatemala 2017, October 25, 2018, p. 3.

³⁷ IACHR, Press Release No. 298/19, [La CIDH expresa su preocupación por un nuevo proceso de remoción en contra del Procurador de Derechos Humanos de Guatemala](#) [IACHR Expresses Its Concern over a New Attempt to Dismiss the Guatemalan Human Rights Ombudsperson], November 19, 2019.

³⁸ CALDH, CEJIL, Myrna Mack Foundation, Institute for Comparative Studies in Penology of Guatemala (ICCPG), UDEFEGUA, [Organizaciones instamos a garantizar independencia del procurador de derechos humanos en Guatemala](#) [We organizations urge guarantee of independence for the Human Rights Ombudsperson in Guatemala], October 4, 2017; *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019; CAFCA, Information on the situation of transitional justice in Guatemala, November 4, 2019; IACHR, [Audiencia sobre obstáculos, retrocesos y retos para el avance de los derechos humanos en Guatemala](#) [Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], September 23, 2019; BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019.

Ombudsperson himself reported that the context was becoming dangerous and that he did not have the capacity to discharge his constitutional duty because of funding cuts and the lack of budget resources, which were strangling the institution.³⁹

29. The PDH has stated his concern over the absence of funding and how this is jeopardizing the defense and promotion of the human rights of persons living in Guatemala.⁴⁰ He reported that his office has sustained a budget cut amounting to Q 20 million.⁴¹ In view of this, the PDH filed a proceeding for protection on constitutional grounds (*amparo*) against Congress⁴² and the CC ruled for the benefit of the PDH, thus rendering null and void a legislative agreement that had ordered the budget cuts. Nevertheless, the Ministry of Finance failed to enforce this ruling;⁴³ therefore the PDH filed another *amparo* proceeding, as a result of which the Supreme Court of Justice (*Corte Suprema de Justicia—CSJ*) instructed the Ministry to transfer the required budget. Nevertheless, the CSJ overturned its own ruling.⁴⁴

30. Specifically, the PDH has denounced the government's obstructing him from fulfilling his duties by "financially choking the institution, systematic threats and pressure, repeated attempts at removal from office and campaigns of slurs and slander."⁴⁵ The PDH has been criticized by the executive branch and various congresspersons.⁴⁶ In Congress, attempts have also been made to promote his dismissal.⁴⁷ This year, once again, dismissal of the PDH was promoted claiming misuse of office.⁴⁸ In the framework of this process, on October 29, the PDH was subpoenaed to appear before the Congressional Committee on Human Rights. Because several congresspersons withdrew in the course of the hearing, thus breaking quorum requirements, the Ombudsperson decided to withdraw, in the understanding that any decision taken by the Committee would be unlawful.⁴⁹ On October 30, the Governing Board of Congress filed a criminal complaint against the Ombudsperson for crimes of misuse of authority, usurpation of duties, and failure to discharge duties, because he had withdrawn from the congressional hearing.⁵⁰

³⁹ IACHR, Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala, September 23, 2019.

⁴⁰ PDH, communication to the IACHR, November 5, 2019.

⁴¹ IACHR, [Audiencia sobre obstáculos, retrocesos y retos para el avance de los derechos humanos en Guatemala](#) [Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], September 23, 2019.

⁴² *La Hora*, [CSI admite amparo de PDH por presupuesto](#) [CSJ rules admissible the appeal for protection for the PDH] September 25, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019; *Nómada, Rodas, en la mira y sin dinero: "Los ataques de los diputados son una medalla para mí"* [Jordán Rodas, targeted and penniless: attacks from congresspersons are like winning a medal"], October 23, 2019; see *Prensa Libre*, [CSI revoca amparo que otorgaba a la PDH](#) [CSJ overturns protection granting budget resources to the Office of the Ombudsperson], October 23, 2019.

⁴³ *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019; and [peligro de paralizar por recorte presupuestario: ni siquiera tiene para sueldos de octubre](#) [PDH at risk of standstill because of not even enough for October salaries], September 20, 2019.

⁴⁴ PDH, communication to the IACHR, November 5, 2019.

⁴⁵ *El Diario*, [El ómbudsman de Guatemala denuncia ser "blanco de ataques" de diputados](#) [Ombudsman of Guatemala being "a target of attacks" by congresspersons] October 27, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

⁴⁶ *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019.

⁴⁷ *Prensa Libre*, [Diputados buscan destituir al Procurador de los Derechos Humanos, Jordán Rodas](#) [Congresspersons dismiss Human Rights Ombudsperson Jordán Rodas] May 4, 2018; *Publinews*, [Diputado pide destitución del PDH y señala 20 habría incumplido sus atribuciones](#) [Congressperson requests dismissal of the Ombudsperson and points out 20 incidents where failed to discharge his duties], October 12, 2018; *Prensa Libre*, [Congreso archiva petición de destitución del procurador Jordán Rodas](#) [Congress files petition for dismissal of Ombudsperson Jordán Rodas], November 30, 2018; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

⁴⁸ *República*, [Varios diputados piden la destitución del PDH Jordán Rodas](#) [Various congresspersons request dismissal Ombudsperson Jordán Rodas]. October 2, 2019; *Prensa Libre*, [Diputados reúnen firmas para pedir destitución del procurador Derechos Humanos, Jordán Rodas](#) [Congresspersons bring together signatures to request dismissal of the Human Rights Ombudsperson Jordán Rodas], October 2, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

⁴⁹ *Prensa Libre*, [PDH Jordán Rodas se retira de tensa citación que buscaba removerlo del cargo](#) [Ombudsperson Jordán Rodas withdraws from tense meeting that sought dismissal from his job], October 29, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

⁵⁰ Republic of Guatemala, Congress, [Comunicado de prensa de 31 de octubre 2019](#) [Press release, October 31, 2019]; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

31. The IACHR has monitored this situation of budget cuts, threats of dismissal,⁵¹ challenges to the legitimacy of his decisions,⁵² as well as the social media campaign against him and the harassment and threats against him and his family, because of which they are the beneficiaries of a precautionary measure that is currently in force.⁵³

32. Furthermore, information was received about the institutional crisis in which the Presidential Human Rights Commission (COPREDEH) is also involved, stemming from the absence of budget allocations. Civil society organizations construe this as part of a regressive policy in human rights.⁵⁴ In this connection, in its observations on the draft version of this report, the State reported that a budget of Q182.7 million had been appropriated for 2019—Q150 million were earmarked specifically for compliance with the State commitments concerning human rights, of which Q100 million correspond to collective redress for the Chixoy communities.⁵⁵

33. In view of the situation described above, the IACHR reiterates recognition for the role played by independent national institutions to promote and protect human rights in order to ensure full respect for human rights nationwide and calls upon the state to protect the actions of its Ombudsperson and to strengthen its national human rights institutions.

34. Because of the above, the IACHR considers that this recommendation has not been complied with. In that context, the Commission urges the state to guarantee sufficient human and financial resources to ensure that the PDH and COPREDEH can effectively fulfill their mandate, without being the target of intimidation or fear of reprisals for the work they do.

35. **Regarding the pending ratification of inter-American instruments**, in particular in connection with the Inter-American Convention against All Form of Discrimination and Intolerance, in 2018 the state informed that “it is party to most international human rights instruments which are mainstreamed into domestic law on the basis of processes envisaged in the Constitution [...]” Regarding the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, the state indicated that “it is party to the International Convention on the Elimination of All Forms of Racial Discrimination” and that “because of that it has been party to various regional and international forums.”⁵⁶ For 2019, the IACHR regrets not having any information about this.

36. On the Additional Protocol to the American Convention on Human Rights to Abolish the Death Penalty, the state indicated that capital punishment is envisaged for crimes such as murder, parricide, kidnapping, extrajudicial execution, forced disappearance, crimes in the Law against Drug Trafficking, among others. It recalled that it cannot issue this sentence to crimes for which capital punishment was applicable after the date it ratified the American Convention.⁵⁷ In addition, the state reported that, on the basis of the CC’s

⁵¹ IACHR, Press Release No. 298/19, [La CIDH expresa su preocupación por un nuevo proceso de remoción en contra del Procurador de Derechos Humanos de Guatemala](#) [IACHR Expresses Concern over New Attempt to Dismiss Human Rights Ombudsperson of Guatemala], November 19, 2019.

⁵² *Impunity Watch*, Follow-up on IACHR recommendations on Guatemala, received on October 25, 2019.

⁵³ IACHR, Precautionary measure No. 674-17, Resolution No. 42-17 Augusto Jordán Rodas Andrade and his nuclear family regarding Guatemala, October 27, 2017. See IACHR, Press Release No. 174/17, [CIDH otorga medida cautelar a favor del Procurador Procurador de Derechos Humanos de Guatemala](#) [IACHR grants precautionary measure for Human Rights Ombudsperson of Guatemala], Guatemala], November 3, 2017.

⁵⁴ BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019.

⁵⁵ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

⁵⁶ State of Guatemala, Observations from the State of Guatemala on the Report on the Situation of Human Rights in Guatemala 2017, October 25, 2018, p. 4.

⁵⁷ Ratified in 1978. Crimes of kidnapping, extrajudicial execution, enforced disappearance, parricide, death of the presidents of state entities. Republic of Guatemala, Report of the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

jurisprudence, the CSJ has repealed the death penalty in specific cases⁵⁸ and there is a legislative proposal to abolish the death penalty.⁵⁹

37. As for the PDH, he indicated that, as long as there is no express abolition of the death penalty in the Constitution, the possibility of reactivating it by the issuance of ordinary legislation envisaging said penalty, continues to be a risk. This is a breach of the American Convention, regarding which sentencing the death penalty cannot be extended to those crimes for which the penalty was not applicable at the time of its ratification.⁶⁰ Nor has the state ratified the Inter-American Convention on the Rights of Older Persons. Therefore, compliance with these recommendations is pending.

38. Regarding the recommendations aimed at **continuing with efforts to eradicate extreme poverty and hunger, especially adopting urgent measures to eliminate the serious problem of child malnutrition, such as programs and policies to prevent maternal and child mortality in the country**, on December 23, 2019, the State of Guatemala provided information via note P-1003-2019/JLBR/WR/er addressed to the IACHR's Office of the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (SRESCER).

39. In that communication, the State indicated that it has programs to assist communities that experience difficulties in accessing food, specifically underscoring its 2017 Seasonal Hunger Assistance Response Plan and its Healthy Growth Intervention Program, which periodically provides 500 quetzals to priority families in different departments of the country. The State also indicated that the Ministry of Social Development, through the "Social Bond" Program, makes recurring conditional cash transfers to families living in poverty and extreme poverty as a way to encourage children living in poverty to attend school and seek medical care. The program numbers 184,836 users, 73.3% of whom belong to the country's indigenous peoples. Of these, 33.91% reportedly live in extreme poverty. According to the State, this strategy aims to support development in Guatemala by reducing the prevalence of risk factors for chronic malnutrition.

40. In its observations on the draft version of this report, the State also reported that government policies are being developed through the Presidential Commission for the Reduction of Chronic Malnutrition to eradicate extreme poverty and hunger, particularly child malnutrition. In this connection, the State highlighted the fact that the National Strategy for the Prevention of Chronic Malnutrition 2016/2020 prioritizes 10 interventions that include support for breastfeeding; supplementary nutrition starting at 6 months of age; vitamin A supplements, therapeutic zinc for controlling diarrhea; iron and folic acid for women of childbearing age; vaccinations; and fortification of basic foods with micronutrients. It also indicated that implementation of the Joint Emergency Response Fund project helps to reduce mortality and morbidity caused by moderate and acute malnutrition.⁶¹

41. The Commission welcomes the implementation of these types of programs and targeted assistance for those who are more vulnerable; this notwithstanding, the IACHR observes that general indicators show that the levels of inequality, general and extreme poverty, and malnutrition continue to be widespread problems in Guatemala.

⁵⁸ On October 24, 2017, the CC issued a resolution for case file 5986-2016, ruling that the paragraphs of Articles 131, 132 Bis, 201, 201 Ter, and 383 of the Criminal Code and the Law against Drug Trafficking, which are the articles governing the death penalty as the maximum penalty, were unconstitutional, because they clash with Articles 17, 46, and 149 of Guatemala's Political Constitution, which indicate that, with respect to human rights, the treaties and conventions ratified by the state "take precedence over domestic law." Likewise, it ruled that Articles 201 and 201 Ter of the Criminal Code are unconstitutional because they breach the international commitments made by the state with its ratification of the American Convention. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019; Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report 2019, received on October 20, 2019; Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

⁶⁰ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁶¹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

42. The SRESCER views with concern the current situation of persons living in poverty or extreme poverty in Guatemala. According to statistics from Banco de Guatemala, in 2018, 59.28% of the population was living in poverty, and 23.36% in extreme poverty, figures that are identical to those for 2017.⁶²

43. On the basis of public information, it has been found that the state has adopted the Multidimensional Poverty Index (MPI) to “promote actions that would contribute to reducing this scourge.”⁶³ According to the Ministry for Social Development (*Ministerio de Desarrollo Social—MIDES*), 61.6% of Guatemalans are living in multidimensional poverty, which means, in other words, that the population suffers from social deprivations or shortages that place them in a situation of vulnerability.⁶⁴ In addition, on the basis of the most recent ENCOVI survey, a total of 59.3% of the population have been recorded as living in poverty,⁶⁵ and of this population it is the indigenous population that is the most heavily impacted, showing evidence of patterns of discrimination, rising from 75% in 2006 to 79.2% in 2014.⁶⁶ In urban areas, poverty grew from 30.2% to 42.1% and, in rural areas, from 70% to 76.1%.⁶⁷

44. In connection with the effectiveness of social programs and public policies focusing on poverty abatement and the progressivity of the ESCERs, it must be underscored that the IACHR has considered that policies promoted by the state have not done enough to reduce the social gap. In that sense, the state must take drastic measures to respond to the country’s situation, especially regarding the populations living in situations of higher vulnerability or historical discrimination.⁶⁸ Because of the above, compliance with this recommendation is pending.

45. In connection with the right to food, the malnutrition rate indicates a total of 35.1% in the number of the cumulative cases of acute malnutrition, according to results of the Ministry of Public Health and Social Welfare.⁶⁹ In addition, in 201 communities of the Dry Corridor, it is estimated that more than 70% of corn crops and 60% of bean crops may be damaged, thus undermining access to adequate food for the population.⁷⁰ In that context, the IACHR and its SRESCER found that, in the first semester of 2019, there was a rise in the number of reported cases of acute malnutrition, compared to the preceding two years; the rate this year amounted to 35.1% compared to 28.6% in 2018.⁷¹ The National Seismology, Volcanology, Meteorology, and Hydrology Institute (*Instituto Nacional de Sismología, Vulcanología, Meteorología e*

⁶² Republic of Guatemala, Banco de Guatemala, [Guatemala en Cifras 2019](#) [Guatemala in Figures 2019], June 6, 2019, p. 16.

⁶³ Republic of Guatemala, Secretariat for Planning and Programming of the Office of the President, [Guatemala adopta herramienta para reducir la incidencia de la pobreza](#), [Guatemala adopts tool to reduce impact of poverty], February 14, 2019.

⁶⁴ Republic of Guatemala, Ministry for Social Development (Ministerio de Desarrollo Social—MIDES), [Índice de Pobreza Multidimensional](#), [Multidimensional Poverty Index], July 29, 2019, p. 1. *Prensa Libre*, [Qué es ser multidimensionalmente pobre y por qué el 61.1% de los guatemaltecos viven en esa condición](#), [What does it mean to live in multidimensional poverty and why 61.1% of Guatemalans live in that condition], June 20, 2019.

⁶⁵ Republic of Guatemala, National Statistics Institute (*Instituto Nacional de Estadística—INE*), [Republica de Guatemala: Encuesta Nacional de Condiciones de Vida 2014](#) [Republic of Guatemala: National Survey on Living Conditions 2014], December 2015.

⁶⁶ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁶⁷ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁶⁸ IACHR, [Informe Anual 2018, Capítulo V. Informe de seguimiento de recomendaciones formuladas por la CIDH en el informe sobre la situación de derechos humanos en Guatemala](#), [Annual Report 2018, Chapter V, Follow-up Report on the Recommendations Issued by the IACHR in the report “Situation of Human Rights in Guatemala”], 2018, p. 618, para. 30.

⁶⁹ Republic of Guatemala, Ministry of Public Health and Social Welfare, [Boletín de la Semana Epidemiológica: Departamento de Epidemiología Semana No. 27-2019](#) [Newsletter of the Epidemiological Week: Department of Epidemiology, Week No. 27-2019], July 6, 2019.

⁷⁰ Republic of Guatemala, [Pronóstico de seguridad alimentaria y nutricional. Periodo: julio, agosto, septiembre de 2019](#) [Food and nutritional security prognosis. Period: July, August, September 2019], July 2019, p. 2.

⁷¹ Republic of Guatemala, Ministry of Public Health and Social Welfare, [Boletín de la Semana Epidemiológica 27/2019 – Casos de Desnutrición Aguda](#), [Newsletter of the Epidemiological Week 27/2019 – Cases of Acute Malnutrition], July 6, 2019.

Hidrología–INSIVUMEH) contends that the dry season and the heat wave which appeared two weeks earlier than expected are responsible for this⁷²

46. Likewise, the IACHR received information from the PDH, pointing out that the high rates of chronic malnutrition continued: in 2019 a total of 53.9% of children under five were recorded as suffering from this condition.⁷³ Of the children between 18 and 23 months of age, 55% suffer from chronic malnutrition, and 58% of indigenous children suffer from malnutrition.⁷⁴ In addition, budget resources for Program 14 of the Ministry of Public Health and Social Welfare to prevent child mortality and chronic malnutrition have declined.⁷⁵ Therefore, compliance with this recommendation is pending.

47. Likewise, the IACHR and its SRESCER voices its concern over the rate of deaths stemming from complications during pregnancy in the state of Guatemala in 2019. According to statistics from the Ministry of Health, 105 women die for every one hundred thousand live births; nevertheless, the newborn mortality rate amounts to 22 children for every thousand live births.⁷⁶ The incidental mortality rate continues to grow: 21 deaths were reported until August 2019, 7 more than those reported in the same period during 2018.⁷⁷ Furthermore, between January and March 2019, 6 out of every 10 maternal deaths recorded were indigenous women living in rural areas, and 52% of the dead women belong to the Maya people.⁷⁸ Likewise, hemorrhaging is the prevailing cause of death (49%), and 85% of deaths continue to be directly caused by pregnancy, childbirth, and puerperium.⁷⁹

48. In connection with the recommendation aimed at **adopting urgent measures to guarantee economic, social, cultural, and environmental rights (ESCR) to the population, in particular persons in a situation of greater exclusion**, the State submitted information regarding the rights to education and health via note P-1003-2019/JLBR/WR/er addressed to the SRESCER. In this vein, the State indicated that it lacks a specific fiscal policy pertaining to education, also noting that the Ministry of Education was in the process of developing the National School Infrastructure System, the aim of which is to help bring data into the physical management of educational facilities. That State indicated that, with respect to the right to health, the Secretariat for Social Works of the First Lady was helping to improve living conditions for vulnerable populations by providing healthcare via targeted mechanisms designed to offer health coverage through actions that include “medical days,” medical treatment, and the provision of outpatient care equipment.

49. In its observations on the draft version of this report, the State also furnished information indicating that the Ministry of Labor and Social Security was implementing a program known as Financial Support for Older Adults [*Aporte Económico al Adulto Mayor*] in Guatemala’s 22 departments in an effort to help combat poverty among this segment of the population. In terms of agricultural policy, the State noted that it was developing a mechanism for “women’s access to land and other productive assets” and that an operations

⁷² *Prensa Libre*, [Canícula se adelanta una semana y se establece en 10 departamentos](#), [Heat wave a week ahead of time and spreads to 10 departments], July 4, 2019.

⁷³ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁷⁴ Oxfam International, [Entre el suelo y el cielo. Radiografía multidimensional de la desigualdad en Guatemala](#) [Between Earth and Sky. Multidimensional X-ray of Inequality in Guatemala], March 28, 2019.

⁷⁵ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁷⁶ Oxfam International, [Entre el suelo y el cielo. Radiografía multidimensional de la desigualdad en Guatemala](#), [Between Earth and Sky. Multidimensional X-ray of Inequality in Guatemala], March 28, 2019.

⁷⁷ Republic of Guatemala, Ministry of Public Health and Social Welfare, [Boletín de la Semana Epidemiológica Semana No 39-2019](#) [Newsletter of the Epidemiological Week, Week No. 39-2019], 2019.

⁷⁸ Republic of Guatemala, Ministry of Public Health and Social Welfare, [Boletín de la Semana Epidemiológica Semana No 39-2019](#) [Newsletter of the Epidemiological Week, Week No. 39-2019], 2019; *Prensa Libre*, [seis de cada 10 muertes maternas que se registran son de mujeres indígenas](#) [Six out of every 10 maternal deaths are among indigenous women], July 8, 2019.

⁷⁹ *Prensa Libre*, [seis de cada 10 muertes maternas que se registran son de mujeres indígenas](#), [Six out of every 10 maternal deaths are among indigenous women], July 8, 2019.

manual for this had been around since 2018. However, the IACHR lacks information as to how this might be being implemented presently. Lastly, the State also emphasized that the Family Farming for Strengthening the Rural Economy [*Agricultura Familiar para el Fortalecimiento de la Economía Campesina*] program was endeavoring to improve productive systems and family incomes by guaranteeing production cycles, with a focus on the provision of agricultural inputs and goods and capacity-building for women and farmers.⁸⁰ While they do have some general information about these programs, the IACHR and its SRESCER lack substantive or detailed information on how these actions might be helping the target communities to effectively enjoy their economic and social rights. In this context, the State must provide complete information that takes stock of the social impacts of these programs.

50. In specific terms with respect to the right to education, the IACHR and its SRESCER note that about 1.9 million children and adolescents from 3 to 17 years old are outside the educational system, which prevents them from developing academically, personally, and comprehensively so that they can have access to the job market in the future, and the average schooling amounts to only 6.5 years.⁸¹ Likewise, on September 4, 2019, the 2020 Budget was reviewed, revealing that Guatemala has the lowest spending in Central America for the education sector, although it is the region's largest economy.⁸² It is deemed that 50% of young people are outside the educational system, and it is challenge for the future to increase this spending.⁸³

51. The IACHR notes that the rate of exclusion from schooling is higher for the indigenous population, amounting to 47.5%.⁸⁴ In the education sector, indigenous women suffer from the highest inequality and exclusion because illiteracy is three times more frequent among indigenous women than among indigenous men.⁸⁵ Furthermore, the departments with the highest rates of illiteracy in Guatemala are Quiché (26.03%), Alta Verapaz (24.88%), Chiquimula (22.15%), and Huehuetenango (19.24%), all of which have a high percentage of indigenous population.⁸⁶

52. Furthermore, regarding the right to health, the IACHR and its SRESCER view with concern that, according to data from the PDH, child immunization coverage declined because, in some of the country's regions, only 42.5% of children under five years old have benefited from a full immunization schedule.⁸⁷ Because health accounts for about 52.2% of household spending, access to health services depends on the household's budget.⁸⁸ Although health centers of the Ministry of Public Health and Social Welfare (*Ministerio de Salud Pública y Asistencia Social—MSPAS*) provide medical assistance, persons must use their own resources

⁸⁰ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

⁸¹ Central American Tax Research Institute (*Instituto Centroamericano de Estudios Fiscales—ICEFI*), Elements of analysis and proposal to strengthen the Draft General Budget of Revenues and Outlays of the State for Fiscal Year 2020, October 2019. Available at: Archive of the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights; UNDP, [Guatemala, Human Development Indicators](#), 2018.

⁸² *Prensa Libre*, [Presupuesto 2020: Por qué la ambiciosa proyección fiscal puede comprometer los gastos del nuevo gobierno](#) [Budget for 2020: Why ambitious fiscal forecast may undermine new government's spending], September 4, 2019.

⁸³ *Prensa Libre*, [Presupuesto 2020: Por qué la ambiciosa proyección fiscal puede comprometer los gastos del nuevo gobierno](#) [Budget for 2020: Why ambitious fiscal forecast may undermine new government's spending] September 4, 2019.

⁸⁴ *Prensa Libre*, [Qué es ser multidimensionalmente pobre y por qué el 61.1% de los guatemaltecos viven en esa condición](#) [What does it mean to live in multidimensional poverty and why 61.1% of Guatemalans live in that condition], June 20, 2019.

⁸⁵ Oxfam International, [Entre el suelo y el cielo. Radiografía multidimensional de la desigualdad en Guatemala](#), [Between Earth and Sky. Multidimensional X-ray of Inequality in Guatemala], March 28, 2019.

⁸⁶ Oxfam International, [Entre el suelo y el cielo. Radiografía multidimensional de la desigualdad en Guatemala](#), [Between Earth and Sky. Multidimensional X-ray of Inequality in Guatemala], March 28, 2019.

⁸⁷ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁸⁸ ICEFI, Elements of analysis and proposal to strengthen the Draft General Budget of Revenues and Outlays of the State for Fiscal Year 2020, October 2019. Available at: Archive of the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights.

to buy medicines and technical equipment to receive healthcare from the MSPAS.⁸⁹ The above leads to disproportionate spending from household budgets for access to medical and healthcare services, thus increasing the rates of poverty of the Guatemalan population.

53. The continuing high rates of pregnancy among girls and adolescents in Guatemala is a matter of the utmost concern; according to the Reproductive Health Observatory, from January to August of 2019 year, 85,619 pregnancies among girls and adolescents between 10 and 19 years of age have been recorded.⁹⁰ According to data provided by Oxfam International, “[t]he exercise of sexual and reproductive rights depends on education and socioeconomic status.”⁹¹ According to the statistics, the trend is mainly among young people, as a total of 21.4% of young people who went to college did not use a condom in their last sexual intercourse, whereas almost three times the number of young people who did not go to college, equivalent to 63.9%, did not use a condom in their last sexual intercourse.⁹²

54. Furthermore, according to statistics from the 2014 National Survey on Living Conditions (*Encuesta Nacional sobre Condiciones de Vida—ENCOVI*), 20% of the population earned a monthly income of about Q. 530 (about US\$70), whereas 20% in the highest income quintile earned an income that was, on average, 23 times higher (Q. 12,138). A wage increase does not manage to offset the shortfall owing to the rise in prices of the Basic Food Basket (BFB), because of which 8 out of every 10 persons do not earn enough income to cover the cost.⁹³ In addition, in 2019, there was rise in the cost of the Basic Food Basket.⁹⁴

55. The IACHR and its SRESCER reiterate what is laid out in subparagraph (a) of Article 7 of the Additional Protocol to the American Convention on Human Rights in the Areas of Economic, Social and Cultural Rights, known as the San Salvador Protocol, which establishes the obligation of states to guarantee to all workers decent and dignified living conditions for them and their families, as well as fair wages.⁹⁵ It also recalls that the remuneration of workers must be subject to periodic review and adjusted to the cost of living in order to enable workers and their families to enjoy healthcare services, education, food, water, sanitation, housing, and clothing and to cover additional expenses.⁹⁶ Because of this, it calls upon the state of Guatemala to fulfill this obligation in order to guarantee the full exercise of the remaining economic, social, cultural, and environmental rights of Guatemala’s inhabitants.

B. Recommendations regarding the administration of justice

- Approve constitutional reform on justice as soon as possible while ensuring compliance with international standards on the subject matter, in order to strengthen the judicial career service.

⁸⁹ ICEFI, Elements of analysis and proposal to strengthen the Draft General Budget of Revenues and Outlays of the State for Fiscal Year 2020, October 2019. Available at: Archive of the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights.

⁹⁰ Observatory on Sexual and Reproductive Health (*Observatorio en Salud Sexual y Reproductiva—OSAR*), [Embarazos y registro de nacimientos 2019](#) [Pregnancies and Registry of Births 2019], August 30, 2019.

⁹¹ Oxfam International, [Entre el suelo y el cielo. Radiografía multidimensional de la desigualdad en Guatemala](#), [Between Earth and Sky. Multidimensional X-ray of Inequality in Guatemala], March 28, 2019.

⁹² Oxfam International, [Entre el suelo y el cielo. Radiografía multidimensional de la desigualdad en Guatemala](#), [Between Earth and Sky. Multidimensional X-ray of Inequality in Guatemala], March 28, 2019.

⁹³ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁹⁴ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁹⁵ OAS, [Protocolo Adicional a la Convención Americana sobre Derechos Humanos En Materia De Derechos Económicos, Sociales Y Culturales](#) [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights], San Salvador Protocol, Article 7, November 17, 1988.

⁹⁶ CESCR, General Comment No. 23 (2016) on the right to just and favorable conditions of work (Article 7 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/23, April 27, 2016. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovL.CuW1a0Szab0oXTdlmnsjZZVQfoUYY19kME5pOqRbao%2BukBRbHveRQH1JhhOvARU9LtsSMRe8nMYDL8aqZ%2Bklb64mA2MnEMYNfhldeObfLiRWj>

For this purpose, it must be ensured that the processes of selection and appointment of the operators of justice are carried out in keeping with Inter-American standards, under merit and professional qualification-based criteria, free of any improper political interference.

- Examine the factors limiting expeditious and effective access to justice and take corrective measures. For example, ensure that the *amparo* appeal mechanism and the application thereof in Guatemala meet Inter-American standards on the subject.

56. Regarding the recommendation **to approve constitutional reforms on justice as soon as possible**, the IACHR regrets that no updated information has been received from the state. According to information in the public domain, the process of reform that started in 2015 has been stopped in Congress, and according to Guatemalan civil society organizations, there is a lack of political will to move forward. In December 2018, the CICIG Commissioner, Iván Velásquez, had already warned that the bill “was at a standstill in the Congress of the Republic, where it has yet to be defined.”⁹⁷ According to the PDH, constitutional reforms on justice were not approved by the Congress of the Republic and that year there were no other attempts to bring them forward.⁹⁸

57. Regarding the election of judges of the Chambers of the Court of Appeals and the Supreme Court of Justice that were carried out this year, civil society organizations reiterated a series of concerns, in particular, that it was conducted via nominating committees, established without proper transparency.⁹⁹ They stated that the Council for the Legal Profession (*Consejo de la Carrera Judicial—CCJ*) had not drafted the Regulations for the Law on the Legal Profession (*Ley de Carrera Judicial—LCJ*), whose deadline for issuance was one year after October 24, 2017; the auxiliary bodies had not been established (Professional Performance Evaluation, Supervision of Tribunals, and the Judicial Studies School), nor had the professional performance evaluations of judges and magistrates been completed, all of which exerted an impact on the election.¹⁰⁰

58. Civil society and the CICIG also pointed out that no objective criteria were established to check the integrity, impartiality, and independence of the candidates and the possible constraints on the right to participate for all those interesting in applying for the positions, because of the short time to respond to the invitation and the difficulty of obtaining the documents required.¹⁰¹ The submittal of only one list of applicants was questioned, as well as the failure to verify eligibility and good repute requirements, the elimination of interviews, the application of persons with conflicts of interest, the failure to comply with the LCJ, and undue promptness in the processes, among other irregularities.¹⁰²

⁹⁷ Agencia EFE, [El jefe de la Cicig advierte del reparto político de la Corte Suprema en Guatemala](#), [Head of CICIG warns of politically based redistribution of Supreme Court in Guatemala], December 7, 2018; *Prensa Libre*, [Iván Velásquez advierte de reparto político de la Corte Suprema de Justicia](#) [Iván Velásquez notes politically based redistribution of Supreme Court in Guatemala], December 7, 2018.

⁹⁸ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

⁹⁹ CEJIL, DPLF, Lawyers without Borders, Impunity Watch, International Platform against Impunity, Open Society Justice Initiative, WOLA, Fundación para la Justicia y el Estado Democrático de Derecho (Foundation for Justice and the Democratic Rule of Law), Guatemala Human Rights Commission (GHRC), and RFK Human Rights, [Organizaciones internacionales expresan preocupación por irregularidades en el proceso de elección de altas cortes en Guatemala](#) [International organizations express concern over irregularities in the election of high courts in Guatemala], Septiembre 2019.

¹⁰⁰ *Impunity Watch*, [Obstáculos a la carrera judicial en Guatemala](#), [Obstacles to judicial career in Guatemala], October 24, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

¹⁰¹ *elPeriódico*, [Impunity Watch cuestiona reelección de magistrados](#) [Impunity Watch questions reelection of judges], September 11, 2019. *Impunity Watch*, [Cortes en juego: el desempeño de las Salas de Apelaciones de Guatemala](#) [Courts at stake: Performance of Courts of Appeal in Guatemala], Septiembre 2019. See also

¹⁰² CEJIL, DPLF, Lawyers without Borders, Impunity Watch, International Platform against Impunity, Open Society Justice Initiative, WOLA, Fundación para la Justicia y el Estado Democrático de Derecho (Foundation for Justice and the Democratic Rule of Law), Guatemala Human Rights Commission (GHRC), and RFK Human Rights, [Organizaciones internacionales expresan preocupación por irregularidades en el proceso de elección de altas cortes en Guatemala](#) [International organizations express concern over irregularities in the election of high courts in Guatemala], Septiembre 11, 2019; International Federation for Human Rights (FIDH), [Guatemala: Justicia y Estado de derecho en la encrucijada](#), [Guatemala: Justice and Rule of Law at the Crossroads], August 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019; CICIG, [Informe Comisiones de Postulación: Desafíos para asegurar la independencia judicial](#) [Report of the Nominating Committees: Challenges to ensuring independence of judiciary], July 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

59. On September 16, the Constitutional Court (CC) nullified the establishment of the Nomination Committee to elect the candidates to the Supreme Court of Justice (CSJ), by admitting the appeals for protection on constitutional grounds (*amparos*) denouncing that the judges who were members of the Nominating Committee had not been chosen in accordance with the guidelines set by law¹⁰³ and ruled to render the election null and void.¹⁰⁴ As a result, the Council for the Legal Profession (*Consejo de la Carrera Judicial—CCJ*) must follow the procedures stipulated in the Law on the Legal Profession (*Ley de la Carrera Judicial—LCJ*): that is, it must draw up regulations, integrate the auxiliary bodies, create the Professional Performance Evaluation Unit, and conduct the evaluations of judges and magistrates on the basis of adequate criteria and methodologies, as provided for by international standards.¹⁰⁵

60. In that same month, Congress included amending the LCJ on its agenda.¹⁰⁶ Nevertheless, in reaction to the Constitutional Court's decision, certain congresspersons promoted a decree suspending the enforcement of Article 76 of the LCJ in order to authorize the procedures used by the Nominating Committees, both for the establishment of the list of applicants to judgeships for the CSJ, the Court of Appeals, and other tribunals. That would involve failure to comply with the CC's decision on the evaluation of the applicants to the Courts.¹⁰⁷ At the cutoff date for approval of the present report, that decision of the CC had not been complied with.

61. The IACHR is also concerned about the critical and offensive speeches made by various players in the context of a highly polarized environment, especially those from state agents against the CC's decisions.¹⁰⁸ In this context, it is noteworthy that, in October 2019, the IACHR granted precautionary measures for the protection of one judge¹⁰⁹ and three magistrates of the CC.¹¹⁰ The security situation of justice operators and its impact on judicial independence is developed below in the report.

62. The IACHR reiterates that the reform process is an important opportunity to strengthen the independence of justice operators in Guatemala, and therefore it urges the state to promote constitutional reform in justice, as well as adopt it as quickly as possible, ensuring that it meets international standards in the matter. Because of all of the above, it deems that compliance with this recommendation is pending.

63. As regards the recommendation to **examine the factors limiting expeditious and effective access to justice and take corrective measures**, the IACHR has observed impacts on judicial guarantees, procedural delay, and the rise in the rates of impunity. As for the state, it reported that, as part of its work in the jurisdictional area, compliance has been given to hearing and ruling objectively, impartially, and independently the cassation appeal case files, conflicts of jurisdiction, the appeal for the transfer of high-risk trials, special procedures for mutual legal assistance from abroad, the appeal for review, the special procedure for requesting the transfer of high-risk trials, and special procedure for the transfer of Guatemalan nationals

¹⁰³ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019, *Por una Libre, Postulación de aspirantes a CSJ debe comenzar de nuevo*, [Submittal of applications for the CSJ must again], September 16, 2019.

¹⁰⁴ See: *Impunity Watch*, [Obstáculos a la carrera judicial en Guatemala](#) [Obstacles to judicial career in Guatemala], 2019, p. 25; CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019.

¹⁰⁵ Republic of Guatemala, Congress, Decree 32-2016 (initiative of law 5577).

¹⁰⁶ The proposal also sets one month for approval of the corresponding regulations, indicating that, for the implementation of the evaluation system, the CSJ shall manage, from its budget, "all the necessary requirements and inputs to ensure compliance with what is regulated in Article 32 of the law in order to start evaluating the judges and magistrates within six months at the latest, as for the entry into force of the present decree." This article also avoids complying with what was ruled by the CC. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019, [La CIDH expresa preocupación por medidas adoptadas que pueden debilitar la la impunidad y la corrupción en Guatemala](#) [IACHR Expresses Concern over Measures that May Hamper the Fight against Corruption], January 10, 2019.

¹⁰⁹ IACHR, MC No. 682-18, [Resol 55/2019](#) of October 23, 2019 for the benefit of judge Érika Lorena Aifán Dávila.

¹¹⁰ IACHR, MC No. 28-19, [Resol 56/2019](#) of October 25, 2019 for the benefit of the magistrates of the Constitutional Court (CC) José Francisco de Mata Vela, Bonerge Amílcar Mejía Orellana, José Mynor Par Usen, and María Cristina Fernández.

convicted in another country.¹¹¹ Likewise, the state provided information about a series of conventions signed on: access to justice and inter-agency coordination in various subjects such as protection of children and adolescents who are victims of or witnesses to crimes; women victims of violence and discrimination; border crimes against women and other persons and organized crime in the Northern Triangle; services for victims; and disappearance and abduction of persons.¹¹²

64. The Commission received information indicating the scant progress achieved in legal proceedings in cases of serious human rights violations.¹¹³ It also notes the review of the performance of the Courts of Appeals between 2014 and 2019, which found that 97% of the special appeals are resolved without holding any oral and public hearings. This infringes the American Convention, in terms of the publicity, orality, and promptness of judicial rulings. It also notes that courts take, on average, 267 days to rule on appeals, a delay that is six times longer than stipulated by law, and 169 days to rule on appeals for protection on constitutional grounds (*amparos*), that is, seven times longer than stipulated by law.¹¹⁴ The review of access to justice for women is examined in the section on women (see II.E below).

65. This year, the CICIG also reported that the impunity rate in Guatemala grew in 2018. This rate was, on average, 94%, which was higher than in the preceding decade, but it rose to 97.6% in 2018.¹¹⁵ Crimes of corruption have the highest rate of impunity, at almost 99%, followed by theft, violence against women, firearm offenses, and extortion. It turned out that drug offenses had the lowest impunity rate, at 59%.¹¹⁶ It must be underscored that the department of Alta Verapaz had the highest impunity rate in the country, at 96%, followed by Escuintla at 95%, along with the departments of Guatemala, Retalhuleu, Suchitepéquez, and Huehuetenango. Baja Verapaz, Sololá, and San Marcos yielded impunity rates of 89%, the lowest in Guatemala and the only ones below 90% in 2018.¹¹⁷ The IACHR takes note of these alarming rates of impunity with great concern.

66. As to the recommendation to **ensure that the amparo appeal mechanism and the application thereof in Guatemala meet Inter-American standards on the subject**, in its observations on the draft version of this report, the State held that this was provided for under the Law on Amparo, Habeas Corpus, and Constitutionality and that no area was off limits for amparo.¹¹⁸ In addition, according to the PDH, there has been no progress achieved to amend the Law on Protection on Constitutional Grounds (*Ley de Amparo*), although it has been one of the recommendations repeatedly made to the state, even in the judgments of the I/A Court H.R.¹¹⁹ In view of this situation, the IACHR considers that compliance with this recommendation is pending.

¹¹¹ It also reported that in the criminal courts, at 2018, 94,363 cases entered were recorded, 255,170 hearings were held, 272,300 court rulings were issued, 15,271 judgments were given, and 34,806 cases were settled by other means. Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

¹¹² Republic of Guatemala, Supplementary Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

¹¹³ CAFCA, Information on the situation of transitional justice in Guatemala, November 4, 2019.

¹¹⁴ *Impunity Watch*, [Cortes en juego: el desempeño de las Salas de Apelaciones de Guatemala](#) [Courts at stake: Performance of Performance of Courts of Appeal of Guatemala], September 2019.

¹¹⁵ CICIG, [Diálogos por el fortalecimiento de la justicia y el combate a la impunidad en Guatemala](#) [Dialogues for strengthening strengthening justice and combating impunity in in Guatemala], June 2019.

¹¹⁶ CICIG, [Diálogos por el fortalecimiento de la justicia y el combate a la impunidad en Guatemala](#) [Dialogues for strengthening justice and combating impunity in in Guatemala], June 2019; *InSight Crime*, [Informe sobre impunidad en Guatemala muestra límites de organismo anticorrupción](#) [Report on impunity in Guatemala shows limits of anti-corruption body], June 18, 2019. See also: CICIG, Myrna Mack Foundation and Heinrich Böll Stiftung, [Impunidad y redes ilícitas: un análisis de su evolución en Guatemala](#) [Impunity and unlawful networks: Review of their evolution in Guatemala], August 2019.

¹¹⁷ CICIG, [Diálogos por el fortalecimiento de la justicia y el combate a la impunidad en Guatemala](#) [Dialogues for strengthening justice and combating impunity in in Guatemala], June 2019; *InSight Crime*, [Informe sobre impunidad en Guatemala muestra límites de organismo anticorrupción](#) [Report on impunity in Guatemala shows limits of anti-corruption body], June 18, 2019. See also: CICIG, Myrna Mack Foundation and Heinrich Böll Stiftung, [Impunidad y redes ilícitas: un análisis de su evolución en Guatemala](#) [Impunity and unlawful networks: Review of their evolution in Guatemala], August 2019.

¹¹⁸ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

¹¹⁹ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

C. Recommendations regarding transitional justice and reparations to victims of the domestic armed conflict

- Approve Law 35-90 to create the National Commission to Search for Victims of Forced Disappearance and to push forward the search for missing persons in accordance with international standards on the subject.
- Approve Law 3551 to provide solidity and certainty to the National Reparations Program (PNR).
- Reinforce actions to combat impunity for human rights violations committed during the internal armed conflict, through prompt, thorough and impartial investigations, punish the perpetrators and masterminds and provide reparation to the victims
- Earmark sufficient resources to the Archive of the National Civilian Police.

67. Regarding the recommendation to **approve Law 35-90 to create the National Commission to Search for Victims of Forced Disappearance and to push forward the search for missing persons in accordance with international standards on the subject**, the state did not submit updated information. The IACHR has been informed that, in 2019, no progress was made in processing the initiative of Law 35-90.¹²⁰ In June, the PDH and the Working Group against Forced Disappearance in Guatemala signed a letter of understanding to promote approval of the initiative through dialogues that sensitize congresspersons elected to the legislature for 2020–2024.¹²¹ Furthermore, on October 17, a draft bill called the Framework for the Search of Disappeared Persons was submitted to the Legislative Department of Congress. In addition to focusing on victims who disappeared during the domestic armed conflict, the proposal includes the search of missing persons in other contexts such as migration and natural disasters.¹²²

68. In view of the information received on the absence of progress regarding this, the IACHR deems that compliance with the recommendation is pending. The IACHR urges the state to take the necessary measures to comply with this recommendation and, in particular, to proceed with the search of disappeared persons as a priority, in conformity with inter-American standards in the matter.

69. With respect to the recommendation to **pass Law 3551 to provide solidity and certainty to the National Reparations Program (PNR)**, the state did not submit updated information on compliance. The IACHR has learned that Law 3551, aimed at consolidating and giving certainty to the PNR, has not been adopted.¹²³ Likewise, although there is a judgment issued by the CC to strengthen the PNR, the state did not undertake the necessary steps to strengthen it; what is more, it has gradually reduced the budget allocated to the program, implementing 57.61% of available resources.¹²⁴

¹²⁰ Impunity Watch, Report: Follow-up on IACHR recommendations on Guatemala, October 23, 2019, p. 18; PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019., p. 10.

¹²¹ *Publinews*, [Firman convenio para cabildear ley que crearía la Comisión Nacional de Búsqueda de Personas Desaparecidas](#) [Agreement signed to lobby for law that would establish the National Commission for the Search of Missing Persons], June 24, 2019.

¹²² PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019, p. 10; Impunity Watch, Report: Follow-up on IACHR recommendations on Guatemala, October 23, 2019, p. 19; *La Hora*, ['Proponen Ley para la búsqueda de personas desaparecidas'](#) [Law for the Search of Missing Persons is proposed], September 26, 2019.

¹²³ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019; National Network of Victims and Survivors of Guatemala's Internal Armed Conflict (*Red Nacional de Víctimas y sobrevivientes del conflicto armado interno de Guatemala*), Information on the situation of transitional justice in Guatemala, November 4, 2019, p. 1.

¹²⁴ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019; National Network of Victims and Survivors of Guatemala's Internal Armed Conflict (*Red Nacional de Víctimas y sobrevivientes del conflicto armado interno de Guatemala*), Information on the situation of transitional justice in Guatemala, November 4, 2019, p. 1.

70. The Committee observes that there continue to be obstacles to the measures aimed at guaranteeing the right to comprehensive reparations for serious human rights violation committed during the armed conflict. Thus, the IACHR considers that compliance with this recommendation is pending and urges the state to adopt the necessary measures to pass Law 3551.

71. Concerning the recommendation to **reinforce actions to combat impunity for human rights violations committed during the internal armed conflict**, the state did not provide any information in its initial observations to the IACHR. In its observations on the draft version of this report, the State did not furnish updated information in this connection. According to information provided to the Commission, on January 17, 2019, the House of Representatives moved forward with processing initiative 5377, which broadened the 1996 law granting amnesty to common crimes to include as well serious human rights violations occurring during the internal armed conflict.¹²⁵ The IACHR pointed out that adoption of this initiative would impact both those cases already tried and ongoing investigations and trials, and urged the state to refrain from enacting this amendment.¹²⁶ In March, by means of the Resolution of Provisional Measures and Monitoring Compliance with Judgment, the Inter-American Court ordered the state to suspend the legislative process and to archive the legal initiative.¹²⁷

72. At the same time, the CC granted a provisional *amparo* filed by the victims impacted by the law 5377 initiative, ordering Congress to suspend the legislative proceeding.¹²⁸ Despite both judgments, the Commission has received information about steps taken by members of parliament to move forward with the discussion of the draft bill.¹²⁹ Likewise, the IACHR was apprised of the filing of a complaint by the Permanent Congressional Committee against the judges of the CC as a reaction to the *amparo* that was granted.¹³⁰

73. Furthermore, the Commission has been informed that, in 2019, the Office of the Public Prosecutor has not submitted new cases related to the armed conflict.¹³¹ With respect to ongoing cases, the IACHR takes note of reactivation of the Ixil Genocide case in June 2019, after the capture of retired General Luis Enrique Mendoza García.¹³² Likewise, it takes note of the conviction of former serviceman Santos López Alonso to 5,160 years of prison for the killing of 171 persons and crimes against humanity against 201 victims in the case of the “Dos Erres” Massacre.¹³³

¹²⁵ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019; CEJIL, [Guatemala: Aprobación de la LRN es un desacato a la sentencia de la Corte IDH](#) [Guatemala: Adoption of National Reconciliation Law (LRN) shows contempt for Inter-American Court’s judgment], March 11, 2019.

¹²⁶ IACHR, Press Release No. 14/19, [CIDH llama al Estado de Guatemala a abstenerse de reformar la Ley de Reconciliación Nacional](#), [IACHR calls upon State of Guatemala to refrain from amending National Reconciliation Law], January 25, 2019.

¹²⁷ I/A Court H.R. Case of Members of the Village of Chichupac and Neighboring Communities of the Municipality of Rabinal; and Case of Molina Theissen and 12 other Guatemalans’ Cases v. Guatemala. Order of March 12, 2019.

¹²⁸ *Impunity Watch*, Report: Follow-up on IACHR recommendations on Guatemala, October 23, 2019, p. 22; CC Amparo 682-2019, official letter No. 13 from the Secretary General, Resolution del 18/07/19, p. 1; *Prensa Libre*, July 19, 2019, ‘[CC deja en suspenso iniciativa de reformas a la Ley de Reconciliación Nacional](#)’ [CC suspends initiative to amend National Reconciliation Law].

¹²⁹ CEJIL, Follow-up on the Report on the Situation of Human Rights in Guatemala, November 4, 2019, p. 8 (in IACHR Archive); WOLA, [En desafío a las sentencias judiciales, los líderes del Congreso guatemaltecos impulsan un proyecto de ley de amnistía](#) [Challenging court judgments, Guatemalan Congressional Leaders Promote a Draft Amnesty Law], October 2, 2019; *Impunity Watch*, Report: Follow-up on IACHR recommendations on Guatemala, October 23, 2019, p. 23; PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

¹³⁰ WOLA, [En desafío a las sentencias judiciales, los líderes del Congreso guatemaltecos impulsan un proyecto de ley de amnistía](#) [Challenging Court Judgments, Guatemalan Congressional Leaders Promote a Draft Amnesty Law], October 2, 2019; *Impunity Watch*, Report: Follow-up on IACHR recommendations on Guatemala, October 23, 2019, pp. 23-24.

¹³¹ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

¹³² *Impunity Watch*, Report: Follow-up on IACHR recommendations on Guatemala, October 23, 2019, p. 24; *el Periódico*, [Capturan a General acusado de Genocidio](#) [General accused of genocide is captured], November 6, 2019.

¹³³ BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019, p. 6.

74. In the case of the sexual violence sustained by 36 women of the Maya Achí people in the department of Baja Verapaz, a final hearing was held on June 21, 2019, in the intermediate stage before the Judge of Court A for High-Risk Cases, Claudette Domínguez. The victims identified six defendants as members of the civil self-defense patrols (PACs) organized by the army, and as perpetrators of the crimes. The Judge of Court A for High-Risk Cases dismissed the case in favor of the accused. Her decision was appealed by the Office of the Public Prosecutor and the plaintiffs and the challenge filed against the judge was admitted by the First Chamber of the Court for High-risk Cases after finding evidence of indirect interest.¹³⁴ On top of the numerous delays in the case and the dismissal of the charges against the six defendants, the Commission has observed with concern the lack of interpretation in the victims' language and the rejection of forms of sexual violence in the prosecution of the case.¹³⁵ In this connection, the Commission reminds the State of its obligation to exercise due diligence when it comes to investigating, punishing, and repairing all acts of violence against women, in keeping with its international obligations and in line with inter-American standards in this regard.¹³⁶

75. The IACHR has also been informed that the forced disappearance case known as CREOMPAZ, in which at least 558 bones were exhumed, remains at a standstill.¹³⁷ Representatives of the victims filed a challenge against Judge Claudette Domínguez, which was dismissed by the Jurisdictional Chamber.¹³⁸

76. Although limited progress has been observed in ongoing cases, the IACHR is concerned that no new cases have been opened and about the failure to move forward with flagship cases. Likewise, the processing of the legal initiative promoting amnesty for serious human rights violations committed during the internal armed conflict is directly impacting compliance with this recommendation, reason for which the IACHR deems that compliance is pending.

77. Regarding the recommendation to **earmark sufficient resources to the Historical Archive of the National Police (AHPN)**, according to information provided to the IACHR by civil society, the state had implemented certain measures that would jeopardize said archive.¹³⁹ The IACHR was informed that most of the administrative and technical staff investigating and documenting transitional justice reports had been dismissed.¹⁴⁰ The Commission is also concerned about the changes announced in the inter-agency agreement governing the administration of the archives and in access to said documents, on the grounds that they held sensitive information.¹⁴¹ Regarding this, in May, the CSJ granted a provisional *amparo* requested by the PDH to guarantee necessary security measures to safeguard the documents of the AHPN.¹⁴²

¹³⁴ *Impunity Watch*, Follow-Up report on IACHR recommendations on Guatemala, October 23, 2019, p. 23.

¹³⁵ *International Justice Monitor*, [Maya Achí Sexual Violence Case Continues Today](#), June 6, 2019; PDH, Follow-up on with the recommendations contained in the "Report on the Situation of Human Rights in Guatemala, 2017," October 2019, p.23.

¹³⁶ I/A Court H.R., Case of the Plan de Sánchez Massacre v. Guatemala, Judgment of November 19, 2004, parr. 49 and Case of Espinoza González v. Peru, Judgment of November 20, 2014, parr. 150.

¹³⁷ BDH, Follow-up on compliance with the recommendations contained in the "Report on the Situation of Human Rights in Guatemala," November 3, 2019, p. 6.

¹³⁸ BDH, Follow-up on compliance with the recommendations contained in the "Report on the Situation of Human Rights in Guatemala," November 3, 2019, p. 6.

¹³⁹ CEJIL, [El gobierno de Guatemala debería garantizar el resguardo y acceso al Archivo Histórico de la Policía Nacional](#) [Guatemalan Government should guarantee the safeguarding of and access to the Historical Archive of the National Police], May 30, 2019.

¹⁴⁰ IACHR, [Audiencia sobre Obstáculos, retrocesos y retos para el avance de los DDHH en Guatemala](#) [Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], September 23, 2019; PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

¹⁴¹ WOLA, Joint declaration "The Government of Guatemala Should Guarantee the Protection and Access to the Historic Archive of the National Police," May 30, 2019; *elPeriódico*, [Cultura únicamente dejará consultar archivo policial mediante la Ley de Acceso a Información Pública](#), [Ministry of Culture will only allows police archive to be consulted on the basis of the Access to Information Law], July 3, 2019; *Prensa Libre*, [Tras su destitución, exjefa del Archivo General de Centroamérica teme por futuro de acervo policial](#) [After dismissal, former head of General Archive of Central America fears for the future of police archive], July 11, 2019.

¹⁴² PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019, p. 16 (in the IACHR Archive); CEJIL, Report on the Human Rights Situation in Guatemala, November 4, 2019, p. 10.

78. Regarding this, on June 13, the IACHR requested information from the state under the authority set forth in Article 41 of the American Convention. In a response sent on June 27, the state indicated that the contents of the documentation in the AHPN is for public consultation and that everybody can have access to it upon request, according to the provisions of the Law on Freedom of Access to Public Information.¹⁴³ And access to AHPN documents is mainly guaranteed for the Office of the Public Prosecutor, the PDH, the justice sector, interested investigators, and all citizens.¹⁴⁴ Likewise, it indicated that, as part of fulfillment of its legal mandate to permanently protect, preserve, and safeguard this archive of documents, it was decided to request the Ministry of the Interior to extend the Inter-Agency Cooperation Agreement under the same conditions and for the same period of time. On August 6, the Commission sent a new request for information about changes to the terms of the Inter-Agency Cooperation Agreement between the Ministry of Culture and Sports and the Ministry of the Interior which restricted to six months the time-limits for using the premises where the archive was located. It also questioned the measures adopted to ensure coordination of the AHPN and the management of the General Archive of Central America, after the removal from office of the heads of these institutions.¹⁴⁵

79. In its observations on the draft version of this report, the State reported that, by means of the Ministry of Public Finance's Ministerial Agreement 222-2019 of August 29, 2019, funding in the amount of Q558,970.00 was approved and earmarked for initiating the process to hire the individual who will run the Central American Archives.¹⁴⁶ Therefore, compliance with this recommendation is pending.

D. Citizen security

- Draft and implement public prevention policies, based on the root causes of violence and the high crime rates, in order to continue to bring these rates down substantially, and to ensure that Guatemalans live in a country free of violence.
- Continue with efforts to strengthen the PNC and withdraw the armed forces from duties of citizen security.
- Ensure the regulation and effective oversight of private security firms and their agents, registration and punishment of those who do not comply with requirements; as well as carry out strict gun control.
- Adopt specific measures to address the issue of lynching in the country.

80. Regarding the recommendation to the State **to draft and implement public prevention policies, in order to continue to bring rates of violence down**, in its observations on the draft version of this report, the State reported that its democratic criminal prosecution policy was currently under review and that the policy was in place to coordinate actions to reduce violence.¹⁴⁷ The State also reported on a series of workshops held for this purpose. As for the PDH, it reported that the National Policy for the Prevention of Crime and Violence, Citizen Safety, and Peaceful Coexistence for 2014-2034 continues to encounter obstacles to its implementation and that prevention strategies and policies have failed to ensure local power capacity building in order to exert a favorable impact on citizen security.¹⁴⁸

81. Regarding this, the IACHR observes that, in 2019, crime rates declined. The Technical Secretariat of the National Security Council reported that 11 of the 12 crime rates, such as homicides, injuries in acts of violence, kidnapping, mugging of pedestrians, and retail theft, fell between January and August 2019,

¹⁴³ Decree No. 57-2008.

¹⁴⁴ Republic of Guatemala, Note NV-OEA-M12- No. 341-2019, June 27, 2019, pp. 2-3.

¹⁴⁵ CEJIL, Report on the Human Rights Situation in Guatemala, November 4, 2019, p. 10.

¹⁴⁶ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

¹⁴⁷ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

¹⁴⁸ PDH/DIDH. Own preparation on the basis of official data. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

compared to the same period the preceding year. The homicide rate for every one hundred thousand inhabitants fell by 1.4 percentage points, compared to 2018 (from 22.9 to 21.5 points), which means that there was an inter-annual decline of 6.11%. This entailed a decline of 3.21% in the number of homicides (from 2,556 to 2,474 victims). Likewise, in the same period, a 55% decline in kidnappings was recorded (from 20 to 9 cases) compared to the preceding year. As for persons injured in acts of violence, a 4.5 point decline for every one hundred thousand inhabitants was reported (from 25.9 to 21.4 points), in other words, 17.37%.¹⁴⁹

82. As for the National Forensic Science Institute (*Instituto Nacional de Ciencias Forenses—INACIF*), it also reported a decrease in the total number of persons killed by firearms in the first semester of 2019, of which 1,418 were men and 200 were women, compared to 2018 (1,455 men and 214 women).¹⁵⁰ As for the state, it considers that decline in the homicide rate is not exclusively the result of the CICIG for having promoted cooperation agreements and exchanges of information and installation of capacities in the justice sector, but rather this declining trend had been occurring years before the CICIG had been installed.¹⁵¹ The Commission appreciates the state's efforts to secure this reduction and encourages it to continue this effort, with emphasis on the population of young people.

83. The IACHR is concerned about the rise in violence and death among children and adolescents in the first semester of 2019 on the basis of figures from INACIF. Records show 395 deaths of children and adolescents from violent causes: 71% (284 cases) were as a result of firearms, followed by suffocation from strangling or hanging accounting for 19.8% (78 cases), and deaths by stabbing accounting for 6.3% (25 cases).¹⁵² Out of the total, 309 are boys and 86 are girls, and in both cases increases of 6.6% and 16.2%, respectively, were recorded, compared to the same period in 2018. In addition, children from 10 to 14 years of age (21 cases) and from 15 to 19 years of age (54 cases) were the most impacted. In this first semester, the record rose to 24% among women and 57% among men, compared to the same period in 2018.¹⁵³

84. As for the Pan American Health Organization (PAHO) and the World Health Organization (WHO), they recorded that homicides are the principal cause of death among children, adolescents, and young people between 10 and 24 years of age in Guatemala, an age range accounting for 32% of the population.¹⁵⁴

85. As for the forensic examinations of injuries from violent causes among children and adolescents, there were 669 cases reported from January to June 2019, of which 72% (487 cases) were injuries consistent with mistreatment, 20% (134 cases) firearm injuries, and 8% (48 cases) stabbing injuries.¹⁵⁵

86. The Commission reminds the state that it has the obligation to guarantee citizen security and full respect for human rights, because violence and crime seriously impact the enforcement of the rule of law.¹⁵⁶ Because of all of the above and despite recognition of the progress made in reducing violence in Guatemala, the Commission considers that compliance with this recommendation is pending.

¹⁴⁹ STCNS, [Reporte Estadístico Agosto 2019](#) [Statistical Report August 2019]; AGN, Guatemala: eleven indicators of in 2019 (report up to August), September 17, 2019.

¹⁵⁰ *Prensa Libre*, [Según cifras de Inacif, Guatemala registra 2,330 homicidios en lo que va del 2019](#) [According to Guatemala records 2,330 homicides so far this year 2019], July 8, 2019.

¹⁵¹ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

¹⁵² Death from suffocation or hanging could be associated with suicide. Children's Rights Observatory-Institutional Coordinator to Promote the Rights of the Child (*Observatorio de los Derechos de la Niñez—Coordinadora Institucional de Promoción por los Derechos de la Niñez—ODN-CIPRODENI*), Year 4, No. 10, September 2019.

¹⁵³ ODN-CIPRODENI, Year 4, No. 10, September 2019; Cf. *Publinews*, [Dos niños mueren diariamente en Guatemala, según organizaciones](#) [Two children die every day in Guatemala, according to organizations], September 30, 2019.

¹⁵⁴ *Prensa Libre*, [Las cifras sobre violencia, suicidios y complicaciones en embarazos: principales causas de muertes en jóvenes guatemaltecos](#) [Figures on violence, suicides, and pregnancy complications; main causes of death among Guatemalan youth], PAHO and WHO Report: The Health of Adolescents and Youth in the Americas, 2019.

¹⁵⁵ ODN-CIPRODENI, Year 4, No. 10, September 2019.

¹⁵⁶ IACHR, [Informe sobre seguridad ciudadana y derechos humanos](#) [Report on Citizen Security and Human Rights], OEA/Ser.L/V/II. Doc. 57, December 31, 2009, para. 50.

87. As regards the recommendation to continue with efforts to **strengthen the PNC and withdraw the armed forces from citizen security duties**, the State reported that it increased the number of PNC officers from 31,000 in 2017 to 42,000 in 2019 and trained them in human rights. It also reported that new specialized prosecution services, agencies, and units have been established.¹⁵⁷ In its observations on the draft version of this report, the State added that efforts to strengthen human talent via professionalization and specialization were continuing, as were the promotion of dignity and creation of opportunities for promotion, with a view to providing quality service and enhancing the public's perception of security. The State noted that the idea was to continue, in 2020, to boost human talent and to carry on professionalizing and graduating 3,000 police officers per year.¹⁵⁸

88. The Commission takes note of the information furnished by the State as a significant step. At the same time, it has received information from the PDH indicating that neither police reform nor institutional capacity building of the police continued and that the PNC does not meet the international standard of having 4 police officers per thousand inhabitants, as there are fewer than 1.5 police officers per thousand inhabitants. It also indicated that the capital has slightly more than 2 police officers per thousand inhabitants.¹⁵⁹ The IACHR is struck by the disparities in the information provided.

89. As indicated earlier (see I.A above), changing the Minister of the Interior in January 2018 meant the start of closing down and undermining the units in the PNC, along with the dismissal of three senior commanders and key positions specializing in criminal investigation which supported the CICIG.¹⁶⁰ Civil society also reported that a change in the impact came from the involvement and incorporation of former army servicemen into the PNC, which is contrary to the Peace Accords and the Plan of the Alliance for Prosperity, in view of the commitment to remove members of the army from public security activities. Especially in this context, it indicated that more than 100 police officers had been dismissed on the basis of nonexistent procedures,¹⁶¹ which led to weakening of the police institution, because most of the dismissed staff specialized in justice and anti-corruption.¹⁶² This would be contrary to the recommendation examined herein.

90. The IACHR is also concerned that, because of the death of three soldiers in an alleged clash in the community of Semuy II, Izabal, in September, the executive has declared a state of siege there, initially for 30 days, in 22 communities.¹⁶³ In compliance with Article 27(3) of the American Convention, on September 6, 2019, the state notified the Organization of American States (OAS).¹⁶⁴ The state justified this declaration by indicating that:

¹⁵⁷ The state reported the following criminal investigation and prosecution actions: 6,743 search warrants, 11,437 arrest warrants, 17,930 charges filed with jurisdictional bodies, and 9,853 judgments of conviction. Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

¹⁵⁸ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

¹⁵⁹ PDH/DIDH. Own preparation on the basis of official data. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

¹⁶⁰ IACHR, [Audiencia sobre obstáculos, retrocesos y retos para el avance de los derechos humanos en Guatemala](#) [Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], September 23, 2019.

¹⁶¹ Human Rights Federation of Guatemala (*Convergencia por los Derechos Humanos de Guatemala*): Association for Studying and Promoting Security in Democracy (*Asociación para el Estudio y Promoción de la Seguridad en Democracia—SEDEM*), Unit for Human Rights Defenders (*Unidad de Defensoras y Defensores de Derechos Humanos—UDEFEQUA*), Central for Legal Action in Human Rights (*Centro para la Acción Legal en Derechos Humanos—CALDH*), International Center for Human Rights Research (*Centro Internacional para Investigaciones en Derechos Humanos—CIIDH*), CAFCA, Community Studies and Psycho-social Action Team (*Equipo de Estudios Comunitarios y Acción Psicosocial—ECAP*); National Guatemalan Women's Unit (*Unidad Nacional de Mujeres Guatemaltecas—UNAMG*), Institute for the Comparative Study of Penology of Guatemala (*Instituto de Estudios Comparados en Ciencias Penales de Guatemala*), Human Rights Office of the Archbishopric of Guatemala (*Oficina de Derechos Humanos del Arzobispado de Guatemala—ODHAG*). Request for Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala, August 2019.

¹⁶² IACHR, [Audiencia sobre obstáculos, retrocesos y retos para el avance de los derechos humanos en Guatemala](#) [Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], September 23, 2019; Human Rights Federation of Guatemala (*Convergencia por los Derechos Humanos de Guatemala*), Request for Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala, August 2019.

¹⁶³ Republic of Guatemala, Government Decree No. 01-2019. RT, [Guatemala declara 'estado de sitio' en varios municipios tras violenta emboscada a militares](#) [Guatemala declares 'state of siege' in various municipalities after violent ambush against military], September 5, 2019.

¹⁶⁴ Republic of Guatemala, MFA, Note to the Secretary General of the OAS, September 4, 2019.

[O]ver the past few days, in the municipalities of El Estor in the Department of Izabel, a series of violent acts occurred, taking human lives and jeopardizing constitutional law and order, governance, and state security, thus impacting persons and families and jeopardizing the freedom, justice, security, life, peace, and integral development of persons.¹⁶⁵

91. It also reported that measures were adopted to restrict enforcement of Articles 7, 8, 15, and 22 of the American Convention, with respect to freedom of action and movement, detention and interrogation, assembly and protest.¹⁶⁶ In this context, the PNC reported that, at September 16, there had been 316 persons detained by public security and armed forces.¹⁶⁷

92. Civil society organizations indicated that this exceptional measure mainly affects indigenous communities concerned and their social leaders in their activities of defending the territory against the extraction of natural resources by foreign companies that do not meet international standards.¹⁶⁸ The communities, through the movement of the Peasant Development Committee (*Comité de Desarrollo Campesino—CODECA*), announced there would be protests if the state of siege was not lifted within 30 days.¹⁶⁹ On October 10, Congress approved extending the state of siege for 30 additional days,¹⁷⁰ and the protests that were announced were carried out.¹⁷¹

93. The organizations believe that the declaration of a state of siege is unconstitutional as the situation does not meet the requirements laid out in Article 27 of the American Convention that would allow guarantees to be suspended.¹⁷² Several appeals on constitutional grounds were filed.¹⁷³ They also observed that said declaration goes against the principle of legality as it does not indicate how rights are being restricted during the state of siege and that this failure to provide legal security constrains the freedom of action of those persons who have opted for suspending meetings and imposing a curfew on themselves at a certain time, etc.¹⁷⁴

94. According to Article 27 of the American Convention, states can derogate from their obligations “[i]n time of war, public danger, or other emergency that threatens the independence or security of a State Party.” This type of declaration is exceptional and must be adjusted to the needs of the situation that is being addressed in a reasonable way, without surpassing the extent of what is strictly necessary, in order to thus avoid extending it over time, disproportionality, or diversion or abuse of power, because its arbitrary use leads to undermining democracy and a series of human rights.¹⁷⁵

¹⁶⁵ Republic of Guatemala, MFA, Note to the Secretary General of the OAS, September 4, 2019.

¹⁶⁶ Republic of Guatemala, MFA, Note to the Secretary General of the OAS, September 4, 2019.

¹⁶⁷ There were 82 detentions reported for failure to comply with court orders, 76 for inebriation and disorderly responsibility of drivers, 44 for the illegal bearing of firearms, 2 for judicial search, 9 for aggression or brawling, 7 for robbery for extortion, 7 for wrongful injury or aggravated manslaughter, and 47 for other causes. *Impacto GT*, [Estado de sitio: 316 detenidas en 12 días según la PNC](#) [State of siege: 316 persons detained in 12 days according to PNC], September 16, 2019.

¹⁶⁸ CAFCA, Information on the situation of transitional justice in Guatemala, November 4, 2019. See: *Nómada*, [Historia Estado de Sitio: la excusa para neutralizar a El Estor](#) [History from the State of Siege: Excuse to Neutralize El Estor], October 7,

¹⁶⁹ *Telesur*, [Guatemala, indígenas y campesinos anuncian resistencia al Estado de Sitio](#) [Guatemala: indigenous people peasants announce resistance to the state of siege], September 24, 2019.

¹⁷⁰ *Prensa Libre*, [Congreso aprueba y ratifica el estado de Sitio e incluye de nuevo a dos municipios](#) [Congress approves ratifies the state of siege and includes again two municipalities], October 10, 2019.

¹⁷¹ *Prensa Libre*, [Codeca realiza marchas a nivel nacional en contra del estado de sitio](#), [CODECA engages in nationwide against the state of siege], October 17, 2019; *Nómada*, [Las razones por las que Codeca rechaza el Estado de Sitio \(y permíte\)](#) [Reasons why CODECA rejects state of siege (and the law allowing it)], October 17, 2019.

¹⁷² Human Rights Federation of Guatemala (*Convergencia*), Report for the IACHR Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala, September 23, 2019.

¹⁷³ Human Rights Federation of Guatemala (*Convergencia*), Report for the IACHR Hearing on Obstacles, Setbacks, and for the Advancement of Human Rights in Guatemala, September 23, 2019; *Prensa Libre*, [Estado de Sitio debe ser suspendido, ante la CC](#) [Jurists request the CC to suspend the state of siege], September 11, 2019.

¹⁷⁴ Human Rights Federation of Guatemala (*Convergencia*), Report for the IACHR Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala, September 23, 2019.

¹⁷⁵ I/A Court H.R. Habeas corpus in emergency situations, Advisory Opinion OC-8/87 of January 30, 1987; Judicial guarantees in states of emergency, Advisory Opinion OC-9/87 of October 6, 1987; IACHR, Press Release No. 071/17, [CIDH expresa preocupación ante la declaración del estado de excepción y de emergencia económica en Venezuela](#) [IACHR Expresses Its Concern Regarding the Declaration of a ‘State of Exception and Economic Emergency’ in Venezuela], June 1, 2016.

95. States of siege must be adjusted to strict causes such as the existence of objective and extremely grave danger that jeopardizes the preservation of democracy or the nation's integrity.¹⁷⁶ The incidents in which members of the armed forces were killed in the line of duty require the corresponding investigation and the punishment of those responsible. Without detriment to this, the IACHR considers that this declaration of a state of siege as a result of the violent incidents that took the lives of three state agents is certainly disproportionate.¹⁷⁷

96. The IACHR also reiterates that a clear separation of functions is essential, indicating the competencies of the armed forces, confined to defending national sovereignty, and the competencies of the police force, exclusively responsible for public security. The obligations taken up by the states require public policies for security and combating crime, giving priority to the functioning of an efficient institutional structure. This should guarantee to the population the effective exercise of human rights associated with the prevention and control of violence and crime, including organized crime. Because of this, Guatemala must avoid the militarization of public security and adopt necessary measures to strengthen the PNC. Therefore, the IACHR deems that compliance with this recommendation is pending.

97. As for the recommendation to **ensure the regulation and effective oversight of private security firms and their agents**, in its observations on the draft version of this report, the State reported having registered: 39,315 private security agents; 209 private security providers; 62 sanctions imposed on security service providers that had violated the law; and 84,702 weapons.¹⁷⁸ As for the PDH, it reported that it does not have up-to-date information on the subject and that it has filed a request with the authorities to include it in the 2019 Detailed Annual Report on the Situation of Human Rights.¹⁷⁹

98. In contrast, this year, it was reported that, in October 2018, the General Directorate for Private Security Companies (*Dirección General de Empresas de Seguridad Privada—DIGESSP*) assured that it had registered a total number of 23,638 private security agents who provided their services in 182 companies, plus 5,982 agents under the status of “not renewed and special cases.” The number varies from month to month and the figure is allegedly not even close to the real figure. Regarding this, trade union members explained that: “All of this involves one of the complaints made by business persons: the certification of the agents. The figure published by the DIGESSP corresponds to the agents who are legally ‘certified,’ that is, those who paid—or the company hiring them paid—to receive a training course, which usually lasts one week or 40 hours.” They admitted that a large part of the agents are not certified and that the number of employees of the companies, whether authorized or unauthorized, could well amount to between 150,000 and 200,000 agents.¹⁸⁰ The Commission notes the increase in both the number of agents and private security firms and, for lack of further information, the Commission deems that compliance with this recommendation is pending.

99. As regards the recommendation urging the State to **adopt specific measures to address the issue of lynching in the country**, the state neglected to report about the process of drafting the Lynching Prevention Policy, which is scheduled to be launched this year. In its observations on the draft version of this report, the State reported on the PNC's Education Program to Prevent Lynching, the workshop on Preventing

¹⁷⁶ Cf. IACHR, Press Release No. 270/19, [CIDH condena excesivo uso de la fuerza y rechaza toda forma de violencia en el marco del marco de las protestas sociales en Chile](#) [IACHR Condemns the Excessive Use of Force during Social Protests in Chile, and Rejects All Forms of Violence], October 23, 2019.

¹⁷⁷ In Guatemala, homicides rose to 2,474 victims over the first eight months this year. STCNS, [Reporte Estadístico Agosto 2019 Agosto 2019](#) [Statistical Report August 2019]; AGN, Guatemala: eleven indicators of crime decline in 2019 (report up to August), September 17, 2019. See: IACHR, [Audiencia sobre obstáculos, retrocesos y retos para el avance de los derechos humanos en Guatemala Guatemala](#) [Hearing on Obstacles, Setbacks, and Challenges for the Advancement of Human Rights in Guatemala], October 23, 2019.

¹⁷⁸ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

¹⁷⁹ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

¹⁸⁰ *Plaza Pública*, [Los dueños de la seguridad privada en Guatemala](#) [Owners of private security in Guatemala], March 10, 2019.

Collective Violence, and the Inter-agency Cooperation Agreement to Develop Education Processes to Prevent Different Violations of Rule of Law, with an Emphasis on Lynchings.¹⁸¹

100. The Commission notes that, by March 2019, a rise had already been recorded in the number of lynchings compared to the preceding year—six deaths—which was the total figure for lynching deaths in 2018.¹⁸² As of the date of approval of this report, based on publicly available information, the IACHR learned about an additional case that occurred in October 2019.¹⁸³ As for the PDH, it indicated that the State had not tackled the subject consistently and that this is not part of public security policies and strategies. It pointed out that the Judiciary (OJ) coordinating the National Committee Supporting the Lynching Prevention Program has not exerted the impact that is needed.¹⁸⁴ The Commission notes that high impunity rates are a factor behind the increased number of lynchings in the country. Because of this, and despite the actions indicated by the State, the IACHR considers that compliance with this recommendation is pending and urges the state to strengthen existing actions and to adopt all the other measures needed to achieve more substantial reductions of this phenomenon in the country.

E. Specific segments of the population

Women

- Take decisive action to ensure for all women victims of violence and discrimination access to justice at all stages (complaint, investigation and trial proceedings) through accessible information in terms of language and culture, staff training, specialized legal assistance and through outreach services for victim assistance.
- Promote political participation of women and, in particular, indigenous and Afrodescendant women, in decision-making positions through the design and implementation of affirmative action measures.
- Include sexual crimes in all reparation and justice policies for victims of the armed conflict, especially with regard to implementation of the National Reparation Plan, and to take the necessary measures for the PNR to seriously address without discrimination complaints of sexual violence. These measures must include clarification of the criteria to gain access to justice and to the mechanisms of reparation, as well as the design of reparation measures that meet the specific needs of the women.

101. Regarding the recommendation **to take decisive action to ensure access to justice for all women victims of violence and discrimination**, the state did not submit up-to-date information. The Commission has recognized the efforts for regulatory and institutional development in terms of protection and justice for women, in particular indigenous women. Nevertheless, the Commission has continued receiving information about the prevalence of various obstacles to protecting and guaranteeing their rights. Among them, it underscores the limited coverage of the justice system, especially in remote places where poverty and

¹⁸¹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

¹⁸² *Prensa Libre*, [Linchamientos son un síntoma de debilidad del Estado](#) [Lynchings are a symptom of the state's March 22, 2019.

¹⁸³ *Prensa Libre*, [Pobladores linchan a un hombre en San José Nacahuil](#) [Community members lynch a man in San José Nacahuil], October 14, 2019.

¹⁸⁴ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

language barriers can act as deterrents to filing complaints;¹⁸⁵ the insufficiency of resources;¹⁸⁶ the scarcity of entry points to gain access to the justice system locally, such as police stations, health centers, schools, and churches; and the failure to renew the National Plan for the Prevention and Eradication of Domestic Violence and Violence against Women (*Plan Nacional de Prevención y Erradicación de la Violencia Intrafamiliar y contra las Mujeres*), which expired in 2014.¹⁸⁷

102. Added to the above, although the number of complaints filed with the Office of the Public Prosecutor and trials in the Judiciary System has increased, the staff of the different institutions are not enough to meet the demand and, alongside the increase in proceedings filed, the number of judgments of acquittal have also increased.¹⁸⁸ As for the mainstreaming of the gender perspective in the various phases of providing services to women victims of violence, although the Judiciary does have a Comprehensive Service System that has been building up its capacity to provide high-quality, humane services, on most occasions men are the agents who are available.¹⁸⁹

103. Furthermore, the Commission views with concern the prevalence of various forms of violence against women, a situation that was also highlighted by the PDH.¹⁹⁰ From January to June 2019, 3,622 medical examinations were recorded for sex crimes against women in the country.¹⁹¹ Likewise, since the creation of the Isabel Claudina Alert in 2018, the Office of the Public Prosecutor reported, at May 3, 2019, a total of 1,171 alerts nationwide, and according to the Attorney General's Office, about four women disappear every day in Guatemala.¹⁹² In addition, for 2018, recorded data provide evidence of 661 femicides in the country,¹⁹³ whereas, between January and May 2019, at least 226 violent deaths of women were recorded, of which at least 135 were femicides.¹⁹⁴ Regarding this, the IACHR reiterates its concern over the prevalence of violence against women because of their gender and, in particular, the killings of women¹⁹⁵ and highlights the cruelty and abusiveness characterizing these crimes. For example, in the case of Katherine Dessire Morataya Arenas, who

¹⁸⁵ Guatemalan Women's Group (*Grupo Guatemalteco de Mujeres—GGM*) and No Violence against Women Network (*Red de la No Violencia contra las Mujeres—REDNOVI*), [Aportes en el marco de los 25 años del mandato de la Relatora Especial sobre Violencia contra las Mujeres sus causas y consecuencias](#) [Contributions in the context of the 25 years of the mandate of the Special Rapporteur on Violence against Women, its causes and consequences], February 28, 2019.

¹⁸⁶ Although, in 2018, Guatemala recognized its responsibility for providing services to women survivors of violence by earmarking budget line item to the Comprehensive Support Centers for Women Survivors of Violence (*Centros de Apoyo Integral para Mujeres Sobrevivientes de Violencia—CAIMUS*), in 2019 those resources were reduced, with only 9.5 million quetzales being awarded, compared to the 20.5 million quetzales that had been awarded the two preceding years, highlighting a substantial setback in terms of available resources. GGM and REDNOVI, [Aportes en el marco de los 25 años del mandato de la Relatora Especial sobre Violencia contra las Mujeres sus causas y consecuencias](#) [Contributions in the context of the 25 years of the mandate of the Special Rapporteur on Violence against Women, its causes and consequences], February 28, 2019.

¹⁸⁷ UN, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the seventh periodic report of Guatemala, Committee against Torture, CAT/C/GTM/CO/7, November 23, 2018, para. 36; Human Rights Ombudsman, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, October 2019.

¹⁸⁸ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala Guatemala 2017, October 2019; GGM and REDNOVI, [Aportes en el marco de los 25 años del mandato de la Relatora Especial sobre Violencia contra las Mujeres sus causas y consecuencias](#) [Contributions in the context of the 25 years of the mandate of the Special Rapporteur on Violence against Women, its causes and consequences], February 28, 2019.

¹⁸⁹ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, October 2019.

¹⁹⁰ PDH, [PDH condena los hechos de violencia cometidos en contra de la población, especialmente mujeres](#) [Ombudsman condemns violence against the population, especially women], March 12, 2019.

¹⁹¹ Republic of Guatemala, [Reporte estadístico de número de denuncias recibidas por el Ministerio Público por delitos relacionados a violencia sexual](#) [Statistical report on the number of complaints received by the Office of the Public Prosecutor for crimes related to sexual violence], Open consultation, November 2019.

¹⁹² *Diario la Hora*, [Cuatro mujeres desaparecen al día](#) [Four women go missing every day], According to MP, May 7, 2019.

¹⁹³ GGM, [Análisis narrativo de muertes violentas de mujeres](#) [Narrative review of violent deaths of women], January 2019.

¹⁹⁴ GGM, [Datos estadísticos. Muertes Violentas de Mujeres-MVM](#) [Statistical data: Violent deaths of women], June 2019.

¹⁹⁵ *elPeriódico*, [Tres jóvenes mujeres desaparecidas el Miércoles Santo halladas sin vida en Petén](#) [Three young women who went missing on Ash Wednesday found dead in Petén], April 23, 2019; *elPeriódico*, [Al menos 229 mujeres han sido ultimadas del 1 de enero al día de ayer](#) [At least 229 women have been killed from January 1 to yesterday], April 24, 2019; *elPeriódico*, [Cinco mujeres fueron halladas muertas](#), [Five women were found dead], April 24, 2019; *elPeriódico*, [Reportan 178 mujeres asesinadas en tres meses](#) [178 women reported killed in three months], April 25, 2019.

after being reported missing was found dead one day later with her feet and hands tied, her face stripped of its skin, and her hair completely removed.¹⁹⁶

104. Likewise, the killings of lesbian¹⁹⁷ and trans¹⁹⁸ women are a matter of concern, and it was noticed that gender-based violence against lesbian, bisexual, trans, and intersex women is expressed in diverse ways, including harassment, physical and psychological aggression, severe injuries, and even killings. The failure of enforcing the law or the absence of regulatory frameworks for specialized protection is compounded by the stigma and discrimination stemming from male chauvinist and stereotyped patterns.¹⁹⁹ The situation of women defenders is examined in the section on human rights defenders and justice operators. Therefore, the IACHR concludes that compliance with this recommendation is pending.

105. As for the recommendation to **promote the political participation of women, especially indigenous and Afro-descendant women**, in its observations on the draft version of this report, the State reported that 7,296 individuals had participated in the 2019 electoral process as part of the Civic Electoral Engagement Corps [*Voluntariado Cívico Electoral*]. Of them 4,159, that is, 57%, were women, while 3,137, or 43%, were men.²⁰⁰ The State indicated that teaching materials had been developed with the participation numbers to be exceeded, and to improve both the likelihood of political representation for women and participation in general. It further noted that, compared to the 2015 general elections, the three percentage point increase in total women candidates in 2019 stands out, as do the increase from two to seven women deputies elected by National List and from 18 to 22 women district representatives, and the higher number of women trustees.²⁰¹

106. The IACHR observes that women account for about 40% of the judicial branch of government.²⁰² However, in the executive branch, only 18.8% of ministerial posts are held by women.²⁰³ Regarding their participation in the legislative branch, according to data from the Supreme Electoral Court (*Tribunal Supremo Electoral—TSE*), 31 congresswomen out of 160 congresspersons shall be entering Congress in the legislature for 2020-2023, which accounts for 19.38% of parliament. This percentage is slightly higher compared to the 2015 elections, when 24 congresswomen were elected out of a total of 158 congresspersons (15.19%).²⁰⁴ Nevertheless, said percentage of women is far below the regional average (30.6 %) and even more so when taking into account that women account for the largest share of the voter roll (54%).²⁰⁵

¹⁹⁶ *el Periódico*, [Analistas preocupadas por muertes violentas de mujeres](#) [Commentators concerned over violent women], April 8, 2019; *el Periódico*, [Hallan cuerpo mutilado de una mujer en el Mirador de Santa Elena Barrillas](#) [Mutilated corpse women found in Mirador de Santa Elena Barrillas], April 6, 2019.

¹⁹⁷ *Diario la Hora*, [Mujeres asesinadas aún no son identificadas](#) [Women killed still unidentified], April 23, 2019; *ABC*, [asesinadas aún no son identificadas](#) [Women killed still unidentified], April 24, 2019; *DW*, [El odio homófono que siega vidas en Guatemala](#) [Homophobic hate taking lives in Guatemala], May 7, 2019; *La Prensa Libre*, [Crímenes contra las mujeres muestran desinterés por la vida](#) [Crimes against women show state's disregard for life], April 24, 2019.

¹⁹⁸ *Publinews*, [49 mujeres trans mueren al año en Guatemala](#) [49 trans women die every year in Guatemala], October

¹⁹⁹ Latin American and Caribbean Network of Trans (*Red Latinoamericana y del Caribe de Personas Trans—REDLACTRANS*) and Trans Queens of the Night Organization, We Too, Sexual Violence against Trans Women, request for thematic hearing, 173 session of the IACHR, June 2019. IACHR Archive.

²⁰⁰ In addition, 11 training workshops were held in the country's 22 departments. The number of attendees totalled 1,980—768 women and 1,212 men. There were also two cohorts for the virtual course on Civic Electoral Engagement: the first cohort boasted 729 people—438 women and 291 men; the second had 703 participants—422 women and 281 men. Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁰¹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁰² ECLAC, [Poder Judicial: porcentaje de mujeres ministras en el máximo tribunal de justicia o corte suprema](#) [Judicial percentage of women justices in the highest court of law or Supreme Court], Open consultation, November 2019; *La Prensa jueces del país son mujeres*, [40% of judges in the country are women], March 1, 2019.

²⁰³ *World Economic Forum*, [Global Gender Gap Report, Guatemala](#), December 2018.

²⁰⁴ *Nómada*, [Menos del 20% de diputadas mujeres en la próxima legislatura](#) [Less than 20% of next legislature are congresswomen], June 20, 2019.

²⁰⁵ *La Vanguardia*, [La OEA pide a Guatemala mejorar participación política de mujeres e indígenas](#) [OAS requests boost political participation of women and indigenous people], August 12, 2019.

107. The Commission observes with concern that the political participation of women continues to be deficient²⁰⁶ and highlights the gaps that continue to exist between women's right to participate in politics without discrimination and on an equal footing, and women's effective role and representation in decision-making bodies, especially for indigenous and Afrodescendant women. In this respect, the OAS Electoral Observation Mission (OAS/EOM) urged the authorities to take measures to improve this political participation in the following elections. It also underscored that Guatemala is one of the two countries of Latin America that does not envisage taking affirmative action measures, leading to a small number of participating women, as well as to the absence of resources so that they can compete on an equal footing with their male counterparts.²⁰⁷

108. The Commission observes that the principles of gender equality, parity, and alternation between men and women when designating candidates in political parties were not included in the amendments to the Law on Elections and Political Parties, despite two favorable rulings by the Constitutional Court (CC).²⁰⁸ Likewise, the IACHR highlights the absence of disaggregated information by ethnical and racial origins of the women who participate in decision-making and political coordination bodies,²⁰⁹ as well as the absence of a regulatory framework to eradicate political violence against them. Regarding this, complaints received by the OAS/EOM about women candidates, including indigenous women and female civil servants, victims of various forms of violence and discrimination, including misogynistic and racist insults, proffered both personally and on social media, are a matter of concern.²¹⁰ The IACHR supports what was highlighted by the OAS/EOM regarding the need for the state to take measures to boost women's participation in politics, as well as that of indigenous and Afrodescendant persons, in electoral bodies. Likewise, the OAS/EOM highlighted the low participation of Afrodescendant persons in electoral processes and the absence of mechanisms to promote higher participation.²¹¹ Therefore, the IACHR concludes that compliance with this recommendation is pending and reiterates its recommendation to the state to take necessary actions to foster the political participation of women, specifically including indigenous and Afrodescendant women.

109. As regards the recommendation **to include sexual crimes in all reparation and justice policies for victims of the armed conflict, in connection with the National Reparations Plan (PNR), and to design reparation measures so that the PNR can seriously address, without any discrimination, reports of sexual violence**, the state did not submit updated information. As for the PDH, it reported that although the Blue Paper, which envisages compensation measures, includes sexual violence as one of the violations that need to be compensated, the state has not been able to guarantee comprehensive attention.²¹²

110. The IACHR has recognized the historic judgment of the case of Sepur Zarco,²¹³ as well as the convictions for crimes against humanity, sexual violence, humiliating and degrading treatment against women, killing, and enforced disappearance, as it was a final judgment of conviction for crimes against of humanity for

²⁰⁶ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019, p. 22.

²⁰⁷ *La Vanguardia*, [La OEA pide a Guatemala mejorar participación política de mujeres e indígenas](#) [OAS requests Guatemala to boost political participation of women and indigenous people], August 12, 2019.

²⁰⁸ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019, p. 22.

²⁰⁹ UN, International Covenant on Civil and Political Rights, [Observaciones finales sobre el cuarto informe periódico de Guatemala](#) [Concluding observations on the fourth periodic report of Guatemala]. Human Rights Committee, CCPR/C/GTM/CO/4, May 7, 2018, para. 8.

²¹⁰ *La Vanguardia*, [La OEA pide a Guatemala mejorar participación política de mujeres e indígenas](#) [OAS requests Guatemala to boost political participation of women and indigenous people], August 12, 2019.

²¹¹ OAS/EOM, [Comunicado de Prensa: Misión Electoral de la OEA observará los comicios de agosto y anuncia sus recomendaciones de cara a esta jornada electoral](#), [Press Release: OAS Electoral Observation Mission shall observe August elections and elections and announce recommendations for this election day], June 18, 2019.

²¹² PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, October 2019, p. 22.

²¹³ Republic of Guatemala, Office of the Public Prosecutor, "Case of Sepur Zarco: Court of appeals upholds judgment of conviction obtained by the Human Rights Prosecution Office," July 19, 2017. IACHR, [Informe sobre Situación de derechos humanos en Guatemala 2017](#) [Report on the Situation of Human Rights in Guatemala 2017], December 31, 2017, para. 132.

sexual violence and it was the first time that, in Guatemala, sexual slavery was classified as a war crime. In particular, the Commission notes that implementation of the 16 measures of reparations is incomplete.²¹⁴ This judgment has already been translated into six Maya languages, and it is expected that, this year, progress will be made in translating it into other languages, in addition to its adaption to an oral format in Maya languages. As for finding the whereabouts of the missing persons, civil society organizations have moved forward with coordinating activities with the Attorney General's Office. In connection with the declaration of February 26 as the National Day for the Victims of Sexual Violence, Sexual and Domestic Slavery, it now benefits from a favorable ruling from the Congressional Committee on Women.²¹⁵ Nevertheless, the IACHR observes that one of the principal reparation measures, which is still pending, requires the state to facilitate land ownership for the Q'eqchi' Maya grandmothers. A series of reparation measures depends on regularizing land titling, including the building of a health center, the installation of a bilingual secondary education school, and the building of a monument honoring the women of Sepur Zarco for seeking justice.²¹⁶

111. As indicated (see *supra*. II.C.), the Commission has continued to monitor the case of sexual violence against 36 Achí Maya women and the proceedings in Court A for High-Risk Cases. The victims identified the 6 persons charged as being members of civilian self-defense patrols (*patrullas de autodefensa civil—PACs*) organized by the Army, as the masterminds behind the crimes. The Judge of Court A for High-Risk Cases ruled dismissal of the case for the benefit of those charged. This decision was appealed by the Office of the Public Prosecutor and the complainants, and recusal against the judge was accepted by the First Court for High-Risk Cases, finding evidence of her indirect interest.²¹⁷ In addition to the numerous delays in the case and acquittal of the six persons charged, the Commission has viewed with concern the absence of a translation in the language of the victims or dismissal of forms of sexual violence when dealing with the case.²¹⁸ Regarding this, the Commission reiterates the state of its duty of due diligence when investigating, punishing, and redressing all acts of violence against women, in compliance with its international obligations and in line with inter-American standards in the matter.²¹⁹ Therefore, the compliance with this recommendation is pending.

Children and adolescents

- With respect to the high rate of child institutionalization, implement measures to do away with institutionalization and review legislation, policies and practices to bring them into line with international standards, particularly, reinforcing social policies of support to families in order to help them to provide adequate care for their children, as well as social policies aimed at ensuring rights, such as health, education and nutrition, and taking into account the best interests of the child.
- Clearly regulate measures involving the removal of a child from his or her family for reasons of protection, on an exceptional basis and for the shortest length of time possible, and making it applicable only in limited circumstances provided for by the law, and stipulating that the decision must be subject to periodical review, in keeping with international standards.
- Adopt public policies and legislative measures to implement a true model of full implementation of all rights of all children and adolescents, which creates an adequate institutional framework to

²¹⁴ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, October 2019, p. 23.

²¹⁵ *Diario La Hora*, [Sepur Zarco: con sentencia firme, no quedan excusas para cumplir con la reparación de las abuelas](#) [Sepur Zarco: with final judgement there are no excuses for not complying with the reparations for the grandmothers], February 19,

²¹⁶ UN Women, [El caso Sepur Zarco: las mujeres guatemaltecas que exigieron justicia en una nación destrozada por la](#) [Sepur Zarco case: The Guatemalan women who rose for justice in a war-torn nation], October 2018; *Europapress*, [Las abuelas Zarco quieren vivir la justicia que lograron](#) [Sepur Zarco grandmothers want to experience the justice they obtained], March 2,

²¹⁷ *Impunity Watch*, Report: Follow-up on IACHR recommendations on Guatemala, October 23, 2019, p. 23

²¹⁸ *International Justice Monitor*, [Maya Achí Sexual Violence Case Continues Today](#), June 6, 2019; PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, October 2019, p. 23.

²¹⁹ I/A Court H.R., Case of the Plan de Sánchez Massacre v. Guatemala, Judgment of November 19, 2004, para. 49; and Case of Espinoza Gonzáles v. Peru, Judgment of November 20, 2014, para. 150.

- ensure their rights, with special emphasis on services for children at the local level, endowing the framework with sufficient human, material and economic resources.
- Put an end to the model of residential institutions for children and adolescents, inasmuch as it runs counter to international standards.

112. This three-part recommendations urge the state to: **1) implement measures to do away with institutionalization; 2) review legislation, policies, and practices to bring them into line with international standards; and 3) reinforce, in particular, social policies supporting families so they can provide adequate care to their children, as well as other social policies aimed at guaranteeing rights, such as in health, education, and nutrition, taking into consideration the higher interest of the child.** Regarding the first component, the state reiterated the measures implemented to prevent the institutionalization of children and adolescents, which include protection and shelter programs on the basis of alternatives such as family reunification, temporary foster family, and professionalized family,²²⁰ in addition to other measures implemented in prior years. Standing out among these are: the revival of inter-agency coordination groups; regulatory adjustments; elimination of mega institutions for the temporary protection of children and adolescents;²²¹ and work with the de-institutionalization plan since 2017. The State also reported that 1,682 fewer children and adolescents were institutionalized compared to the 2016 count (from 5,000 children and adolescents in the 111 homes counted to 3,318 in 124 homes). The State underscored improvements in data collection by the judiciary and the specialized process for recording information on children and adolescents; the creation of nine working groups to seek out family options; and ongoing training and awareness-raising for juvenile court judges. The State also indicated that a regulation on granting family subsidies for children and adolescents with disabilities and/or under protection had been passed in 2018 in an effort to promote gradual de-institutionalization.²²²

113. The IACHR also received information about a 130% increase in the number of children and adolescents taken by the state foster care system in one year between the second semester of 2017 and the same period of 2018 (from 310 to 715 children and adolescents).²²³ With respect to the model of residential institutions for children and adolescents, the PDH reported that efforts are being made to put an end to them and to increase the number of “foster families” via the Secretariat for Social Welfare, but it believes that it has not been possible to substantially reduce institutionalization.²²⁴

114. In connection with the adolescent girls who survived the 2017 fire of the Virgen de la Asunción Home for Girls, the state informed that they have been returned to their families and that they are benefiting from a protection plan with constant monitoring by the Judiciary. Some of them are being sheltered in homes for their recovery. It indicated that a process of deinstitutionalization has started for the purpose of reinserting them into their nuclear family, striving to restore their rights, and providing them with the corresponding bio-psycho-social care, and that decent reparations reports were drafted for them and the families of those who died.²²⁵ Likewise, it reported on the actions for non-repetition of the incidents such as bi-monthly inspections of all the provisional foster care homes with a team-based approach and psychosocial follow-up on the children

²²⁰ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

²²¹ Presently, there are 22 different State foster homes and shelters and 124 private homes authorized, or in the process of being authorized, by the competent agency. Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

²²² Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

²²³ BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019; *Prensa Libre*, [Secretaría de Bienestar Social enfrenta un incremento de menores bajo su cuidado](#) [Secretariat for Social Welfare faces rise in number of minors in its care], February 15, 2019.

²²⁴ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²²⁵ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

and adolescents reinserted into their family environment, among others.²²⁶ The state added that it established the “National Day of the Victims of the Tragedy at the Virgen de la Asunción Home for Girls” and a lifelong allowance for the 15 survivors.²²⁷

115. According to publicly available information, the Fourth Appeals Chamber confirmed that five former staff members of the Home for Girls will face trial for the tragedy.²²⁸ As for the Human Rights Law Firm (*Bufete Jurídico de Derechos Humanos—BDH*), it reported that the court order shutting the home concerned was enforced, but without any impact on the transformation of the child protection system.²²⁹ It indicated that the authorities have not provided any comprehensive monitoring of the adolescent girls and that priority continues to be given to institutionalization instead of other alternatives measures. It pointed out that the lifelong allowance allocated to the survivors depends on the submittal of budget implementation reports.²³⁰ Likewise, it asserted that the criminal proceedings have presented anomalies.²³¹ It added that the 15 survivors were criminally charged by a person close to the former director of the Home, identifying them as having committed crimes.²³² The IACHR is concerned that the criminalization of the victims might be intended to intimidate them in an effort to adversely affect the criminal case against the alleged perpetrators. In this connection, the Commission urges the State to take actions to guarantee due process in the investigation of the facts and punishment of the perpetrators, bearing in mind the victims’ right to the truth.²³³

116. The Commission welcomes the State’s initiative to erect a memorial for the 41 adolescents who perished in the tragedy.²³⁴ However, the IACHR takes note, with concern, of the news indicating that the survivors and the next of kin of the adolescents who had died were not informed about the installation of the memorial or invited to the solemn act during which it was unveiled.²³⁵ In this regard, the Commission reminds the State that acts to repair or guarantee the non-repetition of human rights violations must include the victims in the design thereof.

117. Regarding the second component, the state indicated that, in July 2019, the Comprehensive Child and Adolescent Care Model (*Modelo de Atención Integral de la Niñez y Adolescencia*) was adopted for the main purpose of guaranteeing and protecting children and adolescents who are victims of crimes, providing them with immediate care with a gender perspective, cultural relevance, and legal, psychological, and social orientation.²³⁶ As for the third component, the state did not submit any information regarding 2019. The IACHR values the progress reported by the State, but also regrets that it received no information about the third component. It therefore considers that this recommendation has been partially complied with.

²²⁶ Republic of Guatemala, Supplementary Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

²²⁷ Decree No. 16-2018 of Congress. Republic of Guatemala, Supplementary Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

²²⁸ *El Periódico*, [Sala confirma: cinco exfuncionarios irán a debate oral por tragedia del Hogar Seguro](#) [Court confirms: five former staff members will face trial for the Hogar Seguro tragedy], July 9, 2019.

²²⁹ Where 41 adolescents died and 15 sustained serious injuries. BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019.

²³⁰ BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019.

²³¹ The many roles and conflicts of interest of the PGN; suspension of hearings and unjustified delay in the trial; as well as the danger or revictimization of adolescents. BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019.

²³² BDH, Follow-up on compliance with the recommendations issued by the Report on the Situation of Human Rights in Guatemala, November 3, 2019.

²³³ I/A Court H.R., Case of the Serrano Cruz Sisters v. El Salvador. Merits, Reparations, and Costs. Judgment of March 1, 2005. Series C No. 120, parr. 62.

²³⁴ *La Hora*, [Develan memorial en honor a las niñas muertas en el Hogar Seguro](#) [Memorial in honor of the girls who died in Hogar Seguro unveiled], November 20, 2019.

²³⁵ *Nómada*, [Hogar Seguro: El gobierno instala un monumento para las niñas sin invitar a sobreviviente, a las familias y sin pedir perdón](#) [Hogar Seguro: The government erects a monument to the girls without inviting survivors or relatives and without asking forgiveness], November 21, 2019.

²³⁶ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

118. As for full compliance with the recommendation to **clearly regulate measures involving the removal of a child from his or her family for reasons of protection, on an exceptional basis and for the shortest length of time possible**, the State did not submit updated information. In its observations on the draft version of this report, the State indicated that the National Adoption Council had conducted 277 supervisory visits in 2018 aimed at strengthening family ties and encouraging homes to help in the quest for ideal family resources, etc.²³⁷ As for the PDH, it reported that no progress had been made toward providing clear regulations about the exceptional character of the protection measures involving the separation of a child from his or her family.²³⁸ Therefore, the IACHR concludes that compliance with this recommendation is pending.

119. Regarding the recommendation to **adopt public policies and legislative measures to implement a true model of full implementation of all rights of all children and adolescents**, the state reported on the progress made in adopting the Government Agreement on the establishment of the Comprehensive Migrant Child and Adolescent Care Commission. This Agreement shall replace Government Agreement 146-2014 and is aimed at coordinating, evaluating, promoting, and monitoring enforcement of the strategies, plans, and programs for migrant children and adolescents to provide them with protection, assistance, and comprehensive care and to ensure respect for their fundamental rights. It also reported on strengthening the surveillance and implementation of the Inter-Agency Roadmap for the Care of Children and Adolescents who are Unaccompanied and Separated from their Families who are in Guatemalan territory but outside their own country of origin.²³⁹ Additionally, in its observations on the draft version of this report, the State reported that four training workshops had been held this year to support the homes in implementing quality standards of care for children and adolescents in foster facilities and that professionals had been hired to conduct the corresponding supervisory visits. The State further reported on the Inter-agency Cooperation Agreement whereby the institutions comprising the Comprehensive Child and Adolescent Care Model (MAINA) can coordinate to ensure the restitution to and full enjoyment of rights by children and adolescents who have been threatened or abused.²⁴⁰

120. The impact of insecurity on the migration of children and adolescents is a topic of utmost concern for the IACHR, taking into account that, up to June 2019, 1,623 unaccompanied children and adolescents were deported to Guatemala from the United States. It also takes into account that, at August 2019, the figures for child and adolescent deportations rose by 38% compared to 2018 and the data recorded were higher than total records for 2017.²⁴¹ The IACHR appreciates the update of information from the above-mentioned Commission and the measures that were adopted.

121. Regarding this, at the hearing on the complaints about the violations of the human rights of migrant children and adolescents in Central America, Mexico, and the United States, it was reported that the profile of migrants and asylum seekers had changed substantially over the past few years and that now it is principally composed of families with children and adolescents.²⁴² According to the information provided, the states concerned are not satisfactorily meeting the minimum needs of persons who are seeking international protection. The IACHR stresses the importance of full protection for the rights of children and adolescents, the responsibility of national protection systems, and the principle of non-refoulement. The IACHR also stresses

²³⁷ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²³⁸ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²³⁹ Republic of Guatemala, Supplementary Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

²⁴⁰ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁴¹ *La Hora*, [Otto Rivera y Ciprodeni dan una radiografía actualizada de la niñez migrante](#) [Otto Rivera and CIPRODENI provide an up-to-date X-ray of migrant children], August 17, 2019.

²⁴² IACHR, [Audiencia sobre denuncias de violaciones a los derechos humanos de NNA migrantes en América Central, México y Estados Unidos](#) [Hearing on complaints of human rights violations against migrant children and adolescents in Central America, Mexico, and the United States], September 26, 2019.

the need for shared international responsibility and points to the proposal of organizations to create a transnational mechanism to protect the rights of migrant children and adolescents, which includes a strong element of coordination with authorities.²⁴³ Regarding this, the state reported on coordination with the Consulates of Honduras and El Salvador in Guatemala for the issuance of birth certificates for children and adolescents and information about children and adolescents who were going to be returned to Honduras and El Salvador.²⁴⁴

122. Another issue of concern for the IACHR is the rise in violence and deaths in the first semester of 2019. Figures from INACIF indicated 395 deaths of children and adolescents from violent causes: firearms accounting for 71% (284 cases), followed by hanging or strangling accounting for 19.8% (78 cases) and stabbing accounting for 6.3% (25 cases).²⁴⁵ Out of the total, 309 are boys and 86 are girls, in both cases recording increases of 6.6% and 16.2%, respectively, compared to the same period in 2018. In addition, children from 10 to 14 years of age (21 cases) and from 15 to 19 years of age (54 cases) are the most heavily impacted. In this first semester, the rate rose to 24% among women and 57% among men, compared to the same period in 2018.²⁴⁶

123. As for PAHO and WHO, they recorded that homicides are the principal cause of death among children, adolescents, and young people between 10 and 24 years of age in Guatemala, an age range accounting for 32% of the population.²⁴⁷ The IACHR calls upon the state to adopt urgent measures to prevent this alarming trend of increased violence which is disproportionately affecting children and adolescents.

124. As for the forensic examinations of injuries stemming from violence among children and adolescents, there were 669 cases reported from January to June 2019, with injuries consistent with mistreatment accounting for 72% (487 cases), injuries from firearms accounting for 20% (134 cases), and stabbing accounting for 8% (48 cases).²⁴⁸

125. As for sex crimes against girls and adolescents, there were 2,885 medical examinations pertaining to sex crimes in the first semester of 2019, with 90% (2,596 cases) among adolescent girls and women from 0 to 19 years of age and 10% (289) among men in the same age group. The figures rose by 8.4% for women and 2.9% for men, compared to the first semester of 2018. Furthermore, according to the Ministry of Public Health and Social Welfare, 66,042 pregnancies were recorded among girls and adolescents from 0 to 19 years of age, and 721 girls from 10 to 13 years of age were pregnant as a result of rape, that is, 4 girls and adolescents every day in the first six months of 2019.²⁴⁹ The IACHR calls upon the state to adopt urgent measures to prevent this alarming trend of increased violence that is disproportionately impacting children and adolescents.

126. Another issue of concern for the IACHR is the high number of pregnant girls and adolescents between 10 and 19 years of age and the fact that there are no matching statistics between the registry of

²⁴³ IACHR, [Audiencia sobre denuncias de violaciones a los derechos humanos de NNA migrantes en América Central, Estados Unidos](#) [Hearing on complaints of human rights violations against migrant children and adolescents in Central America, and the United States], September 26, 2019.

²⁴⁴ Republic of Guatemala, Supplementary Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

²⁴⁵ Death from suffocation or hanging could be associated with suicide. Children's Rights Observatory-Institutional Coordinator to Promote the Rights of the Child (*Observatorio de los Derechos de la Niñez-Coordinadora Institucional de Promoción por los Derechos de la Niñez—ODN-CIPRODENI*), Year 4, No. 10, September 2019.

²⁴⁶ Children's Rights Observatory-Institutional Coordinator to Promote the Rights of the Child (*Observatorio de los Derechos de la Niñez-Coordinadora Institucional de Promoción por los Derechos de la Niñez—ODN-CIPRODENI*), Year 4, No. 10, September 2019; Cf. *Publinews*, [Dos niños mueren diariamente en Guatemala, según organizaciones](#) [Two children die every day in Guatemala, according to organizations], September 30, 2019.

²⁴⁷ *Prensa Libre*, [Las cifras sobre violencia, suicidios y complicaciones en embarazos: principales causas de muertes en jóvenes guatemaltecos](#) [Figures on violence, suicides, and complications in pregnancies; main causes of death in Guatemala youth], PAHO and WHO Report: The Health of Adolescents and Youth in the Americas, 2019.

²⁴⁸ ODN-CIPRODENI, Year 4, No. 10, September 2019.

²⁴⁹ ODN-CIPRODENI, Year 4, No. 10, September 2019.

pregnant girls and adolescents, the figure for these births, and the National Vital Statistics Registry of Persons (*Registro Nacional de las Personas—RENAP*). Thus, last year, the Ministry of Health recorded 116,773 pregnant girls and adolescents in that same age range and 31,858 childbirths, whereas the RENAP has only recorded 82,250 sons and daughters from that age group. As highlighted by the PDH, this reflects a failure of information control and monitoring systems with respect to guaranteeing the human rights of children and adolescents,²⁵⁰ which creates obstacles to providing an adequate response from the state.

127. The IACHR takes into account that cases of pregnancy among girls and adolescents between 10 and 19 years of age rose from 92,266 in 2017 to 116,773 in 2018²⁵¹ and that the Sexual and Reproductive Health Observatory (*Observatorio en Salud Sexual y Reproductiva—OSAR*) reported that, between January and August 2019, 85,619 pregnancies were recorded among girls and adolescents in that same age range.²⁵² These high figures, which are rising, are a clear indicator of the need for the state to adopt urgent measures to tackle these problems.

128. As for justice, the state also reported on the Letter of Understanding between the Office of the Public Prosecutor, the Survivors Foundation, and the United Nations Children’s Fund (UNICEF), aimed at providing comprehensive protection to children and adolescents and developing specialized intervention models for children and adolescents who are victims and witnesses of crimes, including institutional capacity building and the development of coordination mechanisms that make it possible to install a special protection system.²⁵³

129. As for the PDH, it indicated that no progress had been made regarding the adoption of public policies and legislative measures to implement a comprehensive model to guarantee the rights of all children and adolescents and there is as yet no lead agency for public policies for children and adolescents, which does not facilitate a comprehensive approach to the rights of these population groups. It added that Congress has not passed the initiative for Law 5285 for a Comprehensive Child and Adolescent Protection System.²⁵⁴

130. Furthermore, the IACHR regrets the state’s scant investment in public policies for the well-being of children and adolescents and that, for example, in 2018, only 1.3% of the country’s gross domestic product (GDP) was invested in children and adolescents. It also takes into account that the budget for children and adolescents has only increased one-tenth of a percentage point since 2008.²⁵⁵ The IACHR urges the state to reverse this situation with a rise in budget allocations commensurate with the situation of children in the country. Therefore, it considers that compliance with this recommendation is pending.

131. As for the recommendation to **put an end to the model of residential institutions for children and adolescents, inasmuch as it runs counter to international standards**, in its observations on the draft version of this report, the State reported on implementation of the National Decentralization Plan via the Catholic Relief Services project “Changing the Way We Care” [*Cambiar la forma en que cuidamos*] and on the promotion of changes in outpatient care in residential facilities. It indicated that the Social Welfare Secretariat was in the process of implementing, constructing, and developing guidelines for temporary

²⁵⁰ Opinion of the PDH, Óscar Rodríguez. See *Prensa Libre*, [Embarazos en menores se incrementan, pero los datos oficiales no oficiales no coinciden con esa realidad](#) [Pregnancies among minors on the rise, but official data do not match that reality], February 20, 2019.

²⁵¹ Data from the Ministry of Health. See *Prensa Libre*, [Embarazos en menores se incrementan, pero los datos oficiales no coinciden con esa realidad](#) [Pregnancies among minors on the rise, but official data do not match that reality], February 20, 2019.

2019.

²⁵² *La Hora*, [Estudio: Estado invirtió solo 1.3% del PIB en niñas y adolescentes en 2018](#) [Study: State invested only 1.3% of GDP 1.3% of GDP on girls and adolescents in 2018], October 10, 2019.

²⁵³ Republic of Guatemala, Supplementary Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

²⁵⁴ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁵⁵ According to figures from CIPRODENI. *La Hora*, [Estudio: Estado invirtió solo 1.3% del PIB en niñas y adolescentes en 2018](#) [Study: State invested only 1.3% of GDP on girls and adolescents in 2018], October 10, 2019.

residential care that address policies on de-institutionalization and family protection.²⁵⁶ Therefore, the IACHR considers that this recommendation has been partially complied with.

Indigenous peoples

- Prior to granting concessions, licenses, or permits for the exploration or exploitation of natural resources that affect the ancestral lands or territories of indigenous peoples and communities, carry out a prior, free, and informed consultation, with a view to obtain consent, in keeping with Inter-American standards on the subject, and taking into account the characteristics, practices, and customs of the indigenous peoples and communities involved.
- With respect to concessions previously granted or in the process of implementation, establish a mechanism to be able to assess the need for a change in the terms thereof in order to preserve the physical and cultural survival of indigenous communities and peoples. Adopt the measures necessary to ensure that the indigenous peoples and communities that have been suffering the effects of projects with no consultation have access to mechanisms that enable them to mitigate those effects and make adequate reparation for them in a culturally appropriate manner.
- Adopt immediate measures to protect collective intellectual property of indigenous women with regard to apparel and designs that represent their traditional identity.

132. Regarding the **recommendation to carry out a prior, free, and informed consultation prior to granting concessions, licenses, or permits for the exploration or exploitation of natural resources that affect the ancestral lands or territories of indigenous peoples and communities**, in its observations on the draft version of this report, the State indicated that, for consultations held prior to the granting of concessions, licenses, or permits for natural resource exploitation that affects indigenous peoples, the Ministry of Energy and Mines was adhering to the guidelines set forth in the 2017 judgment issued by the Constitutional Court in connection with the Oxec y Oxec II hydroelectric plants, as well as to the Operations Guide for Holding Consultations with Indigenous Peoples, in keeping with inter-American standards in this area.²⁵⁷

133. At the same time, the IACHR has learned that the Ch'orti' indigenous authorities filed an appeal for protection on constitutional grounds (*amparo*) with the CSJ, because the quarrying company Cantera Los Manantiales had not conducted the consultation. The indigenous authorities had reported that the extraction of antimony by this company was polluting the water and, as a result, triggering illnesses that are especially affecting the children of their people.²⁵⁸

134. Furthermore, the IACHR commends the CSJ's ruling to order a prior, free, and informed consultation of the indigenous communities affected by the RENACE hydropower station on the Cahabón River in Verapaz, in response to the complaint that was filed. Regarding this, the IACHR notes that the judgment, although it instructed carrying out the consultation, did not order the interruption of ongoing operations, which led to a reasoned dissenting opinion by a judge, who requested suspending the permit "until the rights of the Q'eqchi' people were restored."²⁵⁹

²⁵⁶ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁵⁷ Judgments 90, 91, and 92 of 2017. Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁵⁸ *Prensa Comunitaria*, [Comunidades Ch'orti' presentan amparo en contra del Ministerio de Energía y Minas](#), [Ch'orti' Communities file appeal on constitutional grounds against the Ministry of Energy and Mines], August 8, 2019.

²⁵⁹ *LTR*, [La justicia de Guatemala reconoce la vulneración de los derechos de los pueblos indígenas en la hidroeléctrica construida por el grupo Cobra-ACS](#), [Justice of Guatemala recognizes violation of the rights of indigenous peoples with respect to the hydropower station built by the Cobra-ACS group], July 10, 2019; Alianza Biodiversidad, [La justicia guatemalteca da la razón a las comunidades indígenas](#), [Justice of Guatemala rules for the benefit of the indigenous communities], July 23, 2019; *Público*, [La justicia guatemalteca da la razón a las comunidades indígenas frente a una obra de ACS](#), [Justice of Guatemala rules for the benefit of the indigenous communities with respect to the ACS project], July 19, 2019.

135. In addition, the IACHR observes that Congress has not yet adopted the Law on Indigenous Peoples, as stipulated in Article 70 of the Constitution.²⁶⁰ Nevertheless, it commends the initiative for collaboration between the Ministry of Labor and Social Welfare of Guatemala, officials from the International Labor Organization (ILO), and the Peruvian Government to discuss the initiative for the Law Regularizing Consultations with Indigenous Peoples in the framework of ILO Convention 169.²⁶¹

136. The IACHR has learned of the problems relative to the implementation of environmental impact assessment studies when dealing with investment projects likely to impact indigenous peoples. According to available information, these projects did not fulfill their duty to guarantee the mitigation of environmental and social damages caused by the companies, nor did they meet international standards currently in force for respecting the rights of indigenous peoples.²⁶²

137. The IACHR reiterates what was indicated in previous reports²⁶³ and urges the state to correct participatory processes and conduct free, prior, and informed consultations with indigenous peoples, regarding all those legislative and administrative measures that are likely to affect them directly.²⁶⁴ Likewise, the IACHR recalls what was indicated by the Inter-American Court, when it stated that “one of the fundamental guarantees to ensure the participation of indigenous peoples and communities in decisions regarding measures that affect their rights and, in particular, their right to communal property, is precisely the recognition of their right to consultation.”²⁶⁵ Therefore, the IACHR considers that compliance with this recommendation is pending.

138. With respect to the **establishment of mechanisms making it possible to assess the need to amend the terms of the concessions granted or being implemented**, in its observations on the draft version of this report, the State reiterated that consultations were being held. It further indicated that legal decisions were seeking to set things right by ordering *ex post* consultations in specific cases, but that in the day-to-day, each government agency, based on its nature and area of responsibility, was attempting to improve this outreach to indigenous peoples. The State also reported on two successful consultation processes: the consensus reached with 17 communities from Huehuetenango to resume construction of the Franja Transversal Norte highway and the agreements reached with two communities in Petén regarding conservation of protected areas and the communities’ need to have a place to live.²⁶⁶

139. In 2019, the IACHR has continued receiving information indicating that environmental impact assessments (EIA) had failed to guarantee the mitigation of environmental and social damages caused by the companies and that the Ministry of the Environment and Natural Resources (*Ministerio de Ambiente y Recursos Naturales—MARN*) did not play an assertive role in environmental management taking into consideration the rights of indigenous peoples.²⁶⁷

²⁶⁰ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, p. 27, October 2019.

²⁶¹ *La Hora*, [En el Organismo Legislativo se discute Ley de Consulta a Pueblos Indígenas](#) [Law on Consultation of Indigenous Peoples being discussed in the legislature], August 21, 2019; *Diario de Centro América*, [Perú intercambia experiencias con Guatemala, sobre consulta a pueblos indígenas](#) [Peru exchanges experiences with Guatemala on consultation of indigenous peoples], March 15, 2019.

²⁶² PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala, p. 27, October 2019.

²⁶³ IACHR, [Informe Situación de derechos humanos en Guatemala](#), [Report on the Situation of Human Rights in Guatemala], pp. 61 and ss.

²⁶⁴ I/A Court H.R. Case of Kichwa Indigenous People of Sarayaku v. Ecuador. Judgment of June 27, 2012. Series C No. 245, para. 181. I/A Court H.R. Case of the Saramaka People v. Suriname. Judgment of November 28, 2007. Series C No. 172, para. 133 a 137. I/A Court H.R. Case of the Saramaka People v. Suriname. Judgment of August 12, 2008, Series C No. 185, para. 17.

²⁶⁵ I/A Court H.R. Case of Kichwa Indigenous People of Sarayaku v. Ecuador. Judgment of June 27, 2012. Series C No. 245, para. 160.

²⁶⁶ Judgments 90, 91, 92 of 2017. Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

²⁶⁷ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala, 2017, p. 27, October 2019.

140. Regarding the social welfare of the indigenous population, the IACHR commends the adoption of certain measures to improve the living conditions of 567 households in the departments of Quiché, Jalapa, Huehuetenango, Alta Verapaz, Chimaltenango, Totonicapán, and Escuintla, such as the provision of improved stoves and water purifying basins and filters.²⁶⁸

141. The IACHR reiterates that the obligation to establish mechanisms to assess the modification of the terms of the concessions granted or being implemented is founded on the territorial rights of indigenous peoples, and therefore constitutes a key requirement for the development of their culture, spiritual life, integrity, and economic survival.²⁶⁹ Because of the above, the IACHR considers that compliance with this recommendation is pending.

142. As regards the recommendation to **adopt immediate measures to protect collective intellectual property of indigenous women with regard to apparel and designs that represent their traditional identity**, the State indicated in its observations on the draft version of this report, that its constitution guarantees the use of indigenous apparel and that this is a commitment of the State undertaken in the Agreement on Indigenous People's Identity and Rights.²⁷⁰

143. The IACHR observes that, despite efforts to introduce legislation on the matter, there is no law aimed at undertaking a process for registering the intellectual property of indigenous apparel and designs.²⁷¹ The IACHR also observes that, in the prior context of the general elections held in June 2019, indigenous women's organizations requested that actions be taken to tackle problems being experienced by women²⁷² and indigenous people. In that context, they requested guaranteed access to political participation in state bodies,²⁷³ as well as access to land, health, education, and housing.²⁷⁴

144. Furthermore, the IACHR commends the various actions implemented by the state to broadcast the rights of indigenous women.²⁷⁵ Nevertheless, the IACHR reiterates that indigenous women are known for being the guarantors of their culture.²⁷⁶ In that respect, the states have the duty to respect, protect, and guarantee their traditional knowledge and manifestations, regardless of the spaces or activities in which they occur.²⁷⁷ Therefore, the IACHR concludes that compliance with this recommendation is pending.

²⁶⁸ *Diario de Centro América*, [Beneficiaran a más de 2 mil personas de comunidades indígenas](#) [More than 2,000 indigenous communities shall benefit], October 7, 2019.

²⁶⁹ IACHR, Allegations before the Inter-American Court in the Case of Sawhoyamaya v. Paraguay. Referred to in: I/A Court H.R. Case of the Sawhoyamaya Indigenous Community v. Paraguay. Judgment of March 29, 2006. Series C No. 146, para. 113(a).

²⁷⁰ Judgments 90, 91, and 92 of 2017. Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁷¹ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, p. 28, October 2019.

²⁷² Alianmizar, Asociación Mojoj, and Red de Comunicadoras Indígenas. *Sputnik*, [Movimiento indígena de Guatemala denuncia intento de impugnar a su candidata presidencial](#) [Indigenous movement of Guatemala denounces attempt to impugn its presidential candidate], April 12, 2019; *El País*, [Movimiento indígena de Guatemala denuncia intento de impugnar a su candidata presidencial](#) [Indigenous movement of Guatemala denounces attempt to impugn its presidential candidate], April 12, 2019.

²⁷³ *Sputnik*, [Movimiento indígena de Guatemala denuncia intento de impugnar a su candidata presidencial](#) [Indigenous movement of Guatemala denounces attempt to impugn its presidential candidate], April 12, 2019; *El País*, [Movimiento indígena de Guatemala denuncia intento de impugnar a su candidata presidencial](#) [Indigenous movement of Guatemala denounces attempt to impugn its presidential candidate], April 12, 2019.

²⁷⁴ *La Hora*, [Piden a nuevo gobierno resolver problemáticas de mujeres y pueblos indígenas](#) [New government requested to solve problems of indigenous woman and peoples], July 18, 2019.

²⁷⁵ *Diario de Centro América*, [Demi previene la violencia contra niñas indígenas](#) [Indigenous Women's Defense Office (DEMI) prevents violence against indigenous girls], August 1, 2019; *Diario de Centro América*, [contribuyen con la formación de 40 líderes indígenas con discapacidad](#) [They contribute to training 40 indigenous leaders with disabilities], August 1, 2019; *Diario de Centro América*, [Firman convenio para fortalecer el emprendimiento de mujeres indígenas](#) [They sign agreement to strengthen entrepreneurship of indigenous women], August 9, 2019.

²⁷⁶ IACHR, [Informe Mujeres Indígenas](#) [Report on Indigenous Women], 2017, para. 11.

²⁷⁷ IACHR, [Informe Mujeres Indígenas](#) [Report on Indigenous Women], 2017, para. 5.

Persons deprived of liberty

- Implement in practice a model of juvenile justice that regards deprivation of liberty as a measure of last resort and for the shortest length of time possible, and with a rehabilitative instead of a punitive approach.
- Adopt judicial, legislative, administrative and other types of measures required to correct the excessive use of pretrial detention, ensuring that this measure is used as an exception and is bound by the principles of legality, presumption of innocence, need and proportionality. In particular, the State must promote, regulate and apply alternative measures to pretrial detention. Accordingly, it must repeal any legal provisions ordering compulsory use of pretrial detention for the particular type of offense, and not establish further restrictions on procedural mechanisms and opportunities for release.
- Strengthen public criminal defense systems, attaching priority to coverage and quality of service in order to provide, from the time of arrest, a service aimed at timely and effective protection of fundamental rights.
- Implement judicial and prison information management systems at all detention facilities of the country, in order to provide up-to-date data and ready access on cases and the custody status of persons deprived of liberty in the country, and correct the lack of an automated and unified system of registry of the proceedings of persons deprived of liberty.
- Implement on-premise hearings at prison facilities in the presence of the judicial authorities in order to conduct particular proceedings to deal with the high rates of suspended court hearings and overcome difficulties in transferring inmates to courthouses.
- Take the necessary steps to ensure that persons deprived of liberty are transferred to detention facilities meeting the minimum conditions compatible with the rights of persons deprived of liberty. This is inasmuch as police stations used as permanent detention facilities and military bases do not meet the minimum requirements for the detention to be compatible with international standards on the subject matter.
- Change Guatemalan law against money laundering and the Criminal Code to meet the following requirements: a) that the punishment for money laundering does not amount to de facto imposition of a double sentence of deprivation of liberty, and b) that the law not continue to perpetuate the deprivation of liberty based on the mere material impediment that the persons have to cover the cost of the fine imposed.

145. With regard to the recommendation to **implement in practice a model of juvenile justice that contemplates the deprivation of liberty as a measure of last resort and for the shortest possible time and that does not have a retributive but rather a rehabilitative character**, in 2018 the state reported that the Inter-Agency Strategic Plan for 2016-2019 was being implemented.²⁷⁸ This year the State reported that the agreement on the Comprehensive System for Juvenile Justice had been signed and it underscored that overcrowding had decreased from 258% in 2017 to 182% in 2018.²⁷⁹ Furthermore, the state reported on the budget implemented by the Under-Secretariat for Reintegration and Rehabilitation of Juvenile Offenders belonging to the Secretariat for Social Welfare of the Office of the President.²⁸⁰

²⁷⁸ Republic of Guatemala, Note NV-OEA-M12-No. 538-2018, October 29, 2018, p. 29.

²⁷⁹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁸⁰ Q. 29,597,947.00, with budget implementation up to August 2019 in the amount of Q. 15,918,034.36, accounting for 53.78%, and the budget earmarked for "Food for Juvenile Offenders" amounts to Q. 23,000,000.00, and its implementation up to August amounts to Q. 22,798,339.70, accounting for 98%. Republic of Guatemala, Supplemental Report from the State of Guatemala on progress in human rights for the preparation of the IACHR Annual Report for 2019, received on November 6, 2019, and Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

146. The PDH, in turn, reported that the Criminal Court of the Judiciary established the Comprehensive Care Model for Adolescents Deprived of Liberty, for the purpose of improving living conditions and the standard of living of juvenile offenders (*adolescentes en conflicto con la ley penal—ACLP*), in order to ensure their effective reintegration and rehabilitation in society and their family. He indicated that there are now two courts for implementing measures taken for juvenile offenders, Regulations for the Management of Courts and Chambers with Jurisdiction over Children and Adolescents and Juvenile Offenders, and manuals for the functions of the Unit in charge of Monitoring and Implementing the Measures.²⁸¹

147. The PDH also reported that, as a result of a court decision, the Under-Secretariat for Reintegration and Rehabilitation of Juvenile Offenders belonging to the Secretariat for Social Welfare is working with Strategy 18, which establishes strategies and baselines to achieve: zero overcrowding, zero idleness, zero illiteracy, #DameChance (work), and crime prevention. It indicated that, in 2018, it was announced that the Specialized Reintegration Center was being built, although it is still not completed. It added that the Office of the Public Prosecutor increased the number of prosecution services for juvenile offenders to six and strengthened the Early Decision Unit, which also hears less serious offenses perpetrated by juveniles, using an approach focusing on rehabilitation, reintegration, and responsibility.²⁸²

148. Likewise, it reported that the Public Criminal Defense Institute now has 33 defense attorneys for ACLPs and that civil society organizations have become important partners as a result of international cooperation projects aimed at implementing socio-educational measures decided upon by specialized courts as alternatives to the deprivation of liberty.²⁸³ Therefore, the IACHR considers that the present recommendation has been complied with partially.

149. Regarding the recommendation urging the State to **adopt measures required to correct the excessive use of pretrial detention, promote alternative measures, and repeal any legal provisions ordering compulsory use of pretrial detention for a particular type of offense**, the state did not submit updated information. The IACHR is concerned that, this year, the high rates of pretrial detention have remained unchanged in Guatemala, including a slight rise compared to the preceding year. According to information in the public domain, of the total number of persons deprived of liberty, amounting to 24,566, there were 11,802 who were sentenced and 12,764 in pretrial detention. This figure accounts for 51.95% of the total number of persons deprived of liberty, of which 5.8% are women.²⁸⁴ The high rate of overcrowding in prisons, amounting to 351%, is also a matter of concern.²⁸⁵

150. Furthermore, the Ombudsperson (PDH) reported that there are no judicial, legislative, or administrative measures available to prevent the excessive use of pretrial detention, which continues to be over 52%, and indicated that overcrowding and overpopulation in the penitentiary system continues. He added that the Law on Computerized Remote Monitoring has still not been implemented, although it was passed in December 2016.²⁸⁶

²⁸¹ Auxiliary Judge V of the CSJ. Unnumbered official letter, October 31, 2017. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁸² PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁸³ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁸⁴ In 2018, records indicate that 51.58% of persons deprived of liberty were in pretrial detention. IACHR, Annual Report 2018, Chapter V [Seguimiento de Recomendaciones a Guatemala](#) [Follow-up on Recommendations to Guatemala], para. 128. Penitentiary System of Guatemala, @DGSPG on Twitter, [Población reclusa al día de hoy en los distintos centros carcelarios a cargo de @DGSPG a nivel nacional](#). [Inmate population today in the various penitentiary centers run by @DGSPG nationwide], September 25, 2019.

²⁸⁵ Figures from the National Office for the Prevention of Torture (*Oficina Nacional de Prevención de la Tortura—ONPT*). *Prensa Libre*, [OJ no tiene información clara de las personas en prisión preventiva](#) [Judiciary does not have precise information about persons in pretrial detention], February 26, 2019.

²⁸⁶ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019. See also *Prensa Libre*, [Control telemático no será implementado por este Gobierno](#) [Automated remote control shall not be installed by this government], August 21, 2019.

151. The Ombudsperson (PDH) expressed his concern over the priority, disproportionate, excessive, and prolonged use of pretrial detention, infringing international standards and national jurisprudence.²⁸⁷ Regarding this, he indicated that pretrial detention is being used to criminalize human rights defenders by charging them with crimes for which there is no alternative to custodial sentences (criminal conspiracy, terrorism, aggravated encroachment, grand theft, among others), especially for those defending the right to land and territory and those opposing large-scale projects affecting indigenous peoples, as in the cases of Abelino Chub and Bernardo Caal.²⁸⁸

152. The Ombudsperson (PDH) indicated that, along with the Judiciary and the Public Criminal Defense Institute, with support from the CICIG and the UNHCHR, they submitted to Congress a proposal for the legislative reform of pretrial detention, which has not as yet been examined. The Commission has learned of two other legislative initiatives to set limits on pretrial detention which were submitted to Congress last year and which are still being debated,²⁸⁹ as well as the initiative to amend the Law on the Penitentiary System.²⁹⁰ The Commission encourages the authorities to adopt legislation that is in line with inter-American standards in the matter.²⁹¹

153. Regarding the application of pretrial detention ex officio, the IACHR reiterates that, according to consistent rulings of the bodies of the inter-American system, mandatory application of pretrial detention because of the type of crime is not only a violation of the right to personal freedom according to the terms of Article 7.3 of the American Convention,²⁹² it also converts pretrial detention into a prison sentence before a

²⁸⁷ PDH, Detailed annual report on the human rights situation 2018, p. 307. See: CC, Case file 1994-2009, Judgment of February 16, 2011. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁸⁸ PDH, Report on the situation of human rights defenders in Guatemala: Between commitment and adversity, PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁸⁹ Republic of Guatemala, Congress, [Dictamen Integrado Favorable con Modificaciones a las Iniciativas 5466 y 5474 que buscan: que buscan: Reformas al Decreto Número 51-92 del Congreso de la República, Código Procesal Penal, con el Tema: Cese del Encarcelamiento](#) [Comprehensive Favorable Ruling with Amendments to Initiatives 5466 and 5474 seeking: Amendments to Decree No. Decree No. 51-92 of the Congress of the Republic, Criminal Procedures Code on the Subject: Termination of Incarceration], 2018, p. 12; p. 12; Congress of the Republic, Registry No. 5466, [Iniciativa de Ley que Dispone Aprobar Reforma al Decreto Número 51-92 del Congreso de la República, Código Procesal Penal](#) [Law Initiative Ordering Adoption of Amendment to Decree No. 51-92 of the Congress of the Republic, Criminal Procedures Code], 2018; *Plaza Pública*, [Limitar la prisión preventiva: el parche que el Congreso plantea](#) [Congreso plantea al gran problema penitenciario](#) [Restricting pretrial detention: the patch Congress proposes to solve the big penitentiary penitentiary problem], May 13, 2019; *Prensa Libre*, [OJ no tiene información clara de las personas en prisión preventiva](#) [Judiciary has no has no precise information about persons in pretrial detention], February 26, 2019.

²⁹⁰ Republic of Guatemala, Congress, [Iniciativa que dispone aprobar reformas al decreto número 33-2006 del Congreso de la República, Ley del Régimen Penitenciario](#) [Initiative Ordering Adoption of Amendments to Decree No. 51-92 of the Congress the Congress of the Republic, Criminal Procedures Code], August 21, 2019.

²⁹¹ 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. 151; IACHR, Merits Report No. 86/09, Case 12.553. Merits. Jorge, Jose and Dante Peirano Basso. Uruguay. August 6, 2009, para. 141.

²⁹² IACHR, [Situación de derechos humanos en Honduras](#) [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 Suárez Rosero v. Ecuador. Judgment of November 12, 1997. Series C No. 35, para. 98.; I/A Court H.R. Case of 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 mandatory pretrial detention system is incompatible with Article 5(3) of the European Convention.” CrEDH, Case of Ilijkov v. Bulgaria (Application No. 33977/96), Judgment of July 26, 2001 (Fourth Section of the Court), para. 84.

judgment is handed down,²⁹³ and constitutes an illegitimate interference of lawmakers in discretionary powers that come under the jurisdiction of the judicial authority.²⁹⁴

154. On the basis of this analysis, the IACHR concludes that compliance with this recommendation is pending and urges the state to redouble its efforts to reduce use of pretrial detention and to apply it in line with the principle of exceptionality required by its nature and in accordance with the principles of legality, proportionality, necessity, and reasonableness.

155. As for the recommendation to **strengthen public criminal defense systems**, the Commission observes that the state did not provide any information. Therefore, the Commission concludes that compliance with this recommendation continues to be pending.

156. With respect to the recommendation to **implement judicial and prison information management systems at all detention facilities of the country, in order to correct the lack of an automated and unified system of registry of the proceedings of persons deprived of liberty**, the Commission observes that the state did not submit substantive information regarding the recommendation. In its observations on the draft version of this report, the State indicated that the Institute for Criminal Public Defense had complied with its mandate and the guidelines set forth in the Operational Plan and the 2018-2025 Five-Year [sic] Plan, which are based on the crossing-cutting pillars of a gender- and human-rights-based approach, an intercultural approach, and transparency. It further indicated that from 2017 to 2018 there had been a 9.9% increase in assistance to individuals indicted for crimes (6,165 cases) and a 13% increase in assistance to victims and family members (999 individuals).²⁹⁵

157. As for the Ombudsperson (PDH), he reported that the weakness in the penitentiary records continues and that there are discrepancies between the registries of the various institutions of the justice sector, which prevents adequately monitoring judicial proceedings and providing individualized attention to persons deprived of liberty. He pointed out that the penitentiary system still does not have a registry of persons being held in the stations of the PNC (about 1,500)²⁹⁶. He also stressed that the rate of persons deprived of liberty had reached 141 per one hundred thousand inhabitants.²⁹⁷

158. The IACHR observes the persistent failure of implementing an automated and consolidated judicial and penitentiary information management system, which would make it possible to register the proceedings of persons deprived of liberty, and it regrets that no progress has been made in complying with this recommendation.²⁹⁸ Therefore, the Commission concludes that compliance with this recommendation continues to be pending.

159. As for the recommendation urging the State to **implement on-premise hearings at prison facilities**, in its observations on the draft version of this report, the State indicated that it had equipment to

²⁹³ IACHR, [Informe sobre medidas dirigidas a reducir el uso de la prisión preventiva en las Américas](#) [Report on Measures Aimed at Reducing the Use of Pretrial detention in the Americas], OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 91; IACHR, [Informe sobre el Uso de la Prisión Preventiva en las Américas](#) [Report on the Use of Pretrial Detention in the Americas], OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 151; IACHR, Merits Report No. 86/09, Case 12.553. Merits. Jorge, Jose and Dante Peirano Basso. Uruguay. August 6, 2009, para. 141.

²⁹⁴ IACHR, [Situación de derechos humanos en Honduras](#) [Situation of Human Rights in Honduras], OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 558; IACHR, [Informe sobre el Uso de la Prisión Preventiva en las Américas](#) [Report on the Use of Pretrial Detention in the Americas], OEA/Ser.L/V/II. Doc.46/13, December 30, 2013, para. 137.

²⁹⁵ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

²⁹⁶ PDH, Detailed annual report on the human rights situation 2018, p. 306. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁹⁷ PDH, Detailed annual report on the human rights situation 2018, p. 306. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

²⁹⁸ *Prensa Libre*, [OJ no tiene información clara de las personas en prisión preventiva](#) [Judiciary has no precise information about persons in pretrial detention], February 26, 2019.

hold videoconferences in its main prison facilities nationwide.²⁹⁹ As for the Ombudsperson (PDH), he reported that it has not been possible as yet to develop this recommendation. It indicated that certain hearings with high-risk persons deprived of liberty have been held via videoconferencing.³⁰⁰ Therefore, the Commission concludes that compliance with this recommendation continues to be pending.

160. With regard to the recommendation urging the State to **ensure that persons deprived of liberty are transferred from police stations and military bases to detention facilities meeting the minimum conditions compatible with the rights of persons deprived of liberty**, the state has neglected to provide relevant information. In its observations on the draft version of this report, the State reported on the budget cuts to the Bureau of Prisons.³⁰¹ As for the Ombudsperson (PDH), he considers that no center for the deprivation of liberty in Guatemala fully respects or guarantees human rights, although there are some that have less overcrowding or certain conditions that are better than others. He reported on the conditions of detention centers on the basis of reports and supervision corresponding to 2018 and highlighted the weakness of the penitentiary institutional system in achieving its purposes and the consequent violation of the rights of the population deprived of liberty.³⁰² Therefore, the Commission concludes that compliance with this recommendation continues to be pending.

161. Regarding the recommendation urging the State to **change Guatemalan law against money laundering and the Criminal Code as indicated by the Commission**, in its observations on the draft version of this report, the State pointed out that it is the legislature, not the executive, which is empowered to amend legislation.³⁰³ The IACHR recalls that its recommendations are directed at the three branches of government that make up the State. Furthermore, it reiterates that provisions of the Law against Money Laundering and the Criminal Code as a whole have led to situations where the person convicted for money laundering is deprived of his or her liberty indefinitely inasmuch as the person is financially insolvent to pay the fines stemming from the value of the assets, instrumentalities, or proceeds of crime.³⁰⁴ Therefore, the IACHR concludes that compliance with this recommendation is pending.

Persons with disabilities

- Investigate ex officio and, when appropriate, punish those responsible for any violation of the personal integrity of persons with disabilities at psychiatric institutions. Establish an independent mechanism to oversee the institutionalization of patients at the Federico Mora Hospital in order to protect against acts of torture or mistreatment.
- In light of the lack of community-based options for patients of the Federico Mora Hospital to receive the necessary services and treatment outside the institution, the IACHR recommends the State to ensure the community life of these persons, by creating and establishing community-based services. For this purpose, the Commission urges the State to adopt, among other ones, the following measures: a) expeditiously define a strategy for the de-institutionalization of persons

²⁹⁹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³⁰⁰ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

³⁰¹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³⁰² PDH, Due Process of Law Defense Office. Supervisory Report on Compliance with the recommendations of conviction rulings to the state of Guatemala, by the PDH, for the human rights violations of persons who are deprived of liberty in the penitentiary centers managed by the Directorate-General for the National Penitentiary System, January 30, 2018; PDH, Penitentiary centers managed by the Directorate General for the Penitentiary System. Guatemala, May 2018; PDH, Detailed annual report on the human rights situation 2018, p. 85; PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

³⁰³ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³⁰⁴ IACHR, Situación de derechos humanos en Guatemala. 31 de diciembre de 2017 [Situation of Human Rights in Guatemala, December 31, 2017], OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 427.

with disabilities, with a timeline, sufficient resources and specific evaluation measures; b) ensure the participation of persons with disabilities, directly and through the organizations representing them, in the design and implementation of said strategy, and c) allocate sufficient resources for the development of support services.

162. As regards the recommendation calling upon the State to **investigate ex officio and, if appropriate, to punish those responsible for any violation of the personal integrity of persons with disabilities in psychiatric institutions and to establish an independent mechanism to oversee the institutionalization of patients at the Federico Mora hospital in order to prevent, and provide protection against, torture or mistreatment**, the state reported on the proposal for the National Mental Health Law, which would provide definitions, guidance, and responsibilities in the field of mental health and adequate protection mechanisms; it would recognize cultural diversity; it would identify the type of treatment that adults, children, and adolescents should receive, whether preventive, curative, or rehabilitative; it would also establish a differentiated scheme when mental health services are associated with criminal lawbreaking.³⁰⁵ The Commission observes that said law has not as yet materialized. In its observations on the draft version of this report, the State reported on: instructions provided to agents as a measure for preventing violence against persons held at the Federico Mora Hospital; training on guarding and custody of persons deprived of liberty with mental disabilities who are held in prison psychiatric wards; punishments imposed on prison officials for misconduct.³⁰⁶

163. As for the Ombudsperson (PDH), he reported that the hospital still does not guarantee high-quality services for its patients. He indicated that hospital's security cameras do not work and that there are no security rounds or monitoring of staff, which makes it difficult to control what happens and to follow up on complaints that are filed. He added that the hospital does not provide the patients with any occupational tools³⁰⁷ and that the independent mechanism laid out in the Inter-American Convention on the Rights of Persons with Disabilities has not as yet been established.³⁰⁸ Therefore, the Commission concludes that compliance with this recommendation is pending.

164. Furthermore, in connection with the recommendation to **create and establish community-based services for the patients of the Federico Mora Hospital, on the basis of the following measures: a) urgently draw up a strategy for removing persons with disabilities from institutions, with deadlines, sufficient resources, and specific assessment measures; b) guarantee the participation of persons with disabilities directly and via the organizations that represent them, in the design and implementation said strategy; and c) allocate sufficient resources for the development of support services**, in its observations on the draft version of this report the State referred to subsection (a) [above] and reported that a strategy had been launched to remove persons with mental disabilities who did not have family support from institutions.³⁰⁹ In that respect, the Commission concludes that compliance with this recommendation is pending.

165. In general, with regard to persons with disabilities, the State reported the establishment of the "Commission for designing and drafting the comprehensive care model for children and adolescents with disabilities in shelter programs of the Secretariat for Social Welfare." In addition, the state pointed out that it is adopting measures to drop the model of the macro-institution for providing care to children who have been separated from their parents or custodians because their rights were violated. Instead, the state is planning to

³⁰⁵ Republic of Guatemala, communication to the IACHR on MC 370-12, January 2019.

³⁰⁶ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³⁰⁷ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

³⁰⁸ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

³⁰⁹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

adopt a foster care model identifying the most significant characteristics of the children and adolescents such as victims of mistreatment, substance abuse, conducts of risk, disability, and progressive autonomy.³¹⁰ The Commission commends this initiative and specifies that, according to international standards on the matter, these measures must be aimed at including children and adolescents with disabilities, rather than their segregation or discrimination.

166. As for the Ombudsperson (PDH), it pointed out that, in November 2018, an inter-agency forum was established to prepare the way for de-institutionalizing children and adolescents and older persons with disabilities who were admitted to public or private institutions and that the roadmap for this has not as yet been approved.³¹¹ The Commission appreciates this initiative; nevertheless, it considers that it has not yet been concretized.

Human Rights Defenders

- Approve and implement on an emergency basis a public protection policy for human rights defenders. This policy should include implementation of a comprehensive protection program, and incorporate a model of risk assessment to make it possible to determine the particular protection needs of each defender, using, for example, a gender perspective or a focus on groups in an especially vulnerable situation.
- Hold public hearings or interviews where citizens, civil society organizations and other interested parties are able to learn the selection criteria of operators of justice, as well as challenge candidates and express their concerns or their support, in order to strengthen the independence of the operators of justice holding the high-level positions in the judicial branch of government, the Attorney General's Office, and the public defender's office.
- Adopt measures to ensure that operators of justice carry out their duties impartially and independently, respecting the principle of separation of powers and free of all threat or pressure. For this purpose, the State must strengthen the work of the Crimes against Operators of Justice Unit by recognizing the importance of its function in protecting the right of access to justice, as well as to due process.
- Ensure that the authorities or third parties do not manipulate the punitive power of the State and its organs of justice in order to harass human rights defenders and operators of justice. Likewise, authorities should refrain from making statements or assertions that stigmatize or discredit human rights defenders, journalists, ancestral authorities or leaders, who suggest that the authorities are acting improperly or illegally, when they are simply doing their job as human rights defenders. In this regard, the Commission calls on the State to advance in the drafting of guidelines against criminalization by the Office of the Attorney General.
- Ensure that human rights defenders are not subjected to criminal proceedings for unnecessarily summary and protracted periods of time. Additionally, the State of Guatemala should cease using arrest warrants as mechanisms of punishment or retaliation against human rights defenders.
- Take measures to prevent the use of criminal charges against human rights defenders aimed at keeping them from doing their job. Justice operators must consider, in response to the charges, whether or not the accused was acting in the capacity of a human rights defender, as well as the context of the facts, and in this way be able to identify whether the charges were used as a means of hampering their work as defenders. Likewise, the authorities in charge of the investigation of the crimes must make sure to gather the necessary evidence to determine whether there was unlawful conduct before they proceed to issue precautionary measures or formally open a case against the defenders.

³¹⁰ Republic of Guatemala, Supplementary Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, received on November 6, 2019.

³¹¹ The institutions participating in the forum are: Secretariat for Social Welfare, PGN, National Council for Adoptions, Ministry of Public Health and Social Welfare, Ministry of the Interior, COPREDEH, and the Judiciary. PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019.

- Establish specialized units in the National Police and the Office of the Public Prosecutor with the necessary resources, training and specific investigation protocols in order to act in a coordinated fashion and respond with due diligence to the investigation of attacks on human rights defenders, establishing a hypothesis of the crimes and guidelines for the investigation thereof, taking into account vested interested that may have led to retaliation for the activities of the defender attacked. In this regard, the IACHR urges the State of Guatemala to adopt with urgency the General Instructions within the Office of the Public Prosecutor to guide prosecuting attorneys when investigating attacks on defenders.

167. Regarding the recommendation urging the State to **approve and implement on an emergency basis a public protection policy for human rights defenders that includes incorporation of a model of risk assessment to make it possible to determine the particular protection needs of each defender, adopting, for example, a gender perspective or a focus on groups in an especially vulnerable situation**, in its observations on the draft version of this report, the State acknowledged the important work that human rights defenders perform, [stating that] this is why at no time had it limited the exercise of their rights, although this should not be confused with a situation in which criminal acts are committed under the guise of the struggle to protect human rights.³¹² The State also reported that “for the year 2019, the Presidential Human Rights Commission (COPREDEH) has continued to make efforts to draw up the Public Policy for the Protection of Human Rights Defenders,”³¹³ which envisions a revision of and feedback from the protection policy proposal in its strategic framework with the participation of the Technical Group of State Institutions and Civil Society, as well as an update of the Policy Assessment paper.³¹⁴ It also indicated that, in view of the complaints filed regarding various attacks upon defenders, they need to be processed promptly and monitored inside the Office of the Public Prosecutor. It pointed out that a risk analysis is being conducted through the Division for the Protection of Persons and Security of the National Civilian Police, in order to ascertain the specific security needed by the victim, whether personal or comprehensive protection or cordillera type of protection (or outside of urban areas).³¹⁵ The state reported that, depending on the type of aggression and location of the defender, the case is referred immediately to the Medical Examiner so that he or she can issue a report, provide witness statements and reports to institutions, in addition to what is regulated in his or her instructions and general guidelines.³¹⁶

168. This year, the IACHR notes with concern that there is a rise in the number of aggressions and killings targeting human rights defenders. From January to September, 402 incidents of aggression were recorded, which is a number higher than the total of 398 aggressions recorded in 2018, most of them by state agents.³¹⁷ As for the killings, the Commission learned that, in the first six months, 12 killings and 5 homicide attempts of human rights defenders were reported, most of them in the Department of Izabal, in the northeastern region of Guatemala.³¹⁸ Among others, the Commission was apprised of the July 12 killing of Julio Ramírez, indigenous environmental defender, leader of territorial rights, and chair of the Executive Board of

³¹² Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

³¹³ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019, para. 87.

³¹⁴ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019, para. 74 to 76. The State has held a series of meeting to review and give feedback on the proposal, as well as to assess and update the situation. Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

³¹⁵ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019, para. 87.

³¹⁶ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019, para. 88.

³¹⁷ World Organisation against Torture (OMCT), [Guatemala: UDEFEGUA - Registro de agresiones a personas defensoras \(Enero - Septiembre 2019\)](#) [Guatemala: UDEFEGUA: Registry of attacks against defenders (January to September 2019)], November 4; UDEFEGUA, [Informe Anual UDEFEGUA 2018](#), [Annual Report of UDEFEGUA 2018], July 2019, p. 2.

³¹⁸ International Federation for Human Rights (FIDH), [Guatemala: 327 agresiones a personas defensoras en 2019](#) [Guatemala: 327 attacks on defenders in 2019], August 2, 2019; International Land Coalition Latin America and the Caribbean, [Comunicado de la Plataforma por la Defensa de la Tierra y el Territorio de Guatemala](#) [Communiqué of the Platform for Defense of the Earth and Territory of Guatemala], September 5.

CODECA in the community of San Antonio Seja of the Municipality of Livingston, who died from 10 gunshots fired by unknown persons when he was on his way home.³¹⁹ Likewise, on July 26, the killing of the indigenous defender, Jorge Juc Cucul, chair of the organization in the department of Izabal, who fought for respect for human rights and the mother earth, was reported.³²⁰ Regarding this, the IACHR and the UN Human Rights stated their deep concern over the aggressions and killings during the first period of the year.³²¹

169. Furthermore, the IACHR was informed that, between January and September, 9 cases of torture of defenders and 8 cases of break-ins, most of them against human rights defense organizations, were recorded.³²² The Commission received information about the break-in at the office of the Political Alliance of the Women's Sector, which is an organization defending women's rights. On March 8, unknown persons violently broke into their offices in order to destroy their facilities and take their working equipment containing valuable institutional information, such as computers, photo cameras, prizes received, files, among others. That was the third time the organization's office was broken into since its establishment 25 years ago.³²³

170. The IACHR recalls that an adequate and effective comprehensive protection policy consists of urgent measures to protect the life and integrity of defenders, as well as positive steps to ensure the building of contexts and environments that are free of violence and harassment. The state must also work with due diligence to recognize the important role played by those defending human rights in building democracy and the rule of law and to promote recognition of said role by society as a whole.³²⁴ The IACHR recalls that it is the state's obligation to take urgent actions to investigate acts of violence against defenders and to punish both the perpetrators and the masterminds, as well as to prevent aggression and attacks against them. This must include the development of lines of investigation under the hypothesis that violence has been committed in connection with human rights defense work. Said investigation must also be undertaken with due diligence, exhaustively, seriously, and impartially. In view of this situation, the IACHR concludes that compliance with this recommendation is pending.

171. With respect to the recommendation to **hold public hearings or interviews where citizens, civil society organizations, and other interested parties are able to learn about the selection criteria of justice operators, as well as challenge candidates and express their concerns or their support, in order to strengthen the independence of the operators of justice holding the highest-level positions in the judicial branch, the Attorney General's Office, and the public defender's office**,³²⁵ the State, in its observations on the draft version of this report, indicated that constitutional provisions and the selection and make-up of the Constitutional Court are consistent with international and inter-American standards on the independence of the judiciary, and, in particular, on constitutional justice, in keeping with the International

³¹⁹ International Federation for Human Rights (FIDH), [Guatemala: Asesinato del Sr. Julio Ramírez del CODECA](#) [Guatemala: Killing of Mr. Julio Ramírez of CODECA], July 17, 2019.

³²⁰ *Telesur*, [Asesinan a defensor indígena y campesino en Guatemala](#) [Indigenous Peasant Defender Killed in Guatemala], July 26, Guatemala], July 26, 2019.

³²¹ IACHR and UN Human Rights, [Comunicado de Prensa No. 132/2019. CIDH y las Oficinas de ONU Derechos Humanos expresan Humanos expresan su preocupación por la situación de personas defensoras de derechos humanos en el primer cuatrimestre del año](#) [Press Release No. 132/2019, IACHR and Regional Branches of the OHCHR Concerned about the Situation of Human Rights Rights Defenders in the Americas in the First Four Months of the 2019], May 30, 2019.

³²² World Organisation against Torture (OMCT), [Guatemala: UDEFEGUA - Registro de agresiones a personas defensoras \(Enero defensoras \(Enero - Septiembre 2019\)](#) [Guatemala: UDEFEGUA: Registry of attacks against defenders (January to September 2019)], November 4, 2019.

³²³ Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), [Allanamiento y sustracción de documentación documentación sensible y equipo de trabajo en instalaciones de la Alianza Política Sector de Mujeres](#) [Break-in and theft of sensitive sensitive documentation and working equipment at the premises of the Political Alliance, Women's Sector], March 8, 2019; International International Federation for Human Rights (FIDH), [Guatemala: Allanamiento de la oficina de la Alianza Política Sector de Mujeres](#) [Guatemala: Break-in at the office of the Political Alliance, Women's Sector], March 12, 2019; World Organisation against Torture (OMCT), (OMCT), [Guatemala: Allanamiento de la oficina y actos de intimidación contra la Alianza Política del Sector de Mujeres](#) [Guatemala: Break-in at office and acts of intimidation against the Political Alliance, Women's Sector], March 12, 2019.

³²⁴ IACHR, [Hacia una política integral de protección a personas defensoras de derechos humanos](#) [Towards Effective Integral Protection Policies for Human Rights Defenders], OEA/Ser.L/V/II.Doc.207/17, December 2017, para. 344.

³²⁵ IACHR, [Situación de los derechos humanos en Guatemala](#) [Situation of Human Rights in Guatemala], OEA/Ser.L/V/II.Doc.208/17, December 31, 2018, para. 475 (37).

Covenant on Civil and Political Rights, the American Convention on Human Rights, and the UN's Basic Principles on the Independence of the Judiciary.³²⁶

172. The Commission has conducted a review of the selection of justice operations in the section of recommendations on the administration of justice (see II.B above). On the basis of said review, the IACHR concludes that compliance with this recommendation is pending.

173. Regarding the recommendation to **adopt measures to ensure that operators of justice carry out their duties impartially and independently, respecting the principle of separation of powers and free of all threat or pressure, strengthening to that end the work of the Crimes against Operators of Justice Unit by recognizing the importance of its function in protecting the right of access to justice, as well as to due process**, the State, in its observations on the draft version of this report, made reference to human rights defenders and reiterated that when the Office of the Public Prosecutor receives a complaint, it immediately processes and follows up on it; and that depending on the kind of violence and where the defender is, the complaint is sent straight away to forensic medical experts.³²⁷

174. As for the risk being encountered by justice operators, the IACHR observes that this worsened in 2019 because of the context of the decline in the fight against corruption and the rise in harassment campaigns. In said context, the IACHR stated its concerned over the fact that, in December 2018, the Chief Prosecutor (PGN) filed a motion against three judges of the Constitutional Court (CC) in order to withdraw their immunity and proceeded to file criminal proceedings against them because they deemed certain rulings, without specifying which, were "arbitrary and illegal" and "breached Guatemala's legislation, impacting the country's institutional framework and jeopardizing the rule of law."³²⁸ The IACHR observes that the CSJ dismissed the request for a preliminary trial.³²⁹

175. At the public hearing on reports of threats to judiciary independence in Guatemala at the IACHR in May, civil society organizations pointed out that judges are subject to disciplinary proceedings and preliminary trials for their court rulings. Among others, they highlighted the situation of Judge Érika Lorena Aifán, who accumulated 6 preliminary trials, 7 disciplinary complaints, 10 reports filed with the PDH, 6 reports filed with the Office against Torture, and 3 reports filed with the Honor Court of the Bar Association. The organizations pointed out that a large share of the reports were dismissed, although what was allegedly being sought was to undermine justice by impacting the job stability of judges.³³⁰

176. Regarding judges for high-risk cases, civil society organizations pointed out that they are the targets of persecution and surveillance, as well as many criminal and administrative complaints and requests for preliminary trials by those charged and their defense attorney, smear campaigns, and groundless accusations by government civil servants and parliamentary officials, and are constantly harassed on social networks.³³¹

177. In addition, the IACHR is concerned about slanderous and offensive speeches made by various stakeholders in the context of a highly polarized environment, in particular those coming from state agents, against the rulings of the CC (see II.B above). Regarding this, according to civil society organizations, judges of

³²⁶ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³²⁷ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³²⁸ IACHR, Press Release No. 7/19, [La CIDH expresa preocupación por medidas adoptadas que pueden debilitar la lucha contra la impunidad y la corrupción en Guatemala](#) [IACHR Expresses Concern over Measures that May Hamper the Fight against Impunity and Corruption in Guatemala], January 10, 2019.

³²⁹ *elPeriódico*, [CSJ rechaza antejuicio contra magistrados de la CC](#) [CSJ turns down preliminary trial against judges of the CC], January 31, 2019.

³³⁰ IACHR, Public hearing on [Denuncias de amenazas a la independencia judicial en Guatemala](#) [Reports of threats to judicial independence in Guatemala], 173 Session, May 10, 2019.

³³¹ CEJIL, Remittance of information for follow-up on compliance with the recommendations of the Report on the Situation of Human Rights in Guatemala, p. 12.

the CC are at serious risk because of public attacks made by the government's highest-ranking authorities and state civil servants and groundless accusations targeting them because of the rulings they have issued.³³² The IACHR observes that, on October 10, the President of the Republic accused the CC of being coopted and meddling with politics, among others.³³³

178. In January, the IACHR called upon the state to protect the life and integrity of the members of the CC,³³⁴ and in October it granted precautionary measures for the benefit of the judges José Francisco de Mata Vela, Bonerge Amílcar Mejía Orellana, José Mynor Par Usen, and María Cristina Fernández, as it deemed that they were in a situation of gravity, urgency, and risk of irreparable damage to their rights.³³⁵ The Commission took into account that the beneficiaries would be tackling a series of threats to their rights, harassment, pressure, and retaliation, as a result of certain high-profile cases in the media. In particular, it was pointed out that allegedly there was a smear campaign on social networks, which led to an environment of hostility against them, including intrusion into their activities, among others. The Commission deemed that the judge and magistrates continued to be in a situation of serious risk, especially as the cases they were in charge of hearing progressed and in view of the potential rise in attacks against them.³³⁶

179. The IACHR observes that this situation of risk is also being encountered by judges and other bodies of the judicial branch of government. On October 23, 2019, the IACHR decided to grant precautionary measures for the benefit of the judge of the criminal court of first instance, Érika Lorena Aifán. She had been the target of retaliation, not only with respect to her professional career but also her rights to life and personal integrity, because of certain high-profile cases she was hearing and which were widely covered by the media.³³⁷

180. In the request for this precautionary measure, flaws in the protection schemes granted by the Judiciary were also detected. Regarding this, civil society organizations reported flaws in the protection schemes granted by the Institutional Security Department of the Judiciary and its director, Roberto Mota Bonilla, was asked to resign on repeated occasions this year. On February 18, the Trade Union of the Employees of the Judiciary requested the director's removal from office or cancellation of his appointment.³³⁸ On February 20, the members of the Executive Board of the Guatemalan Association of Judges for Integrity requested the director's removal from office, alleging that, with this appointment, judges feel vulnerable and exposed to potential attacks.³³⁹ Regarding this, in March, the International Justice Commission pointed out that, since his appointment, judges have been suffering from a series of actions that can be described as pressure, intimidation, constraints on their duties, unjustified surveillance and monitoring, which could eventually seriously undermine the independence of the judiciary and due process of law in the cases being heard by said judges.³⁴⁰ The IACHR notes that, on February 20, an internal audit began against this director on the basis of

³³² CEJIL, Remittance of information for follow-up on compliance with the recommendations of the Report on the Situation of Human Rights in Guatemala, p. 12.

³³³ *Emisoras Unidas*, [Jimmy Morales llama a la CC "corte cooptada", "corte celestial" y dar resoluciones "gallo gallina"](#) [Jimmy Morales calls the CC "coopted court," "heavenly court," and for issuing "turncoat" rulings], October 10, 2019.

³³⁴ IACHR, Press Release No. 7/19, [La CIDH expresa preocupación por medidas adoptadas que pueden debilitar la lucha contra la lucha contra la impunidad y la corrupción en Guatemala](#) [IACHR Expresses Concern over Measures that May Hamper the Fight against Impunity and Corruption in Guatemala], January 10, 2019.

³³⁵ IACHR, Resolution 56/2019, Precautionary measure No. 28-19, [José Francisco de Mata Vela y otros respecto de Guatemala Guatemala](#) [José Francisco de Mata Vela et al. v. Guatemala], October 25, 2019.

³³⁶ IACHR, Press Release No. 276/19, [CIDH otorga medidas cautelares de protección a favor de operadores de justicia en Guatemala](#) [IACHR Grants Precautionary Measures to Protect Justice Operators in Guatemala], October 28, 2019.

³³⁷ IACHR, Resolution 55/2019, Precautionary measure No. 682-18, [Érika Lorena Aifán respecto de Guatemala](#) [Érika Lorena Aifán v. Guatemala], October 23, 2019.

³³⁸ *elPeriódico*, [Sindicato exige inmediata destitución o anulación del nombramiento de Mota Bonilla como jefe de Seguridad Judicial](#) [Trade union calls for immediate dismissal or termination of appointment of Mota Bonilla as Head of Judicial Security], February 18, 2019.

³³⁹ *elPeriódico*, [Jueces piden destitución del Director de Seguridad del Organismo Judicial](#) [Judges request dismissal of Security Director of the Judiciary], February 20, 2019.

³⁴⁰ CIJ, [Guatemala: la CIJ expresó su preocupación por el nombramiento del director de Seguridad Institucional de Jueces y Juezas](#), Roberto Mota Bonilla [Guatemala: CIJ expressed its concern over appointment of Director of Institutional Security of Judges, Roberto Mota Bonilla], March 6, 2019.

the reports filed by the judges, at the request of the President of the CSJ.³⁴¹ Roberto Mota Bonilla resigned from his position on March 12, 2019, and since then the position has been vacant.³⁴²

181. Finally, the IACHR notes that the UNHCHR-Guatemala and the PDH have also pointed out attacks against, and criminalization of, prosecutors from the Office of the Public Prosecutor, especially those from the Special Prosecution Services against Impunity (FECI),³⁴³ the Unit on Special Cases of the Internal Armed Conflict, and the Office of the Public Prosecutor for Human Rights, in addition to what was already pointed out above regarding the judges of the CC and the judges for High-Risk Cases. Furthermore, according to the UNHCHR, the judges of the Supreme Electoral Court (TSE) have been stigmatized in the media, in the context of the general elections of 2019, even by candidates from political parties and authorities, presumably to discredit the institution and then challenge the results of the election.³⁴⁴ On the basis of what was described above, the Commission concludes that compliance with this recommendation is pending.

182. Regarding the three following recommendations: **(i) ensure that the authorities or third parties do not manipulate the punitive power of the State and its organs of justice in order to harass human rights defenders and operators of justice; refrain from making statements or assertions that stigmatize or discredit human rights defenders, suggesting that they are acting improperly or unlawfully, because they are conducting their work as human rights defenders; and move ahead with the drafting of guidelines against criminalization by the Office of the Attorney General; (ii) ensure that human rights defenders are not subjected to criminal proceedings for unnecessarily summary or protracted periods of time and to cease using arrest warrants as mechanisms of punishment or retaliation against human rights defenders, and (iii) take measures to prevent the use of criminal charges against human rights defenders aimed at keeping them from doing their job and to ensure that the authorities in charge of investigating crimes gather the necessary evidence to determine whether there was unlawful conduct before they proceed to issue precautionary measures or formally open a case against the defenders**, in its observations on the draft version of this report, the state informed that:

- (i) On October 3, 2019, the “Office of the Public Prosecutor’s Human Rights Public Policy on Criminal Prosecution,” was presented in order to ensure victims’ access to justice through proper investigation and criminal prosecution. This Policy provides for: development and implementation of an instrument on the improper use of criminal law against human rights defenders; and development and implementation of the Protocol for investigation and criminal prosecution of human rights defenders;
- (ii) The Office of the Public Prosecutor, through the Office of the Human Rights Prosecutor and the Secretariat for Criminal Policy, held working meetings with representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR) to analyze drafting an instrument to prevent improper use of criminal law with regard to human rights defenders; and
- (iii) “General Instruction 5-2018, approving the Protocol to Investigate Crimes Committed against Human Rights Defenders” was issued. The purpose of this General Instruction is to “provide personnel of the Office of the Public Prosecutor who investigate and handle cases of crimes committed against human rights defenders specific criteria and instruments to act in keeping with the Protocol to Investigate Crimes Committed against Human Rights Defenders,

³⁴¹ *Prensa Libre*, [Auditores del OJ investigan quejas de jueces sobre el director de seguridad](#), [Auditors of the Judiciary complaints of judges about the security director], February 28, 2019; *elPeriódico*, [Se inicia auditoría contra director de seguridad](#) [Audit starts against security director of the judiciary], March 1, 2019.

³⁴² *elPeriódico*, [Presidentes de Cámaras elegirán a Director de Seguridad del OJ](#) [Speakers of the Houses shall select a Director of the Judiciary], July 3, 2019.

³⁴³ *Nómada*, [Fiscal Sandoval: Temo que el personal de la FECI se desespere por tanta criminalización](#) [Prosecutor fear that the staff of the FECI is despairing over so much criminalization], June 21, 2019.

³⁴⁴ Joint report of the PDH and UNOHCHR on Guatemala, [Situación de las personas defensoras de derechos humanos Guatemala: Entre el compromiso y la adversidad](#), [Situation of human rights defenders in Guatemala: Between commitment and 2019, para. 72.

developed in keeping with the national and international normative framework that governs the constitutional function of the Office of the Public Prosecutor on this matter.”³⁴⁵

183. The Commission observes that, in 2019, criminalization proceedings against defenders continued. According to civil society organizations, between January and September, 277 cases of criminalization were recorded, including arbitrary detentions, groundless criminal complaints, among others.³⁴⁶ For example, on March 22, the defender Claudia Samayoa, Chair of the Executive Board of the Unit for Human Rights Defenders (*Unidad de Defensoras y Defensores de Derechos Humanos—UDEFEUGUA*), and José Manuel Martínez, member of the Collective Justice Now (*Colectivo Justicia Ya*), were denounced for the alleged perpetration of the crimes of peddling influence and stealing correspondence. The charges were filed with the Attorney General’s Office by the President of the CSJ, after both defenders submitted a complaint against 11 members of this Court at the Criminal, Drug Trafficking, and Environmental Crimes Court of First Instance of the municipality and department of Guatemala.³⁴⁷

184. Likewise, environmental defenders opposed to the extraction of natural resources and the development of large-scale projects were the target of criminal complaints. Regarding this, the Commission learned of the excessively lengthy judicial proceedings against indigenous defenders and peasant leaders.³⁴⁸ In April, Abelino Chub Caal, Maya Q’eqchi’ indigenous person and member of the Guillermo Toriello Foundation, who was charged with the crimes of aggravated encroachment, arson, and conspiracy, was acquitted,³⁴⁹ after more than two years of pretrial detention.³⁵⁰ The worsening situation of peasants and defenders of the human right to water of the indigenous communities of Zacapa was also denounced.³⁵¹

185. Furthermore, the Commission notes with deep concern the case of Bernardo Caal Xol, teacher and Maya Q’eqchi’ indigenous leader of the department of Alta Verapaz, who was taken on January 30, 2018 and sentenced to 7 years 4 months prison for the crimes of aggravated theft and illegal retentions after he filed legal proceedings against the company OXEC and RENACE. Among other lawsuits, Caal Xol called for respect for the right to prior, free, and informed consultation of the Q’eqchi’ people for installing large-scale hydropower projects on the Cahabón and Oxec rivers.³⁵² The IACHR reiterates that it is the state’s duty to adopt all necessary measures to prevent, by means of state investigations, subjecting persons who are legitimately calling for respect and protection of human rights in the country to unfair and groundless trials.

³⁴⁵ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

³⁴⁶ World Organisation against Torture (OMCT), [Guatemala: UDEFEUGUA - Registro de agresiones a personas defensoras \(Enero - Septiembre 2019\)](#) [Guatemala: UDEFEUGUA: Registry of attacks on defenders (January to September 2019)]; IACHR, IACHR, Hearing on [Obstáculos y retos para el avance de los derechos humanos en Guatemala](#) [Obstacles and challenges to the advancement of human rights in Guatemala], September 23, 2019.

³⁴⁷ Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), [Criminalizan a la defensora Claudia Samayoa por luchar contra la corrupción y la impunidad](#), [Defender Claudia Samayoa criminalized for combating corruption and impunity], March 24, 2019; *Front Line Defenders*, [Criminalización de Claudia Samayoa y José Martínez por parte del Presidente de la Corte Suprema de Justicia](#) [Claudia Samayoa and José Martínez criminalized by President of the Supreme Court of Justice], March 29, 2019.

³⁴⁸ UN, [Comité para la Eliminación de la Discriminación Racial. Observaciones finales sobre los informes periódicos 16° y 17° combinados de Guatemala](#), [Committee on the Elimination of Racial Discrimination, Concluding observations on the combined sixteenth and seventeenth periodic reports of Guatemala], CERD/C/GTM/CO/16-17, May 27, 2019, para. 27.

³⁴⁹ International Federation for Human Rights (FIDH), Guatemala: [Absolución y liberación de Abelino Chub Caal](#) [Acquittal and release of Abelino Chub Caal], March 29, 2019; *Prensa Libre*, [Tribunal absuelve a Abelino Chub Caal y ordena su libertad inmediata](#) [Court acquits Abelino Chub Caal and orders his immediate release], October 22, 2019; *La Hora*, [Abelino Chub Caal es declarado inocente](#) [Abelino Chub Caal is ruled innocent], April 26, 2019.

³⁵⁰ *Front Line Defenders*, [Guatemala: Caso Abelino Chub Caal](#) [Guatemala: Case of Abelino Chub Caal], April 30, 2019.

³⁵¹ The Lutheran World Federation, Latin America and the Caribbean, [Se agrava en Guatemala situación de defensores del derecho al agua](#) [Situation of defenders of the right to water becomes worse in Guatemala], July 1, 2019.

³⁵² *República*, [Condenan a Bernardo Caal a siete años y cuatro meses de prisión](#) [Bernardo Caal sentenced to seven years four months prison], November 9, 2018; Alliance for Solidarity, [Premio en Bélgica a Bernardo Caal, encarcelado en Guatemala por su defensa de los derechos de los pueblos indígenas](#) [Prize awarded in Belgium to Bernardo Caal, incarcerated in Guatemala for defending rights of indigenous peoples], October 25, 2019.

186. The Commission has also been apprised of acts of intimidation, harassment, insults, threats, and physical aggression against many women human rights defenders,³⁵³ including the cases of Sandra Xinico, Irma Méndez, Jennifer Domínguez, Rosario Tuyuc, and Helen Mack, and views with concern the killings of Paulina Cruz Ruíz, defender of the territory and Maya Achí Ancestral Authority, and Diana Isabel Hernández, environmental defender.³⁵⁴

187. As for stigmatization and defamation, the IACHR learned about the recurrent practice of broadcasting messages smearing human rights defenders, even by high-ranking government officials, the media, and anonymous persons on social networks, for the purpose of discrediting their work.³⁵⁵ Regarding this, the IACHR and UN Human Rights stated their concern over attacks against defenders and justice operators who publicly stated their stance in favor of the CICIG when it was expelled from the country.³⁵⁶

188. The Commission recalls that the repetition of stigmatizing declarations can contribute to fueling the climate of hostility and intolerance from various sectors of the population, which could lead to jeopardizing the life and personal integrity of defenders, increasing their vulnerability, because civil servants or sectors of society might construe them as instructions, incitements, authorizations, or support for the perpetration of acts against their life, personal safety, or other rights.³⁵⁷ Considering the above, the Commission concludes that this recommendation has been partially complied with.

189. As regards the recommendation to **establish specialized units of the National Police and the Office of the Public Prosecutor to act in a coordinated fashion and respond with due diligence to the investigation of attacks on human rights defenders, and to adopt with urgency the General Instructions within the Office of the Public Prosecutor to guide prosecuting attorneys investigating attacks on defenders**,³⁵⁸ the state did not submit updated information. The State indicated that the Division for the Protection of Persons and Security provides security to: two human rights defenders through precautionary measures, the Office of the Human Rights Ombudsman (PDH), and the *Centro de Acción Legal en Derechos Humanos*.³⁵⁹

³⁵³ Movimiento por la Paz [Movement for Peace], [Informe sobre la situación de las defensoras de Derechos Humanos Guatemala](#) [Report on the Situation of Human Rights Defenders in Guatemala], December 28, 2018.

³⁵⁴ Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), [Insultos racistas y discurso de odio sociales contra Sandra Xinico, defensora de los derechos de los pueblos indígenas y columnista de opinión](#) [Racist insults and on social networks against Sandra Xinico, defender of rights of indigenous peoples and editorial page columnist], June 5, 2019; Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), [Guardias de seguridad de la empresa Cantera Los Manantiales agreden a la defensora Irma Méndez](#) [Security guards of the Cantera Los Manantiales company attack defender July 4, 2019; Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), [Agresión física, verbal y psicológica Jennifer Domínguez, integrante de CALAS](#), [Physical, verbal, and psychological aggression against Jennifer Domínguez, member August 22, 2019; Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), [Difamación y amenazas contra Tuyuc, defensora del territorio y los derechos de las mujeres y jóvenes](#) [Defamation and threats against Rosario Tuyuc, defender and the rights of women and young people], April 11, 2019; Mesoamerican Initiative of Women Human Rights Defenders (IM-Vigilancia, persecución e intimidación contra Helen Mack, directora de la Fundación Myrna Mack, [Surveillance, persecution, intimidation targeting Helen Mack, Director of Myrna Mack Foundation], January 18, 2019; Mesoamerican Initiative of Women Rights Defenders (IM-Defensoras), [Asesinan a Paulina Cruz Ruiz, defensora del territorio y Autoridad Ancestral Maya Achi de Verapaz](#) [Paulina Cruz Ruiz, defender of the territory and Maya Achi ancestral authority from Rabinal, Baja Verapaz, is killed], 17, 2019; Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), [Asesinan a Diana Isabel Hernández, medio ambiente](#) [Environmental defender Diana Isabel Hernández is killed], September 9, 2019.

³⁵⁵ PDH and UNOHCHR, [Situación de las personas defensoras de derechos humanos en Guatemala: Entre el adversidad](#) [Situation of human rights defenders in Guatemala: Between commitment and adversity], May 17, 2019, para. 23.

³⁵⁶ IACHR, [CIDH y las presencias de ONU Derechos Humanos reiteran su llamado para la creación de un ambiente seguro para quienes defienden los derechos humanos en la región](#) [IACHR and UN Human Rights Presences Once Again Call for of a Safe, Favorable Environment for Human Rights Defenders in the Americas], November 7, 2019.

³⁵⁷ I/A Court H.R. Ríos et al. v. Venezuela, Judgment of January 28, 2009. Series C No. 194, para. 143.

³⁵⁸ IACHR, [Situación de los derechos humanos en Guatemala](#), [Situation of Human Rights in Guatemala], OEA/Ser.L/V/II.Doc. 208/17, December 31, 2018, paras. 475 (42).

³⁵⁹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

190. Despite the 2018 adoption of the Protocol for the Investigation of Crimes against Human Rights Defenders,³⁶⁰ information was received in 2019 about delays that were excessive and unjustified by the Office of the Public Prosecutor and the PNC in investigating and punishing the persons responsible for the attacks, harassment, killings, and other acts of violence against human rights defenders.³⁶¹ Regarding this, it has been reported that, in many cases of killings, authorities appear between 4 and 12 hours after the incidents have taken place, which jeopardizes the safeguarding of the evidence, provides a margin for the potential alteration of the scene of the crime, and along with this contributes to impunity for such crimes.³⁶² Therefore the Commission concludes that this recommendation continues to be complied with partially.

Internally displaced persons, migrants, asylum seekers, refugees, and victims of trafficking in persons

- Adopt measures to prevent the causes of the forced migration of persons, as well as adopt measures of protection, humanitarian assistance and lasting solutions for internally displaced persons and ensure the right of migrants and persons with the need for international protection to leave the territory.
- Adopt specific legislation at the federal and state level to address internal displacement in keeping with the Guiding Principles on Internal Displacement.
- Amend Article 50 of the Code of Migration in keeping with human rights norms and standards in order to ensure that persons requiring international protection are never returned to a country where their life, safety, and liberty are in jeopardy.
- Regulate the Code of Migration and other norms relating to persons in the context of human mobility in keeping with the norms and standards of the inter-American human rights system, in the framework of a participatory process with civil society organizations and other relevant stakeholders.
- Ensure access to justice for migrants and their families, as well as implement measures to search for and identify missing migrants.
- Implement effective measures to ensure the effective enjoyment of the human rights and reintegration of deported and returning persons.
- Ensure that expansionist business and development activities are carried out in keeping with international human rights standards, analyzing legal aspects, potential social conflicts, environmental and social impacts, the right to consultation, the conduct of authorities and corruption, as well as their repercussions in the short and long term. The Guatemalan State must exercise adequate oversight of business activities in order to comply with its international obligations.
- Ensure that evictions are conducted only in observance with human rights norms and standards and with the principles of exceptionality, legality, proportionality and suitability, in order to promote social wellbeing and by ensuring solutions for the evicted population, such as restitution and return, resettlement, and rehabilitation or fair compensation.
- Pursuant to the Peace Accords, promote the creation of an agrarian and environmental jurisdiction within the judicial apparatus through enactment by the Congress of the Republic of the respective law.
- Adopt measures to ensure the protection of the dignity, life and security of the evicted persons, by ensuring at a minimum access to food, potable water and sanitation, lodging, clothing, access to medical services, means of subsistence and access to justice, as well as ensure access to humanitarian assistance and independent monitoring.

³⁶⁰ Republic of Guatemala, Office of the Public Prosecutor, [Instrucción General de la Fiscal General N. 05-2018](#) [General Order Order No. 05-2018 from Attorney General], May 4, 2018.

³⁶¹ PDH and UN OHCHR, [Situación de las personas defensoras de derechos humanos en Guatemala: Entre el compromiso y la compromiso y la adversidad](#) [Situation of human rights defenders in Guatemala: Between commitment and adversity], May 17, 2019, para. 2019, para. 100.

³⁶² International Federation for Human Rights (FIDH), [Guatemala: 327 agresiones a personas defensoras en 2019](#) [Guatemala: 327 attacks against defenders in 2019], August 2, 2019.

191. With respect to the recommendation to **prevent the causes of the forced migration of persons and ensure the right of migrants and persons with the need for international protection to leave the territory**, in its observations on the draft version of this report, the State reiterated the actions adopted for attending the various migratory movements crossing Guatemala in 2018.³⁶³

192. Regarding this, the IACHR observes that the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families pointed out that the following factors are among the structural causes leading to forced migration: i) high rates of poverty; ii) corruption, violence, and crime; iii) social exclusion of certain groups and underemployment; iv) natural disasters; and v) the impacts of climate change.³⁶⁴

193. As for asylum seekers and refugees, the UNHCR estimates that there are about 86,874 Guatemalan nationals seeking asylum and waiting for a ruling,³⁶⁵ which means a 19.45% rise for the year 2019;³⁶⁶ and that 19,132 persons of Guatemalan origin have been recognized as refugees.³⁶⁷ This accounts for a 17.45% rise, compared to 2018.³⁶⁸ In this context, the IACHR takes note of the distressing disparity between the drastic rise in the number of asylum seekers and the limited rise in the number of persons who have been recognized as refugees. The analysis of migrant children and adolescents and LGBTI persons was also conducted in the sections pertaining to children and adolescents and LGBTI persons paragraphs above.

194. During the year, the IACHR was apprised of the negotiations between Guatemala and the United States to establish a Safe Third Country Agreement,³⁶⁹ as well as a ruling from the Constitutional Court (CC) granting provisional protection (*amparo*) aimed at preventing the President from signing this Safe Third Country Agreement.³⁷⁰ Nevertheless, it observes that, in September, the CC repealed the provisional *amparo* preventing the agreement from being signed,³⁷¹ because said *amparo* achieved its purpose.³⁷² As indicated by the Commission, this agreement could increase the conditions of vulnerability for migrants and refugees and could expose them to higher risks than those that originally led them to migrate.³⁷³ Regarding this, the Commission notes that the above-mentioned agreement entered into force in November 2019 and that, to date, four persons have been returned to Guatemala as part of the above-mentioned agreement.³⁷⁴

³⁶³ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019, pp. 9, 10, 11.

³⁶⁴ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, [Observaciones finales sobre el segundo informe periódico de Guatemala](#) [Concluding observations on the second periodic report of Guatemala], CMW/C/GTM/CO/2, May 2, 2019, para. 5.

³⁶⁵ UNHCR, [Tendencias Globales 2018](#) [Global Trends 2018], June 12, 2019, p. 71.

³⁶⁶ IACHR, [Informe Anual Guatemala](#) [Annual Report: Guatemala], 2018, para. 194.

³⁶⁷ UNHCR, [Tendencias Globales 2018](#) [Global Trends 2018], June 12, 2019, p. 71.

³⁶⁸ IACHR, [Informe Anual Guatemala](#), [Annual Report: Guatemala], 2018, para. 194.

³⁶⁹ IACHR, 180/19 - [CIDH expresa profunda preocupación por la situación de personas migrantes y refugiadas en Estados Unidos, México y Centroamérica](#) [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America], Washington, D.C., July 23, 2019.

³⁷⁰ Republic of Guatemala, Court on Constitutionality, Joined case files 3829-2019, 3849-2019, and 3881-2019, Amparo in a single court, "[Acuerdo Tercer País Seguro](#)" [Safe Third Country Agreement], pp. 11 and 12.

³⁷¹ CNN, [Noticia - Gobierno de Guatemala sí podrá negociar con EE.UU. ser tercer país seguro, resuelve la Corte de Constitucionalidad](#) [News: Guatemalan Government can negotiate being a safe third country with USA, rules Constitutional Court], September 10, 2019.

³⁷² *elPeriódico*, [Noticia - CC revoca amparo provisional que frenaba el acuerdo de "Tercer País Seguro"](#) [News: CC overturns provisional protection ruling stopping Safe Third Country Agreement], September 10, 2019.

³⁷³ IACHR, 180/19 - [CIDH expresa profunda preocupación por la situación de personas migrantes y refugiadas en Estados Unidos, México y Centroamérica](#) [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America], July 23, 2019.

³⁷⁴ *Dallas News*, [Migración: Recibe Guatemala al primer migrante hondureño solicitante de asilo](#) [Migration: Guatemala receives first Honduran migrant asylum seeker], November 21, 2019. *Excelsior*, [Inicia acuerdo del tercer país seguro](#) [Safe Third Country Agreement starts up], November 22, 2019. *Crónica*, [Llegan al país tres centroamericanos por acuerdo de Tercer País Seguro](#) [Three Central Americans reach country as a result of Safe Third Country Agreement], December 3, 2019.

195. In addition, the IACHR underscores the implementation of the Governance Operation for irregular migration, included in Plan of Operations No. 35–2019, which is aimed at identifying migrants who do not meet migration requirements established in the country and sending them to the Directorate-General for Migration (*Dirección General de Migración—DGM*), to then be transferred to their country of origin.³⁷⁵ At October 2019, a total of 5,233 persons had been detained,³⁷⁶ compared to 738 persons detained up to October 2018,³⁷⁷ accounting for a 609.07% increase.

196. Although the state reported that it had not deprived of liberty, detained, or housed migrants arbitrarily,³⁷⁸ migrants in an irregular situation have been transferred to the DGM Shelter, where they remain deprived of liberty until they are transferred to their country of origin.³⁷⁹ Regarding this, the Inter-American Court has established that, in order for a measure of deprivation of liberty to be consistent with the state's international obligations, it must: i) strictly observe what is laid out in the American Convention and domestic law, even for a brief period, including merely for identification purposes,³⁸⁰ and that ii) any person detained or retained must be brought promptly before a judge or other official authorized by law to exercise judicial functions so that it can become an authentic control mechanism to deal with illegal or arbitrary detentions.³⁸¹ The IACHR underscores that a total of 1,799 persons had allegedly been expelled³⁸² and that 645 persons were denied admission, without specifying the causes for this refusal.³⁸³ On the basis of the information reviewed, the IACHR concludes that compliance with this recommendation is pending.

197. With respect to the recommendations regarding: (i) **adopting measures of protection, humanitarian assistance, and lasting solutions for internally displaced persons**, and (ii) **adopting specific legislation to address internal displacement in keeping with the Guiding Principles on Internal Displacement**, in its observations on the draft version of this report, the State indicated that since 2015 the Commission for Comprehensive Assistance to Migrant Children provides protection and assistance and ensures respect for fundamental rights, and that the Secretariat for Social Works of the First Lady supports families who return to Guatemala. Thus, as of September 2019, it had assisted 788 families who returned from the US and 25 from Mexico by air and 2,089 families who returned by land. The State further indicated that the Ministry of Foreign Affairs (MFA) provides comprehensive support to Guatemalans abroad, in addition to promoting the defense and full respect for the human rights of migrants and their families, regardless of their migratory status, in countries of origin, transit, and destination. It also pointed out that the Guatemalan Consulates in the US have a specialized attorney to provide legal guidance on procedures to obtain benefits or migratory relief.³⁸⁴

³⁷⁵ Republic of Guatemala, Ministry of the Interior, "[Operación Gobernanza con resultados positivos](#)," [Governance Operation shows positive results], July 4, 2019.

³⁷⁶ The information refers to foreign nationals sheltered. In that respect, the IACHR has considered that, regardless of how the detention of a migrant is called, any measure preventing a migrant person from freely exercising his or her right to freedom of movement constitutes a detention and therefore the guarantees stemming from the right to personal liberty must be respected. See: Directorate-General for Migration, "[Informe estadístico cuantitativo enero a octubre 2019](#)" [Monthly Quantitative Statistical Report January to October 2019], p. 17.

³⁷⁷ Directorate-General for Migration, "[Informe mensual estadístico cuantitativo enero – diciembre 2018](#)" [Monthly Quantitative Statistical Report January to December 2018], p. 16.

³⁷⁸ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

³⁷⁹ Republic of Guatemala, Ministry of the Interior, "[Operación Gobernanza con resultados positivos](#)" [Governance Operation shows positive results], July 4, 2019.

³⁸⁰ I/A Court H.R. Rights and guarantees of children in the context of migration and/or in need of international protection, [Opinión Consultiva OC-21/14](#), Advisory Opinion OC-21/14 of August 19, 2014, Series A No. 21, para. 191.

³⁸¹ I/A Court H.R. Rights and guarantees of children in the context of migration and/or in need of international protection, [Opinión Consultiva OC-21/14](#), Advisory Opinion OC-21/14 of August 19, 2014, Series A No. 21, para. 198.

³⁸² Republic of Guatemala, Directorate-General for Migration, "[Informe estadístico cuantitativo enero a septiembre 2019](#)" [Monthly Quantitative Statistical Report January to September 2019], p. 18.

³⁸³ Republic of Guatemala, Directorate-General for Migration, "[Informe estadístico cuantitativo enero a septiembre 2019](#)" [Monthly Quantitative Statistical Report January to September 2019], p. 20.

³⁸⁴ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

198. The State also reported on the work done since 2015 with migrants who are unaccompanied minors through the programs *Casa Nuestras Raíces* and *Centro de Formación Quédate*; it likewise reported that as of September 2019 the former assisted 3,614 unaccompanied migrant children from Guatemala and 115 from other countries. Of the latter, 109 [*sic*] were returned to their country of origin, 2 were identified as adults, and three were transferred to a private shelter by a court order. The State also indicated that the *Centro de Formación Quédate* assisted 2,229 children during this same time period.³⁸⁵ As for the second part of the recommendation, the State did not present updated information.

199. As for internal displacement, the IACHR recalls that there are four precautionary measures currently in force related to forced evictions and the internal displacement of indigenous and peasant communities.³⁸⁶

200. The IACHR observes that, by the end of 2018, there were a total of 242,000 internally displaced persons.³⁸⁷ Likewise, by June 2019, there had been 12,000 new displacements because of natural climate events such as heavy rainfall and floods.³⁸⁸ On the basis of the information reviewed, the IACHR concludes that this recommendation has been partially complied with.

201. With respect to the recommendations on: **i) ensuring that evictions are conducted only in observance with human rights norms and standards and with the principles of exceptionality, legality, proportionality, and suitability, in order to promote social wellbeing and provide lasting solutions for the evicted population; and ii) adopting measures to ensure the protection of the dignity, life, and security of the evicted persons**, the State presented information about previous years on the police protocol for evictions of 2012 and reported that this year guidelines were approved on the police's use of force in the line of duty. The State indicated that there had been workshops with representatives of the judiciary and the Public Prosecution Ministry, advocacy work with the National Civilian Police and the Office of the Public Prosecutor, and coordination meetings with government institutions to implement a strategy to prevent evictions and address humanitarian crisis caused by evictions. The State highlighted the follow results: the agreement with the National Civilian Police that it request a technical opinion on human rights from COPREDEH when it is called upon to participate in an eviction; the draft protocol for inter-agency action during and after eviction; study of the Office of the Public Prosecutor's draft inter-agency protocol for handling evictions.³⁸⁹

202. Despite these steps, the Commission notes with concern that, in Guatemala, forced evictions continue to occur, with excessive use of force by security forces. Regarding this, it learned that, in 2019, at least four forced evictions were carried out in: (i) the farm Miramar in the municipality of Colomba Costa Cuca of the department of Quetzaltenango;³⁹⁰ (ii) a private farm in the municipality of San Francisco, department of Petén, where three community members and an officer of the PNC were injured;³⁹¹ (iii) the village of La Trementina, department of Zacapa,³⁹² where, according to information in the public domain, various women who occupied

³⁸⁵ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³⁸⁶ IACHR, Resolution 3/2018, Precautionary measure No. 860-17, [Familias indígenas de la Comunidad Chaab'il Ch'och'](#) [Indigenous Families from Chaab'il Ch'och' Community], January 25, 2018; Resolution 7/2018, Precautionary measure No. 872-17, [Familias desalojadas y desplazadas de la Comunidad Maya Q'eqchi' "Nueva Semuy Chacchilla"](#) [Evicted and displaced families of the Maya Q'eqchi' Community 'Nueva Semuy Chacchilla'], February 10, 2018; Resolution 43/2018, Precautionary measure No. 44-18, [Familias de la Comunidad Maya Q'eqchi' "La Cumbre Sa'kuxhá"](#) [Families of the Maya Q'eqchi' Community 'La Cumbre Sa'kuxhá'], June 18, 2018; Resolution 36/2017, Precautionary measure No. 412-17, [Pobladores desalojados y desplazados de la Comunidad Laguna Larga](#) [Evicted and displaced inhabitants of the Laguna Larga Community], September 8, 2017.

³⁸⁷ The IACHR observes that this figure is based on data on persons displaced during the internal armed conflict in Guatemala. IDMC, [Información de país. Guatemala](#) [Country information: Guatemala], 2018-2019.

³⁸⁸ IDMC, [Información de país. Guatemala](#) [Country information: Guatemala], 2018-2019.

³⁸⁹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

³⁹⁰ PDH, [Verifican acciones de MP y PNC en desalojo](#) [Eviction actions of MP and PNC verified], March 28, 2019.

³⁹¹ *elPeriódico*, [Noticia - Policía se enfrenta a comunitarios por desalojo en finca de Petén](#) [News: Police clash with community members over eviction from farm in Petén], June 28, 2019.

³⁹² PBI, [Paquete de Información Mensual de Guatemala](#) [Monthly Information from Guatemala Package], August 2019.

the community highway to prevent timber trucks from passing were hit by officers of the PNC;³⁹³ and (iv) a private farm in the municipality of Malacatán, department of San Marcos.³⁹⁴ The IACHR also notes that the pending implementation of the eviction of the Maya Q'eqchi' Community Plan Grande³⁹⁵ and eviction of the families living on the Las Palmeras farm, in Suchitepéquez, which have been suspended as a result of unresolved pending appeals for protection on constitutional grounds (*amparo*).³⁹⁶

203. The IACHR points out that this is mainly owing to domestic law in force which allows notice to be served at the very time the eviction order is carried out. Thus, after notice is served, 30 minutes are granted for leaders to inform the persons in the area of the eviction and they in turn, by consensus, must decide to peacefully abandon the place;³⁹⁷ and in the event of opposition, public security forces will be used.³⁹⁸ In the same direction, General Instruction 03-2012 establishes that, once the grounds for the crime have been confirmed, the property or ownership of the real estate must be requested as quickly as possible, as a precautionary measure, urgently and without delay, with immediate eviction.³⁹⁹

204. In that respect, the IACHR and UN experts stated that the evictions must be conducted only in compliance with international and inter-American human rights norms and standards and in line with the principles of exceptionality, legality, proportionality, and suitability, for the legitimate purpose of promoting social well-being.⁴⁰⁰ On the basis of what has been described, the Commission concludes that compliance with this recommendation is pending.

205. With respect to the recommendation to **ensure that expansionist business and development activities are carried out in keeping with international human rights standards**, the state did not provide any updated information; rather, it only provided the legislation in force in this regard. As for the Commission, it was apprised of the unconstitutionality of Government Agreement 145-2013 which stated that building the projects of the Electric Power Transmission Expansion Plan and the Rural Electrification Plan was a national emergency,⁴⁰¹ as well as the temporary suspension of the operations of Mina Fénix of the Guatemalan Nickel Company owing to the failure of conducting the prior consultation with the communities in region.⁴⁰² On basis of the lack of specific information, the IACHR concludes that compliance with this recommendation is pending.

206. In connection with **promoting the creation of an agrarian and environmental jurisdiction**, in its observations on the draft version of this report, the State reported on the operations of the first instance criminal, drug trafficking, and environmental crimes courts, created in 2010 and the memorandum of understanding between the judiciary and Chemonics Inc. It likewise reported that agencies of the State had signed the declaration 'United for Environmental Justice'.⁴⁰³ The IACHR observes that promoting the creation of an agrarian and environmental jurisdiction in the Judiciary by enacting the corresponding law

³⁹³ *Prensa Comunitaria*, [Noticia - La Trementina lucha por el agua y los bosques en Zacapa](#) [News: La Trementina fight for water and forests in Zacapa], August 16, 2019.

³⁹⁴ *Prensa Libre*, [Noticia - Desalojo de finca se torna violento en Malacatán](#) [News: Eviction from farm becomes violent in Malacatán], October 14, 2019.

³⁹⁵ FGER, [Noticia - Plan Grande: La amenaza es inminente](#) [News: Plan Grande: Threat is imminent], July 23, 2019.

³⁹⁶ *Voces nuestras*, ["Noticia - Evitan desalojo de familias de finca "Las palmeras", en Suchitepéquez"](#) [News: Eviction of families from the Las Palmeras farm in Suchitepéquez is avoided], April 5, 2019.

³⁹⁷ National Civilian Police, ["Protocolo de desalojos"](#) [Eviction protocol], August 25, 2014, first phase.

³⁹⁸ National Civilian Police, ["Protocolo de desalojos"](#) [Eviction protocol], August 25, 2014, third phase.

³⁹⁹ Office of the Public Prosecutor, [Instrucción General número 03-2012](#) [General Order No. 03-2012], May 8, 2012.

⁴⁰⁰ See also: IACHR, Press Release No.158/18, [CIDH y expertas de la ONU expresan su preocupación por situación de desalojos forzosos y desplazamiento interno en Guatemala](#) [IACHR, UN Experts Express Concern Over Forced Evictions and Internal Displacement in Guatemala], July 20, 2018.

⁴⁰¹ Peace Brigades International (PBI), ["Noticia - Sentencia de la CC: construcción de red eléctrica de Trecca ya no es de urgencia nacional"](#) [News: CC Judgment: Building the Trecca electric power network is no longer national emergency], January 2019.

⁴⁰² PBI, ["Noticia - Suspensión de operaciones de la mina Fénix"](#) [News: Suspending operations of Fénix Mine], July 2019.

⁴⁰³ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

in Congress has not been as yet complied with.⁴⁰⁴ Because of this, the Commission concludes that compliance with this recommendation is pending.

207. With respect to the recommendations concerning: **i) amending Article 50 of the Code of Migration in keeping with human rights norms and standards; and ii) regulating the Code of Migration and other norms relating to persons in the context of human mobility in the framework of a participatory process with civil society organizations and other relevant stakeholders**, the state has not provided updated information. As for the PDH, it pointed out that, in 2019, the Regulations for recognition of the status of refugee, the provisions for obtaining a passport abroad, the Regulations for Guatemalan Visas, and the Regulations on Residency were adopted.⁴⁰⁵

208. In that respect, although the state informed that Article 50 of the Migration Code meets international standards,⁴⁰⁶ the Commission notes that this statute permits the detention and return of migrants who do not meet the requirements of the law, without access to guarantees of due process of law or any review of whether or not the detainee subject to deportation is in need of international protection. Although the IACHR commends the regulations for the recognition of the status of refugee, the regulatory framework and practices must be adjusted to meet international standards, especially the right to seek and receive asylum, the principle of non-refoulement, *and personal liberty, among others*. This is without detriment to what was stated by the state regarding the enforcement of the contents of Article 44 of the Migration Code, which confines itself to guaranteeing the principle of non-refoulement only to those who have been denied recognition of the status of refugee.⁴⁰⁷ Because of this, the Commission concludes that compliance with this recommendation is pending.

209. In connection with **ensuring access to justice for migrants and their families, as well as implementing measures to find and identify disappeared migrants**, in its observations on the draft version of this report, the State reported that the MFA provides assistance and support to family members of Guatemalans missing abroad in conjunction with Guatemalan consulates. It likewise reported that it had signed a cooperation agreement with the International Committee of the Red Cross to implement a database to search for migrants who had disappeared abroad. The overall objective is the development, implementation, and training in the use of a database that assists in the search for missing Guatemalans. The State added that the General Directorate for Migration's Assistance and Protection Council, in coordination with relevant agencies, has mechanisms to search for foreigners who have gone missing on national soil.⁴⁰⁸

210. The IACHR observes that the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) pointed out that, among the principal problems with respect to access to justice, there are the following: (i) limitations on the ability of migrants to file complaints; (ii) the fear of being arrested if they bring an action before the courts; and (iii) the justice authorities' lack of knowledge of national and international migration regulations.⁴⁰⁹

211. As for the PDH, it reported that the Ministry of Public Health and Social Welfare (*Ministerio de Salud Pública y Asistencia Social—MSPAS*) updated the statutes for providing comprehensive healthcare services to the migrant population supporting the mechanism to search for and take care of the families of

⁴⁰⁴ IACHR, [Situación de los Derechos Humanos en Guatemala](#) [Situation of Human Rights in Guatemala], OEA/Ser.L/V/II. Doc. 208/17, December 2017, Recommendations on specific sectors of the population, para. 51.

⁴⁰⁵ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019, p. 43.

⁴⁰⁶ IACHR, [Informe Anual Guatemala](#) [Annual Report: Guatemala], 2018, para. 189.

⁴⁰⁷ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

⁴⁰⁸ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

⁴⁰⁹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, [Observaciones finales sobre el segundo informe periódico de Guatemala](#) [Concluding observations on the second periodic report of Guatemala], CMW/C/GTM/CO/2, May 2, 2019, para. 38.

persons reported missing because of migration.⁴¹⁰ Because of this, the IACHR reiterates that the recommendation has been partially complied with.

212. Finally, regarding its recommendation to **implement efficacious measures to ensure the effective enjoyment of the human rights and reintegration of deported and returning persons**, the state limited itself to reiterating the existence of inter-agency agreements for helping returnees⁴¹¹ and failed to present updated information. Regarding this, the IACHR underscores that the implementation of migration policies in the United States and Mexico has exerted an impact, leading to the return of a total of 64,820 Guatemalans from the above-mentioned countries.⁴¹²

213. The IACHR notes that the state does not have any detailed information on the effectiveness of the actions implemented to ensure that returnees can effectively exercise their human rights. Because of the above, the IACHR concludes that the present recommendation has been partially complied with.

Afrodescendant persons

- Create institutions to draft and develop policies for Afrodescendant persons on the basis of a National Plan of Action.

214. With respect to the recommendation to **create institutions to draft and develop policies for Afrodescendant persons on the basis of a National Plan of Action**, the State reported in its observations on the draft version of this report that the Office of the President's Secretariat of Planning and Programming had created tools that develop and guide public policy processes, in addition to ensuring that these policies are aligned with the country's strategic planning framework defined in the K'atun National Development Plan: Our Guatemala 2032 and the 2030 Agenda for Sustainable Development prioritized by Guatemala. The State indicated that it conducts analyses and studies on the national and international political, social, and economic reality, as well as vulnerable populations, in order to provide feedback for the public policy cycle, incorporating an ethnic-cultural and gender-equity approach and to identify potential areas that can be the subject of public policies. It added that although the Presidential Commission against Discrimination and Racism against Indigenous Peoples does not have a specific policy [in this regard], it has taken a series of steps, such as the Ministry of Finance's approval of 9 thematic classifiers, which include that of Afrodescendants.⁴¹³

215. The Commission welcomes the publication of the 2018 census data and the possibility of analyzing the information gathered according to the population's self-identification. The Commission is looking forward to a more exhaustive processing of these data and recalls that, in keeping with the principles of equality and non-discrimination, it is the State's obligation to draft policies that ensure the rights of its entire population. In that respect, the IACHR reminds the state of its duty to adopt programs aimed at gathering statistics broken down by gender, age, disability, among other variables, on the Afrodescendant population.

216. Throughout 2019, the IACHR has observed with concern the poverty and food insecurity affecting Afrodescendant persons in Guatemala. In particular, the IACHR received with concern information on a study from the Food and Agriculture Organization (FAO) based on data for unmet basic needs (UBN) and chronic malnutrition in rural areas, thanks to which it was observed that Afrodescendant and indigenous

⁴¹⁰ PDH, Follow-up on compliance with the recommendations issued by the report on the situation of human rights in Guatemala 2017, received on October 17, 2019, p. 43.

⁴¹¹ Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

⁴¹² Republic of Guatemala, Directorate-General for Migration, [Informe estadístico cuantitativo enero a julio 2019](#), [Monthly Quantitative Statistical Report January to July 2019], p. 20.

⁴¹³ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

persons are over-represented, accounting for 68% of those municipalities.⁴¹⁴ Therefore, the IACHR concludes that compliance with this recommendation is pending. The IACHR urges the state to adopt an ethnic and racial approach to social policies combating poverty by focusing on the specific situation of Afrodescendant persons and, in particular, the women and children living in the country's rural areas.

LGBTI persons

- Adopt the necessary measures to discourage intolerance and abolish any type of law that discriminates against persons based on their sexual orientation, gender identity or expression.
- Act with due diligence to prevent, investigate, punish, and provide reparation for any type of violence committed against LGBTI persons.
- Adopt the necessary legislative measures and policies to prevent violence, discrimination, and prejudice against persons because of their sexual orientation, diverse gender identity, and expressions or whose bodies depart from male and female standards.

217. As regards the recommendation **to adopt the necessary measures to discourage intolerance and abolish any type of law that discriminates against persons based on their sexual orientation, gender identity, or expression**, the state reported that initiative 5272 has not received approval or a favorable ruling.⁴¹⁵ Despite the state's report, in 2019, there were various attempts to secure approval for said draft bill in the third debate in Congress in plenary.⁴¹⁶

218. In the Country Report, the Commission voiced its concern over the possible adoption of this draft bill of law. This initiative would forbid teaching a gender-based perspective and sexual diversity in schools, it would assert that opposite-sex persons are exclusively entitled to the institution of marriage, and it would make it possible to terminate the classification of the crime of discrimination when it targets persons of diverse sex orientations and gender identities.

219. Additionally, in its observations on the draft version of this report, the State reported on activities carried out to reduce discrimination and racism, such as workshops to encourage implementation of this policy, whose objectives include preventing hate crimes against the LGBTI community and awareness-raising of justice officials and National Civilian Police agents. The State also indicated it has prepared the 2016-2030 Comprehensive and Differentiated Health Care Strategy for Trans Persons in Guatemala, in addition to other measures to care for vulnerable population[s], including HIV control and a manual to reduce stigma and discrimination, among others.⁴¹⁷ The State indicated that it is preparing a manual of guidelines on comprehensive health care for the LGBTI population for health care providers and a guidance manual with an approach to care for key population[s], which has data related to care for bisexuals, homosexuals, and transsexuals on hospital forms, among other best practices.⁴¹⁸ Therefore, the Commission concludes that this recommendation has been partially complied with.

220. At the same time, with respect to the recommendation **to act with due diligence to prevent, investigate, punish, and provide reparation for any type of violence committed against LGBTI persons**, the state did not submit any information. In its observations on the draft version of this report, the State indicated that the National Civilian Police always acts in accordance with the law regardless of a person's

⁴¹⁴ FAO, [100 Territorios libres de pobreza y hambre](#) [100 territories free from poverty and hunger], April 23, 2019.

⁴¹⁵ Republic of Guatemala, Report from the State of Guatemala on human rights progress to prepare the IACHR Annual Report for 2019 of October 10, 2019.

⁴¹⁶ *Prensa Latina*, [Iniciativa 5272, el rostro más conservador y polémico de Guatemala](#) [Initiative 5272: the more conservative and contentious face of Guatemala], September 19, 2019.

⁴¹⁷ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

⁴¹⁸ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

gender, marital status and/or condition, and all personnel are instructed that their actions are to always ensure due respect for the international norms and conventions in force regarding the protection and acceptance of LGBTI community. It added that educational policy has been brought into line with the nation's reality, the current legal system, democratic principles, citizen participation, and international human rights treaties, conventions, and instruments that have been signed and ratified by Guatemala⁴¹⁹

221. The IACHR has received information on various acts of violence perpetrated with high levels of cruelty against persons who self-identify as LGBTI or who were perceived as such. Among them there is the killing by stoning of the 18-year-old human rights defender, José Roberto Díaz, whose body was found in the department of Huehuetenango with signs of torture and messages based on prejudice;⁴²⁰ the killings of Betzi Esmeralda C6 Sagastume and Kelli Maritza Villagrán, whose bodies were found in the department of El Progreso, with inscriptions using language based on prejudice against lesbian women;⁴²¹ and the killings of Vidalia Molina Delgado, a trans woman, and 15-year-old Ramiro Duarte based on their gender identity and/or expression.⁴²² The IACHR was apprised of attacks and death threats against a group of persons identifying themselves as queer, in zone 4 of Guatemala City.⁴²³

222. The IACHR also noted the irruption of police troops carrying pepper spray in the November 4 LGBTIQ Cultural Center, in July, to stop a private celebration for the "Nineteenth Sexual Diversity and Gender Identity Runway" attended by about 150 persons.⁴²⁴ Civil society organizations filed complaints with the PDH for these incidents and other possible acts of intimidation perpetrated in meeting places of LGBTI persons. Furthermore, the Commission notes the absence of protocols for providing services to students in cases of bullying at school, including cases of harassment against LGBTI students.⁴²⁵ Therefore the IACHR concludes that this recommendation has been partially complied with.

223. As for the recommendation urging the State to **adopt the necessary legislative measures and policies to prevent violence, discrimination, and prejudice against persons because of their sexual orientation, diverse gender identity, or whose bodies diverge from the male or female standard**, the state did not submit any up-to-date information. The IACHR stresses that, in order to comply with its duties, the state must develop cross-cutting strategies which include, among others, effective measures, establishing mechanisms for data collection on violence, enacting legal provisions criminalizing this type of violence, and designing and implementing public education policies and programs to eradicate stereotyping and stigmatization of LGBTI persons.⁴²⁶

224. Nevertheless, the IACHR continues to observe that Guatemala has no law or regulatory framework recognizing the right of trans persons to gender identity, because of which it reiterates to the state that the legal recognition of gender identity is an essential element to guarantee a large number of rights for trans and diverse gender persons and that the adoption of laws on this matter exerts a favorable impact on the fight against discrimination and violence.

⁴¹⁹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

⁴²⁰ *Agencia Presentes*, [Asesinaron a joven activista y dejaron mensajes de odio en su cuerpo](#) [Young activist killed and hate messages left on his corpse], March 29, 2019.

⁴²¹ *Prensa Libre*, [Muerte de dos mujeres en El Progreso estaría motivada por odio a la diversidad sexual, señala procurador de los DD. HH](#) [Death of two women in El Progreso driven by hate of sexual diversity, points out Human Rights Ombudsperson], April 24, 2019.

⁴²² *Agencia Presentes*, [Dos asesinatos a personas LGBT+ en menos de 24 horas en Guatemala](#) [Two killings of LGBT+ persons in less than 24 hours in Guatemala], October 14, 2019.

⁴²³ *Agencia Presentes*, [Agresión homoodiante a jóvenes en un Taco Bell en Guatemala](#) [Homophobic attack on young people in Taco Bell in Guatemala], July 18, 2019.

⁴²⁴ IACHR, [CIDH expresa preocupación por excesivo uso de la fuerza policial contra personas LGBTI en Guatemala](#) [IACHR Concerned about Excessive Use of Force by Police against LGBTI persons in Guatemala], August 7, 2019.

⁴²⁵ PDH, Report on Monitoring the Right to Education in primary, basic, and secondary school. Available at: <https://www.pdh.org.gt/biblioteca-digital-informes-informes-especiales/>

⁴²⁶ Cf. IACHR, [Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en América](#) [Violence against Lesbian, Gay, Bisexual, Trans, and Intersex Persons in the Americas], OAS/Ser.L/V/II.rev.2 Doc. 36, November 12, 2015, para. 391.

225. The Commission has not failed to notice the high level of participation of LGBTI persons in national politics during the 2019 elections, and therefore their own vision of inclusion and the exercise of their rights have the potential of being considered.⁴²⁷ Regarding this, a record number of candidates for public office at the election were persons who identified themselves as LGBTI, specifically gay men.⁴²⁸ At the end of the rounds, Aldo Dávila was elected to parliament as a congressperson and is the first cisgender man who identifies himself as gay to hold a seat in parliament,⁴²⁹ and José Carlos Hernández was elected as a congressperson to the Central American Parliament.⁴³⁰ Without detriment to this and in view of its previous analysis, the IACHR concludes that compliance with this recommendation is pending.

Freedom of expression⁴³¹

- Acknowledge, from the highest levels of government, the legitimacy and value of the work of journalists, and condemn attacks committed in retaliation for the exercise of freedom of expression.
- Investigate crimes committed against journalists completely, effectively, and impartially. Additionally, in cases involving the murder of journalists, establish the motive and judicially determine any possible connection to journalistic activity and freedom of expression. The authorities should not rule out the practice of journalism as a motive for the attack and/or assault before the investigation is completed.
- With respect to the program for the protection of journalists and media workers—the creation of which was announced by the President of the Republic during the visit—ensure that its content is consistent with the international parameters, in broad and effective consultation with civil society organizations, journalists, and media workers.
- Take measures to guarantee the exercise of freedom of expression, plurality, and diversity in the digital transition process. Among other things, bring the license access, renewal, and revocation processes into line with the inter-American standards.
- Promote a pluralistic approach to information and multiple points of view by fostering the full enjoyment of freedom of thought and expression, access to the media, and diversity in media ownership and sources of information through, among other things, transparent licensing systems, and, as appropriate, effective regulations that prevent the improper concentration of media ownership.
- Adopt the legislative measures and public policies to recognize and ensure community media outlets' access to radio and television frequencies and licenses; in the meantime, abstain from criminally prosecuting community radio stations.
- Enact special, clear, and precise laws to regulate advertising at each level of government. Such provisions should clearly define government advertising and establish appropriate penalties for their violation. The Special Rapporteurship reiterates that government advertising should never be allocated by the States to reward or punish media outlets for their editorial and news content.
- Ensure that its administrative laws and practices are compatible with the prohibition against the participation of the armed forces in public safety operations, in particular, the control of violence at social protests. Limit budget allocations to matters concerning national defense.

⁴²⁷ IACHR, [Informe sobre Avances y desafíos hacia el reconocimiento de los derechos de las personas LGBTI en las Américas](#) [Report on Progress and Challenges toward Recognition of the Rights of LGBTI Persons in the Americas], 2019, para. 112.

⁴²⁸ *Agencia Presentes*, [Elecciones Guatemala: candidatos LGBT+ con agenda de diversidad sexual](#) [Guatemala Elections: LGBT+ candidates with sexual diversity agenda], June 15, 2019.

⁴²⁹ *El País*, [El primer diputado abiertamente gay de Guatemala: "Quiero creer que mi elección es fruto de un cambio"](#) [First openly gay congressperson of Guatemala: "I want to believe my election is a result of change], July 8, 2019.

⁴³⁰ *Soy502*, [Pese a votos nulos, estos son los diputados electos al Parlacen](#) [Despite voided ballots, here are the congresspersons elected to the Central American Parliament (PARLACEN)], July 18, 2019.

⁴³¹ CIDH assigned drafting this section to the Special Rapporteurship for Freedom of Expression.

226. Regarding the recommendation to **acknowledge, from the highest levels of government, the legitimacy and value of the work of journalists, and condemn attacks committed in retaliation for the exercise of freedom of expression**, the Guatemalan State informed the IACHR about its current legal and constitutional framework, as well as the attributions of the Office of the Public Prosecutor's Human Rights Prosecutor and its Journalists' Unit, which "ensures the life and safety of individuals who carry out journalistic activities."⁴³² Nevertheless, the Commission and its Special Rapporteurship identify in Guatemala a trend of stigmatizing journalists and media that are critical of the government, which comes from the highest-ranking government authorities;⁴³³ this jeopardizes the free exercise of journalistic activities and undermines the obligation to "adopt a public discourse that contributes to preventing violence against journalists."⁴³⁴ Of special concern for this Office is President Jimmy Morales discrediting the manager of *La Hora*, Oscar Clemente Marroquín, indicating that his activity and that of his family is "unfair," "cowardly," and "illegal" and that he would lash out against the newspaper just like they have lashed out against his government, "saying lies."⁴³⁵ He has also spoken against *Guatevisión*, *Prensa Libre*, and *Emisoras Unidas* describing them as "liars, cowards, and ludicrous."⁴³⁶

227. On April 12, in a speech delivered in Chimaltenango in the context of an audit of a public work, President Jimmy Morales stated:

"...I wish to thank the Congress of the Republic. Just look how nowadays building a highway is not the same as in the time of Ubico. I would have liked to have Ubico's laws to be able to carry out the project, of course, we're not going to have them because today we have a democratic country, a country where we have beautiful freedom, but freedom needs safeguarding. You don't take advantage of freedom. There are some who shield themselves behind the free expression of thought to say lies, to spread slander, and what is even worse is that they do it on behalf of journalism and in the defense of human rights, cowards. And yes, I do admire authentic journalists and I do admire those who have the courage to say the truth, to seem mistaken even when they tell me the opposite. Those are the ones I admire, but those who write for political rags saying all kinds of lies, without any regard for breaking up and destroying homes, because they have no family, because they don't appreciate family, as they do not know what it is to raise a son by setting an example, probably they can vent their frustrations."⁴³⁷

Therefore, the IACHR concludes that compliance with this recommendation is pending.

228. With regard to the recommendation to **thoroughly, effectively, and impartially investigate crimes against journalists and to throw light on the motives behind the murders of journalists, as well**

⁴³² Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

⁴³³ APG. *Status of the Situation of Freedom of Expression. January–March 2019*. Available for consultation at: https://twitter.com/APG_1947/tweet/1124397305380122624; *La Hora*. July 3, 2019. [Cabrera arremete contra la prensa por compra de aviones](#) [Cabrera lashes out against media for aircraft purchase]; *El Economista*. April 24, 2019. [El vicepresidente de Guatemala arremete contra la prensa por las críticas al Gobierno](#) [Vice-President of Guatemala lashes out against media for criticizing the Government]; *El Universo*. September 2, 2019. [El presidente de Guatemala, Jimmy Morales, arremete contra periodistas](#) [President of Guatemala Jimmy Morales lashes out against journalists], *La Hora*. June 5, 2019. [Con Criterio denuncia al MP campaña de difamación](#) [Radio program 'Con Criterio' files complaint with Office of the Public Prosecutor for smear campaign].

⁴³⁴ United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Declaración conjunta sobre violencia contra periodistas y comunicadores en el marco de manifestaciones sociales](#) [Joint statement on violence against journalists and media workers in the context of protests].

⁴³⁵ *La Hora*, July 18, 2019, [Morales ataca de nuevo a La Hora: vamos a arremeter con mentiras, dice](#) [Morales once again attacks newspaper *La Hora*; he says 'we will lash out against lies'], *La Hora*. July 19, 2019. [PDH y Samayoa: Declaraciones de Morales contra La Hora podrían constituir delito](#) [PDH and Samayoa: Declarations by Morales against *La Hora* could be a crime].

⁴³⁶ *Crónica*. September 2, 2019. [De nuevo, Jimmy Morales se muestra molesto con la prensa por información que publica](#) [Once again Morales is angry at media because of information they publish]; *La Hora*. September 2, 2019. [Morales critica a los medios, arranca con "La Hora" y llama cobarde a su Presidente](#) [Morales criticizes media, lashes out against *La Hora* and calls its Manager a coward].

⁴³⁷ *Guatevisión*/YouTube account. April 12, 2019. [Jimmy Morales arremete contra la prensa y dice que anhela tener las leyes de Ubico](#) [Jimmy Morales lashes out against media and says he wishes he had Ubico's laws], [1:47].

as juridically determine any connection those murders may have to journalistic activities and freedom of expression, the IACHR takes note of the statistical information provided by the state about crimes against journalists perpetrated from January 2018 to February 2019.⁴³⁸ Nevertheless, said information does not highlight the progress made in the investigations in 2019. In this context, the IACHR and the Special Rapporteurship observe that, in Guatemala, there continue to be high rates of impunity for crimes against journalists in the exercise of their professional activities, which have a chilling and silencing effect on the exercise of the freedom of expression and its consequences for democracy—which depends on the free, open, and dynamic exchange of ideas and information—are particularly serious.⁴³⁹ More than 15 journalists were killed between 2015 and 2018 for reasons supposedly linked to their work, for which little progress has been made in investigating them and identifying those responsible.⁴⁴⁰

229. According to information in the public domain, Luis Vladimir Gutiérrez López, editor of the magazine *Sin Censura* of San Benito de Mazatenango, Suchitepéquez, was killed in that locality allegedly by hired gunmen on June 21, 2019.⁴⁴¹ Nevertheless, ascertaining possible ties between the crime and the activities of journalism is still pending. According to what was published, the Office of the Public Prosecutor started the required investigation.⁴⁴²

230. The Special Rapporteurship received a series of testimonies from journalists who had been the victims of attacks and harassment for reasons associated with their jobs as editors and threats because of their work. Likewise, a matter of particular concern is that those journalists who investigate alleged acts of corruption or provide coverage of the activities of the CICIG are viewed as “enemies of nation” or “guerrilleros,”⁴⁴³ and this exposes them to high risk for performing their work.

231. Likewise, the Special Rapporteurship was apprised of various pieces of information describing different episodes of aggression and threats⁴⁴⁴ against journalists for reasons involving their work, which

⁴³⁸ According to the state’s report, a total of 67 cases were recorded, with the following breakdown: “Threats” (29), “Coercion” (12), “Defamation” (1), “Larceny” (5), “Unruliness/Contempt” (1), “Breach of duty” (1), “Minor injuries” (2), “Obstructing justice” (1), “Robbery” (5), “Usurpation of authority” (2), “Illegal detention” (2), “Use of information” (1), “Special case of embezzlement” (1), “Falsification of documents and facts” (2), “Abuse of power” (2). Republic of Guatemala, Report from the State of Guatemala on progress in human rights to prepare the IACHR Annual Report for 2019, October 10, 2019.

⁴³⁹ IACHR. Special Rapporteurship for Freedom of Expression. [Violencia contra periodistas y trabajadores de medios: estándares interamericanos y prácticas nacionales sobre prevención, protección y procuración de la justicia](#) [Violence against journalists and media workers: Inter-American standards and national practices on prevention, protection, and prosecution of perpetrators], OEA/Ser.L/V/II.CIDH/RELE/INF. 12/13. December 31, 2013, para. 287.

⁴⁴⁰ IACHR. [Informe Anual 2015. Informe de la Relatoría Especial para la Libertad de Expresión](#). Annual Report 2015. Report of the Special Rapporteurship for Freedom of Expression. Chapter II (Situation of Freedom of Expression in the Hemisphere), OEA/Ser.L/V/II. Doc. 48/15, December 31, 2015; IACHR. [Informe Anual 2016. Informe de la Relatoría Especial para la Libertad de Expresión](#). Annual Report 2016. Report of the Special Rapporteurship for Freedom of Expression. Chapter II (Situation of Freedom of Expression in the Hemisphere), OEA/Ser.L/V/II. Doc. 22/17, March 15, 2017; IACHR. [Informe Anual 2017. Informe de la Relatoría Especial para la Libertad de Expresión](#). Annual Report 2017. Report of the Special Rapporteurship for Freedom of Expression. Chapter II (Situation of Freedom of Expression in the Hemisphere), OEA/Ser.L/V/II. Doc. 210/17, December 31, 2017; IACHR. [Informe Anual 2018. Informe de la Relatoría Especial para la Libertad de Expresión](#). Annual Report 2018. Report of the Special Rapporteurship for Freedom of Expression. Chapter II (Situation of Freedom of Expression in the Hemisphere), OEA/Ser.L/V/II. Doc. 30, March 17, 2019.

⁴⁴¹ *La Hora*, June 22, 2019. [MP investiga muerte de periodista en Suchitepéquez](#) [Office of the Public Prosecutor investigates death of journalist in Suchitepéquez]; *Huehue Noticias*, June 22, 2019, [Asesinan a periodista en Mazatenango](#) [Journalist killed in Mazatenango]; “#Suchitepequez • Hitmen shoot and kill 32-year-old Luis Vladimir Gutiérrez López, editor of the magazine *Sin Censura*. The victim was travelling on his motorbike with the journalist Luis de León. The incident occurred in the canton of San Benito, Mazatenango. @FIP_AL @FEPALC @APG_1947”. Twitter account of United Journalists (Periodistas Unidos). @FIPGUATEMALA01. [21 de junio de 2019](#) [June 21, 2019].

⁴⁴² *La Hora*, June 22, 2019, [MP investiga muerte de periodista en Suchitepéquez](#) [Office of the Public Prosecutor investigates death of journalist in Suchitepéquez].

⁴⁴³ Information shared by journalists in Guatemala with the Special Rapporteurship for Freedom of Expression on May 20, 2019. Available for consultation at: Archive of the Special Rapporteurship for Freedom of Expression.

⁴⁴⁴ Association of Journalists of Guatemala (*Asociación de Periodistas de Guatemala—APG*). February 1, 2019. *AGP condena amenazas de muerte y agresión contra periodistas* [AGP condemns death threats and aggression against journalists]. Available for consultation at: https://twitock.com/APG_1947/tweet/1097940870203088896

raises serious concerns for the IACHR because of the absence of adequate measures to prevent and protect media workers and the media. These aggressions focused on several localities such as La Antigua Guatemala, and in the departments of Sacatepéquez,⁴⁴⁵ Chimaltenango,⁴⁴⁶ Santa Rosa,⁴⁴⁷ among others.⁴⁴⁸

232. The IACHR is especially concerned about information on aggression, burglary, and damage of workplace equipment by state security agents against journalists who showed up to provide coverage of a fire in La Antigua Guatemala the first days of January.⁴⁴⁹ The Special Rapporteurship recalls that the state “must not prohibit or criminalize live broadcasts of events, and must abstain from imposing measures that regulate or limit the free circulation of information via the Internet, and other communication platforms.”⁴⁵⁰

⁴⁴⁵ APG issued a communiqué on March 18 condemning the attempt on the life of the journalist Alex Cruz, journalist of *elPeriódico*, which took place on March 16 at night and in which the media worker’s son had been injured. The newspaper *elPeriódico* also condemned this attack and called upon the authorities to clarify the facts. *elPeriódico*, March 19, 2019, [Agresión contra periodista de elPeriódico](#) [Attack against journalist of *elPeriódico*]; *elPeriódico*, March 18, 2019, [Comunicado: APG condena amenaza contra periodista de elPeriódico y robo a director de C4](#) [Press release: APG condemns threat against journalist of *elPeriódico* and burglary against Director of C4].

⁴⁴⁶ APG issued a press release on March 27, condemning an attack sustained by the journalist Julio Bala, correspondent of *elPeriódico* in Chimaltenango, which had taken place on March 26 in which the Media Worker was hit several times and his work equipment was destroyed while he was providing coverage of a demonstration. *elPeriódico*, March 27, 2019, [Entidad gremial exige cese de agresiones, acoso y amenazas contra periodistas](#) [Professional association calls for end of attacks, harassment, and threats against journalists]; *deguate.com*, March 26, 2019, [Comerciantes agreden a periodista de Nuestro Diario en Tecpán y quiebran su cámara](#); [Retailers attack *Nuestro Diario* journalist in Tecpán and smash his camera]; APG, May 8, 2019, [APG condena ataque en contra de periodista Santiago Boton](#) [APG condemns attack against the journalist Santiago Boton]. Available at: https://twitter.com/APG_1947/tweet/1125856468425760768

⁴⁴⁷ Republic of Guatemala. Office of the Human Rights Ombudsperson (*Procuraduría de los Derechos Humanos—PDH*). September 3, 2019. [Verifican acciones del PNC y MP por agresión de dos periodistas israelíes](#) [Actions of National Police and Office of the Public Prosecutor are examined because of attack on two Israeli journalists]; *eEsquíntleco*, September 3, 2019, [Periodistas De Origen Israelí De National Geographic Agredidos Y Retenidos En Santa Rosa](#) [Israeli journalists of *National Geographic* attacked and detained in Santa Rosa].

⁴⁴⁸ According to information from the United Nations High Commissioner for Human Rights forwarded to the Special Rapporteurship, between January 11 and October 31, 2019, there were at least 18 episodes involving various violations of the right to freedom of expression which occurred in the departments of Guatemala, Chimaltenango, Huehuetenango, Izabal, Quiché, Sololá, and Suichitepequez. The following media workers were affected: José Ruben Zamora, Director of the newspaper *elPeriódico*, was the victim of intimidation; Annabella Giraca, Antonio Mosquera Aguilar, Karin Slowing Umaña, Luis Eduardo Barreto Wittig, Manolo Estuardo Vela Castañeda, Marcela Gereda Illescas, Marcelo Colussi, Dina Fernandez, and other were the victims of defamation by a blog published anonymously; Martín Rodríguez Pellecer, Idivina Stalinova Hernández Batres, Byron Garoz, Marcia Mejía, Carmen Lucía Alvarado, and Julio Serrano Benítez were the victims of online defamation; Hedy Quino, reporter for *La Hora*, was the victim of threats from authorities of the legislature; Julio Bala was attacked while providing coverage of a social protest; Julio García had received various threats while providing coverage of a public ceremony of municipal authorities; Santiago Boton, correspondent for *Telesur*, was the victim of theft of his work equipment and, in another incident, had been attacked while providing coverage of a social protest; Marvin del Cid, from the Article 35 Association, had been the victim of theft of his work equipment; Blaz Arias, journalist for *Estor*, had received threats and, in addition, they had stolen working materials and equipment; Elena Chiquibal, from the Women’s Consortium of the Basin of Lake Atitlán, had been the victim of surveillance; Francelia Solano, from *Nómada*, had received intimidations with legal proceedings filed against her by Giammattei, a candidate at the time, for having published an article; Abel Reina had received various threats; Francisco Simón Francisco, from *Prensa Comunitaria*, had been attacked and intimidated by unknown persons; Baudilio Choc Mac, from *Prensa Comunitaria*, had been the target of intimidation by army troops while taking photos of a military raid; Mynor Mérida had been threatened by a commissioner of the National Civilian Police Force; Carlos Choc, from *Prensa Comunitaria*, had been the target of criminal proceedings for his activities providing coverage in 2017. Office of the United Nations High Commissioner for Human Rights. Attacks on Journalists in 2019. Available at: Archive of the Special Rapporteur for Freedom of Expression. Other documented cases: *Publinews*, October 19, 2019, [APG pide al MP investigar agresiones a comunicadores en San Marcos](#); *Crónica*, October 23, 2019 [APG requests the Office of the Public Prosecutor to investigate attacks against media workers in San Marcos]. [APG rechaza intimidaciones en contra de periodistas en Huehuetenango](#) [APG condemns intimidation against journalists in Huehuetenango]; *elPeriódico*, October 24, 2019, [Miembros del Sindicato de Trabajadores por la Educación agreden a periodistas en San Marcos](#) [Members of Education Employees Union attack journalists in San Marcos]; APG, October 22, 2019, [Attempts on the life of journalists in Huehuetenango](#). Available for consultation at: https://twitter.com/APG_1947/tweet/1186778992168361984

⁴⁴⁹ *Canal Antigua*, January 2, 2019, [Esto sucedió con el periodista capturado durante incendio en Antigua Guatemala](#) [This is what happened to journalist detained during fire in Antigua Guatemala]; *elPeriódico*, January 3, 2019, [Inicia el año con agresión a periodistas](#) [Year starts with attack on journalists]; *eEsquíntleco*, January 3, 2019, [Jorge Arriola, Lejos De Reducir Desastres, Ha Incendiado Un Problema Entre Periodistas Y Policías En Antigua](#) [Jorge Arriola, far from mitigating disasters, he has set fire to problem between journalists and police officers in Antigua].

⁴⁵⁰ United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Declaración](#)

233. Regarding the obligation to obtain justice, which is inserted in the above-mentioned recommendation, the IACHR identifies progress made in connection with the 2015 killing of the journalists Danilo López and Federico Salazar, who worked as correspondents for *Prensa Libre* and *Radio Nuevo Mundo* in Mazatenango, department of Suchitepéquez. According to information forwarded, the person charged for being the mastermind behind the crime, congressperson Julio Antonio Juárez Ramírez, after indictment by the Office of the Public Prosecutor and completing the intermediate stage, was sent to trial on June 4.⁴⁵¹ Nevertheless, on September 17, it was reported by the media that the judges of Court A for High-Risk Cases recused themselves from presiding over the trial because they had previously voiced their opinions about the case. At the cutoff date for the present report, confirmation of this recusal and the decision about the composition of the court was pending.⁴⁵²

234. According to available information, on the basis of the investigations of the Office of the Public Prosecutor, the congressperson had hired gunmen to kill Danilo López as a result of an article published on the congressperson's problems with the tax revenue service, which had been the motive for the crime, that is, to prevent the politician's image from being tarnished in Congress.⁴⁵³ The court also examined other indicative evidence, such as differences of political opinions between the congressperson and the journalist.⁴⁵⁴ On July 22, proceedings were open for the submittal of evidence.⁴⁵⁵

235. In May, Marco Tulio Cano Reyna, who was implicated as the contact for hiring the hit men, made a statement at a hearing "under partial confidentiality."⁴⁵⁶ According to available information, on May 29, Court B for High-Risk Cases ruled his acquittal for the crime of homicide punishable by law.⁴⁵⁷ Likewise, a hearing is pending to ascertain the measures of benefit on the basis of a collaboration agreement to solve the crime of the journalists.⁴⁵⁸

[conjunta sobre violencia contra periodistas y comunicadores en el marco de manifestaciones sociales](#) [Joint statement on violence against journalists and media workers in the context of protests].

⁴⁵¹ CICIG. [Informe de Cierre. El Legado de justicia en Guatemala](#) [Concluding Report: Legacy of Justice in Guatemala], 2019; *elPeriódico*, May 28, 2019, [Sindicado por asesinato de dos periodistas mazatecos declara en audiencia bajo reserva parcial](#) [Person indicted for killing two journalists from Mazatenango makes statement at partially confidential hearing]; *Prensa Libre*, June 4, 2019, [Exdiputado Julio Juárez es enviado a juicio por asesinato de periodista de Mazatenango](#) [Former congressperson Julio Juárez tried for killing journalist in Mazatenango]; *Guatevisión*, June 4, 2019, [Exdiputado Julio Juárez enfrentará juicio por muerte del periodista Danilo López](#) [Former congressperson Julio Juárez shall be tried for death of journalist Danilo López]; *La Hora*, June 4, 2019, [Exdiputado Julio Juárez es enviado a juicio por crimen contra periodistas](#) [Former congressperson Julio Juárez tried for crime against journalists].

⁴⁵² *Prensa Libre*, September 17, 2019, [Tribunal de Mayor Riesgo pide no conocer el juicio contra exdiputado Julio Juárez](#) [Court for High-Risk Cases requests recusal from trial against former congressperson Julio Juárez].

⁴⁵³ *elPeriódico*, June 4, 2019, [Suspendido diputado Julio Juárez va a juicio por la muerte de un periodista de Suchitepéquez](#) [Suspended congressperson Julio Juárez tried for death of journalist in Suchitepéquez]; *Soy505*, June 4, 2019, [Diputado enfrentará juicio por asesinato de periodistas](#) [Congressperson to be tried for killing journalists].

⁴⁵⁴ *Prensa Libre*, June 5, 2019, [Los argumentos por los cuales se envió a juicio al exdiputado Julio Juárez por el crimen del periodista Danilo López](#) [Arguments for trying former congressperson Julio Juárez for crime against journalist Danilo López]; *Soy505*, June 4, 2019, [Diputado enfrentará juicio por asesinato de periodistas](#) [Congressperson to be tried for killing journalists].

⁴⁵⁵ CICIG. [Informe de Cierre. El Legado de justicia en Guatemala](#) [Concluding Report: Legacy of Justice in Guatemala], 2019.

⁴⁵⁶ *elPeriódico*, May 28, 2019, [Sindicado por asesinato de dos periodistas mazatecos declara en audiencia bajo reserva parcial](#) [Person indicted for killing two journalists from Mazatenango makes statement at partially confidential hearing].

⁴⁵⁷ CICIG. [Informe de Cierre. El Legado de justicia en Guatemala](#) [Concluding Report: Legacy of Justice in Guatemala], 2019.

⁴⁵⁸ CICIG. [Informe de Cierre. El Legado de justicia en Guatemala](#) [Concluding Report: Legacy of Justice in Guatemala], 2019.

236. With respect to the killing of the journalist Álvaro Alfredo Aceituno López, perpetrated on June 26, 2016,⁴⁵⁹ the IACHR received information about the detention of Gilmar Alfonso Gramajo Arteaga, who had been identified as the alleged mastermind behind the killing of the media worker.⁴⁶⁰

237. On December 6, the Office of the Public Prosecutor of Guatemala inaugurated the new Prosecution Service for Crimes against Journalists for the purpose of “strengthening” and “guaranteeing” the right to freedom of expression of the press in the country. The Office of the Public Prosecutor indicated that the Prosecution Service for Crimes against Journalists “shall be in charge of hearing, investigating, and criminally prosecuting crimes perpetrated against journalists (...) such as acts of intimidation, harassment, or retaliation for their journalistic activity.”⁴⁶¹ Therefore, the IACHR concludes that compliance with this recommendation is pending.

238. Although President Jimmy Morales announced the establishment of a **program for the protection of journalists and media workers** during the IACHR’s on-site visit from July 31 to August 4, 2017 and the reiterated recommendations made by the IACHR and its Special Rapporteurship, the Commission observes that this recommendation has not been complied with at all. Although, on February 21, 2018, the Special Rapporteurship received from the government a draft decree that would launch the program and submitted a technical review and a series of recommendations, at the cutoff date for the present report, no tangible progress or concrete actions to prevent violence against journalists and protect them have been made. The Special Rapporteurship has also monitored, with special concern, the absence of support to the Prosecution Unit for Crimes against Journalists of the Office of the Public Prosecutor in charge of investigating the various killings of journalists.⁴⁶² In its observations on the draft version of this report, the State informed the IACHR that “the National Civilian Police have a High-Profile Individuals’ Protection and Security Division (DPPS), which is charged with ensuring security in accordance with risk levels; in some locations in the country, security is covered by personnel from the local police station according to their jurisdiction.”⁴⁶³

239. As regards the recommendations to:

(i) **take measures to guarantee the exercise of freedom of expression, plurality, and diversity in the digital transition process, in line with the inter-American standards**, the State informed the IACHR that, in keeping with the current legal and constitutional framework, there are sufficient guarantees for the exercise of freedom of expression, “including the use of digital technologies such as the internet and social media.”⁴⁶⁴ The State also pointed to the approval of the “regulations of the Law to Promote Scientific Development and National Technology, the regulations of the National Science and Technology Council, and the internal regulations for the functioning of the Sectoral and Inter-Sectoral National Science

⁴⁵⁹ IACHR. Special Rapporteurship for Freedom of Expression, July 1, 2016, [Comunicado de Prensa No. R91/16. La Relatoría Especial manifiesta preocupación por asesinatos de periodistas y comunicadores en Guatemala](#) [Press Release No. R91/16. Office of the Special Rapporteur Expresses Concern over Murder of Journalists and Media Workers in Guatemala].

⁴⁶⁰ TN23, September 11, 2019, [Capturan a supuesto asesino de periodistas](#) [Alleged killer of journalists arrested].

⁴⁶¹ DW, December 7, 2019, [Guatemala inaugura Fiscalía que investigará delitos contra periodistas](#). [Guatemala inaugurates prosecution service to investigate crimes against journalists].

⁴⁶² APG. July 13, 2019, *Retraceso en el Ministerio Público, MP, en las investigaciones de delitos contra periodistas* [Setback in the Office of the Public Prosecutor (MP) in investigations for crimes against journalists]; Available for consultation at: https://twitock.com/APG_1947/tweet/1154774871001436160; APG. September 18, 2019. *La Asociación de Periodistas de Guatemala APG y su Comisión de Libertad de Prensa ante los inusitados cambios en la Fiscalía de Derechos Humanos del Ministerio Público (MP), especialmente en la Unidad Fiscal de Delitos contra la Prensa* [Guatemala Journalists Association (APG) and its Freedom of Press Committee react to unusual changes in the Office of the Public Prosecutor for Human Rights (MP), especially in the Prosecution Unit on Crimes against the Media]; Available for consultation at: https://twitock.com/APG_1947/tweet/1171855607000948736

⁴⁶³ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

⁴⁶⁴ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

and Technology System;”⁴⁶⁵ however, the document sent does not describe the substantive content of said provisions, the year of their approval, or their compliance indicators. The IACHR concludes that there has been partial compliance with this recommendation.

(ii) **promote a pluralistic approach to information and multiple points of view by fostering the full enjoyment of freedom of thought and expression, access to the media, and diversity in media ownership and sources of information through, among other things, transparent licensing systems, and, as appropriate, effective regulations that prevent the improper concentration of media ownership**, the State informed the IACHR about its periodic participation in different international telecommunications organizations, as well as its membership in other organizations.⁴⁶⁶ Nevertheless, the IACHR notes that the information provided does not shed light on concrete measures adopted by the State. Consequently, the IACHR concludes that compliance with this recommendation is pending.

(iii) **adopt the legislative measures and public policies to recognize and ensure community media outlets’ access to radio and television frequencies and licenses and, in the meantime, abstain from criminally prosecuting community radio stations**, the State reiterated to the IACHR its participation in international organizations.⁴⁶⁷ Nevertheless, the IACHR notes that the report does not provide for concrete actions taken to comply with this recommendation. The Commission observes that, in the framework of the Special Rapporteur on Freedom of Expression’s visit in May, this Office took note of a series of complaints indicating that state agents were filing administrative and criminal proceedings, and other kinds of harassment, for cases of alleged illegal use of frequencies.⁴⁶⁸ Therefore, the Commission concludes that compliance with this recommendation is pending.

(iv) **enact special, clear, and precise laws to regulate advertising at each level of government**, the State informed the IACHR that when “the Office of the President’s Secretariat of Social Communication needs to hire advertising from different media outlets, it does so in strict adherence with the provisions set forth in the State Procurement Law. It likewise upholds the highest standards of information quality and considers media outlets that fulfill the requirements established in the terms of the tendering procedure, always ensuring transparency and never with the intention of rewarding or punishing media outlets for their news or editorial content. This with the aim of having official advertising that informs the Guatemalan population about topics of national interest.”⁴⁶⁹ Nevertheless, the IACHR notes that the report does not provide for concrete actions taken to comply with this recommendation. Therefore, the IACHR concludes that compliance with this recommendation is pending.

240. Regarding the recommendation to **ensure that its administrative laws and practices are compatible with the prohibition against the participation of the armed forces in public safety operations, in particular, the control of violence at social protests**, the State informed the IACHR in its observations on the draft version of this report about the constitutional framework that regulates security arrangements and explained context-based scenarios that warranted the implementation of security

⁴⁶⁵ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

⁴⁶⁶ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

⁴⁶⁷ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

⁴⁶⁸ Information shared by community radios and journalists from the interior to the Special Rapporteurship for Freedom of Expression on May 21, 2019. Available for consultation at: Archive of the Special Rapporteurship for Freedom of Expression.

⁴⁶⁹ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR’s “Report on the Situation of Human Rights in Guatemala, 2017,” received on January 21, 2020.

policies.⁴⁷⁰ Nevertheless, the IACHR notes that the State does not report any concrete steps taken to comply with this recommendation.

241. As regards scenarios involving protests, in 2019, the Special Rapporteurship observed the development of numerous social protests in various regions of Guatemala, complaining about the measures adopted by the government to terminate the CICIG's mandate,⁴⁷¹ as well as protests in the context of the elections.⁴⁷² There were also protests against the agreement adopted with the U.S. government on migration asylum.⁴⁷³ Likewise, the IACHR voiced its concern about the excessive use of force in a celebration held subsequent to the LGBTI Pride march in Guatemala on July 21.⁴⁷⁴

242. At the beginning of the year, Guatemala continued to experience a climate of tension because of the many protests at various locations in the country for and against the decision of President Jimmy Morales to terminate the CICIG's mandate and the Constitutional Court's ruling to suspend government measures on this matter. In response to this context, the United Nations High Commissioner for Human Rights, Michelle Bachelet, called upon the government to guarantee the rights to the freedom of demonstration and to the freedom of expression.⁴⁷⁵

243. Furthermore, in the context of the state of exception decreed by the government in September in the northeastern regions of Guatemala, the IACHR observes that the rights to assembly and demonstration were restricted for a 30-day period.⁴⁷⁶ The Special Rapporteurship received information that army troops of Guatemala had attacked two journalists from El Estor, in Izabal. Regarding this specific matter, the Office of the Human Rights Ombudsperson had allegedly requested "the Army of Guatemala to instruct the troops to develop protocols for their actions in the framework of respect for human rights and for the work of journalists."⁴⁷⁷ The Rapporteurship also voiced its concern for the break-in and confiscation of equipment at the Xyaab' Tzuultaq'a community radio station by the Office of the Public Prosecutor, police, and military from El Estor, Izabal, where a state of siege continues to be in force.⁴⁷⁸ Likewise, in October, President Jimmy Morales submitted a motion

⁴⁷⁰ Republic of Guatemala, Report from the State of Guatemala on compliance with the recommendations contained in the IACHR's "Report on the Situation of Human Rights in Guatemala, 2017," received on January 21, 2020.

⁴⁷¹ *elPeriódico*, January 12, 2019, [Decisiones de Morales generan manifestaciones](#) [Decisions by Morales lead to demonstrations]; *elPeriódico*, January 15, 2019, [Manifestaciones rechazan decisiones contra la CICIG](#) [Demonstrations reject decisions against CICIG]; *CNN en español*, January 12, 2019, [Guatemala: protestas masivas ante la crisis de inconstitucionalidad del país](#) [Guatemala: Massive protests because of breach of country's Constitution]; *telesurTv*, January 14, 2019, [Protestan en Guatemala contra presidente Jimmy Morales](#) [Protests in Guatemala against President Jimmy Morales].

⁴⁷² *telesurTv*, August 8, 2019, [Claves de la situación política y económica de Guatemala de cara a las elecciones](#) [Key factors of Guatemala's political and economic situation with respect to the elections]; *Resumen Latinoamericano*, June 16, 2019, Guatemala, [Protestas por posible fraude en elecciones generales](#) [Protests because of possible fraud in the general elections]; *El Universo/AP*, August 6, 2019, [Campesinos se toman las calles de Guatemala para protestar contra el gobierno](#) [Peasants take to the streets of Guatemala to protest against the government].

⁴⁷³ *El Salvador/EFE*, July 30, 2019, [Protestas en Guatemala por pacto de asilo con Estados Unidos](#) [Protests in Guatemala because of asylum agreement with United States]; *telesurTv*, August 6, 2019, [Protestas en Guatemala por pacto migratorio y fraude electoral](#) [Protests in Guatemala because of migration agreement and electoral fraud].

⁴⁷⁴ IACHR, August 7, 2019, [Comunicado de Prensa No. 196/19. CIDH expresa preocupación por excesivo uso de la fuerza policial contra personas LGBTI en Guatemala](#) [Press Release No 196/19. IACHR Concerned about Excessive Use of Force by Police against LGBTI persons in Guatemala].

⁴⁷⁵ *UN News*, January 14, 2019, [Bachelet exhorta al Gobierno de Guatemala a garantizar las libertades democráticas](#) [Bachelet urges Guatemalan Government to guarantee civil liberties].

⁴⁷⁶ *telesurTv*, September 5, 2019, [Guatemala decreta estado de sitio por asesinato de militares](#); [Guatemala decrees state of siege because of killing of military]. *Prensa Libre*, September 4, 2019, [Qué significa estado de Sitio en Guatemala](#) [What does state of siege mean in Guatemala].

⁴⁷⁷ *PublineWS*, September 11, 2019, [Periodistas denuncian agresiones de soldados durante estado de Sitio](#) [Journalists denounce attacks by soldiers during state of siege].

⁴⁷⁸ *elPeriódico*, September 30, 2019, [Relator de la CIDH condena allanamiento a radio comunitaria Izabal](#). [IACHR Rapporteur condemns break-in into the Izabal community radio].

to Congress to extend the state of siege for 30 days, which was finally ratified for 22 municipalities on October 10.⁴⁷⁹

244. The IACHR urges the state to guarantee and protect the right to freedom of expression and peaceful protests for all persons living in the country, as well as to facilitate the exercise of these rights in line with the principles of a democratic society. Therefore, the IACHR concludes that compliance with this recommendation is pending.

III. CONCLUSIONS

1. The Commission reiterates the recommendations issued in its 2017 Country Report to the state of Guatemala. More than two years after they were issued, the IACHR acknowledges the information provided by the State, in particular on some advances, such as the adoption of agreements in the realm of justice, measures adopted for survivors of the fire at Virgen de la Asunción Home for Girls, and measures related to migrant children. At the same time, the comprehensive analysis of information received shows that there is a significant number of recommendations pending compliance. Specifically, the IACHR calls attention to the general recommendations regarding the CICIG, domestic human rights institutions, and the PNC, with respect to which the state has carried out actions contrary to the intentions of the IACHR's recommendations.

2. In 2019, the Commission deems that these actions, taken by the government's highest-ranking authorities, are especially distressing and constitute a clear setback in the fight against corruption and impunity and demonstrate an absence of willingness to fulfill its international obligations in the matter. Among these actions, the following are noteworthy: the state's position and actions carried out to ensure the CICIG's exit from the country; compounded by the weakening of the PNC in terms of criminal investigation; the opposition of the legislative and executive branches of government to the Constitutional Court's rulings relative to the fight against corruption or impunity, which included an offensive discourse against them by the highest-ranking authorities and the failure to comply with its rulings, as well as complaints or preliminary trials against its judges, justice operators, and former employees of the CICIG, including the establishment of a congressional committee to investigate the CICIG. The Commission also takes into account the attacks and criminalization of prosecutors of the Office of the Public Prosecutor, in particular the Special Prosecution Service against Impunity (FECI), the Unit for Special Cases of the Internal Armed Conflict, and Office of the Public Prosecutor for Human Rights.

3. The Commission has observed the weakening of domestic human rights institutions as a result of budget cuts and pronouncements from the highest-ranking authorities against their work; the attempts to remove the Human Rights Ombudsperson from office for fulfilling his mandate; the failure to promote cases relative to the armed conflict; and the dismissal of staff from the Historical Archive of the National Police while progress is being made to process the initiative to amend the Law on National Reconciliation. Also noteworthy is the absence of the state's willingness to dialogue with the IACHR on human rights and law initiatives incompatible with inter-American standards.

4. The Commission has continued to observe impacts on the right to freedom of expression and access to economic, social, cultural, and environmental rights, as well as on the human rights of groups that have historically been discriminated against, in particular human rights defenders and justice operators; it also reiterates the importance of complying with the recommendations issued in the report on its visit.

5. The IACHR renews its historic commitment to the Guatemalan population to continue monitoring the human rights situation in the country and, as a result, compliance with the recommendations issued in its Country Report and follow-up reports. In that regard, the Commission reasserts its commitment

⁴⁷⁹ *elPeriódico*, October 8, 2019, [Gobierno insiste en instaurar Estado de Sitio en 20 municipios del país](#) [Government insists on installing state of siege in 20 municipalities of the country]; *Sonora/EFE*, October 10, 2019, [El Congreso de Guatemala ratifica el estado de sitio al nororiente del país](#) [Congress of Guatemala ratifies state of siege in country's northeastern region].

to collaborate with the state of Guatemala to look for solutions to the problems and challenges that have been identified and to provide support for the fulfillment of its international human rights obligations.