

Violence and Discrimination against Women and Girls



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Approved by the Inter-American Commission on Human Rights on November 14, 2019

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CHAPTER 1
INTRODUCTION

INTRODUCTION

A. *General Legal Framework, Background and Rationale for the Report*

1. The right of women and girls to live free from violence is a fundamental principle of international human rights law established by the universal and regional human rights systems and goes hand in hand with legal duties relating to eradicating violence and discrimination. These duties are based on the fundamental right to equality, non-discrimination, life and physical integrity. These principles, obligations and rights are recognized in the Inter-American framework by the American Convention on Human Rights (hereinafter the “American Convention,” “Convention” or the “ACHR”) and the American Declaration of the Rights and Duties of Man (hereinafter the “American Declaration,” “Declaration” or the “ADRDM”). They have also been enshrined in special instruments, such as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (hereinafter the “Convention of Belém do Pará”) and in the United Nations Convention on the Rights of the Child (hereinafter the “Convention on the Rights of the Child” or the “CRC”). All of these instruments mention the duty of States to act with the due diligence that is required to prevent, protect, investigate, punish and redress all human rights violations.
2. In relation to the rights of young and adolescent girls, in addition to the aforementioned legal framework, the following provisions must be taken into consideration: Article 19 of the American Convention on Human Rights, that exalts the rights of children, Article VII of the American Declaration that establishes the right of children to special protection and care, and Article 16 of the Protocol of San Salvador (hereinafter the “PSS”), that recognizes children rights. To the above is added the *corpus juris* on the rights of the child developed by the Inter-American Court on Human Rights (hereinafter the “Inter-American Court” or the “IA Court of HR”) and the Inter-American Commission on Human Rights (hereinafter the “Commission,” “Inter-American Commission” or the “IACHR”) in order to interpret the content and scope of Article 19 of the ACHR and Article VII of the ADRDM.¹

¹ The Inter-American Commission on Human Rights and the Inter-American Court on Human Rights have consistently cited in their decisions the *corpus juris* on the human rights of children and adolescents, as the set of international instruments of varied content and juridical effects (treaties, conventions, resolutions and declarations), as well as the decisions adopted by international human rights organs, intended to ensure the human rights of children and adolescents. See, IA Court of HR, Case of the “Street Children” (Villagrán Morales et al) v. Guatemala. Merits. Judgment of November 19, 1999. Series C No. 63, pars. 192 to 194, and IA Court

3. The Commission has identified women and girls in the region as facing a situation of particular discrimination and, as such, has prioritized its lines of action to promote and ensure their fundamental rights.² In this context, the IACHR has continued to play an essential role in developing standards for the protection and defense of women and girls and has consistently recommended that States make concrete efforts, on the one hand, to ensure universal acceptance of the Inter-American human rights system and, on the other hand, to comply with the decisions and recommendations of both the IACHR and the Inter-American Court.
4. Furthermore, the IACHR has repeatedly warned about how girls in our region grow up in a context that is deeply characterized by violence and discrimination perpetrated against them. This context is closely linked to structural discrimination against women and gender stereotypes existing throughout the hemisphere. The Commission has issued several recommendations in order to identify and overcome structural discrimination and intersectional forms of discrimination specifically affecting girls.³
5. Despite the efforts of the States of the region to take steps forward toward respect and ensure the rights of women and girls, the Commission receives an endless stream of worrisome reports about States continuing to face a host of challenges in complying with their obligations to effectively and adequately address historic and structural discrimination, inequality and violence against women and girls. Likewise, the Commission receives reports of many barriers and obstacles they faced to the effective enjoyment of their rights and to live a life free from violence.
6. For this reason, the IACHR has deemed it relevant to write a report identifying and examining the most significant advancements, the major challenges remaining and the best practices currently in use to comply with its recommendations on violence and discrimination against women and girls, through an intersectional approach, focused on the causes and consequences of these violations of the rights of women and girls.

of HR, Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection. Advisory Opinion OC-21/14 of August 19, 2014. Series A No. 21, para. 57; also see: pars. 259 to 268 of IACHR report: Violence, Children and Organized Crime, OEA/Ser.L/V/II., Doc. 40/15, November 11, 2015; and IACHR, Report No. 41/99, Case 11.491, Detained Juveniles in Honduras v. Honduras, 1999, para. 72; IACHR, Report No.33/04 Jailton Neri Da Fonseca (Brazil), Case 11.634, 2004, para. 81.

² IACHR. Plan estratégico 2017-2021. '2017-2021 Strategic Plan.' Approved by the IACHR at its 161st session, March 2017.

³ IACHR. Press Release No.147/2016: IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region CIDH llama la atención sobre constantes desafíos que las niñas y las adolescentes enfrentan en la región. October 2, 2016. IACHR. Toward the Effective Fulfillment of Children's Rights: National Protection Systems Hacia la garantía efectiva de los derechos de niñas, niños y adolescentes: Sistemas Nacionales de Protección OEA/Ser.L/V/II.166 Doc. 206, 2017, para. 372.

B. Preliminary Considerations

7. The Commission has asserted that women in the region continue to face serious challenges, when it comes to having their fundamental rights fully respected and protected, in a context of violence and structural, endemic discrimination against them. Specifically, it has pointed out that high rates reports of gender-based killings, disappearances, harassment and sexual violence, among other forms of violence, and the persistence of serious obstacles, still keep women from gaining timely access, without discrimination, to justice and to full redress and protection from such acts. Concurrently, women also face barriers to obtaining proper access to education, information and sexual and reproductive health services, in a way that is impartial, timely and culturally appropriate. Discrimination against women also hampers their access to equal opportunities for work and equal working conditions and, particularly, access to the same pay as their male co-workers for work of equal value, and to a workplace free of sexual harassment.⁴

8. In response to this context, the Commission has called for bolstering the mechanisms of prevention and eradication of violence and discrimination against women in a coordinated effort, allocating sufficient institutional and financial resources, and taking intersectional measures from a gender-based perspective. The IACHR has understood a gender-based perspective to mean raising awareness of women's and girls' position of inequality and structural subordination to men, as a result of their gender, and to serve as a key tool to combat discrimination and violence against women, as well as against persons with sexual and gender diversity in keeping with Inter-American standards on the subject matter. Additionally, the Commission notes that the overlapping of various layers of discrimination — intersectionality— leads to a form of deepened discrimination which manifests itself in substantively different experiences from one woman to another.⁵ This is reflected in Article 9 of the Convention of Belém do Pará, which sets forth States' obligation to take special account "of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons" in adopting measures to prevent, punish and eradicate such violence.

9. As for the theoretical framework of the instant report, a variety of issues will be addressed from an intersectional perspective, placing particular emphasis on additional factors of vulnerability identified by the Commission, such as ethnic and racial origin; sexual orientation and real or perceived gender identity; being a person with disability, a migrant, an older person; being a human rights defender, being politically engaged or a journalist; situations of deprivation of liberty; or specific contexts of violence or of mass violations of human rights. In addition, the Commission understands women's rights to be the rights of all persons who identify

⁴ IACHR, Press Release No. 44/2018: [On International Women's Day, the IACHR Urges States to Refrain from Adopting Measures that Would Set Back Respect for and Protection of Women's Rights](#). March 8, 2018.

⁵ IACHR. *Indigenous Women and Their Human Rights in the Americas*. OEA/Ser.L/V/II. Doc. 44, 2017, para.. 38.

themselves as such, including transsexual and intersex women.⁶ The Commission underscores that women are racked by violence throughout the stages of their entire lives and, therefore, for purposes of the instant report, the term “women” will implicitly encompass girls or adolescents, inasmuch as they are women in a special situation of vulnerability because of their age and their stage of life.

10. In this regard, the Commission finds it essential to note that the term “child” in international human rights law applies to all persons under the age of 18, pursuant to the definition set forth in the CRC. The concept of “adolescent” is usually used to refer to a stage of biological, psychological, sexual and social development in the lives of children, generally encompassing the period from 10 to 18 years of age.⁷ The CRC does not define a specific age bracket for adolescence, though some domestic legislation makes explicit reference to the stage of adolescence comprising a particular period of age. In terms of legal protection, adolescents are entitled to the same rights and special protection recognized for all persons under 18 years of age. This age group warrants special consideration in order to identify its potential needs of protection, the specific risk factors faced at this stage in life, in addition to adequately taking into account the principle of progressive autonomy of adolescents in exercising their rights. In this report the Commission generally uses the term “girls” to refer to females from birth until they turn 18 years of age, while it uses the term “adolescents” for purposes of emphasizing special needs of protection as a function of age and developmental phase.
11. On this score, it must be noted that pre-teenage and teenage girls continue to be invisible inasmuch as the specific issues and vulnerabilities faced by them and their special protection needs are not recognized. Their rights and the particular challenges faced by them go unnoticed under the ageless category of “women,” which does not take into consideration their special needs of protection due to their condition of growth and development; or they remain invisible under the categories of “children,” “adolescents” and “young people,” which do not take gender and the issues they face into account, precisely because of their condition as female and structural situations of violence and discrimination against women.
12. The Commission views this report as an opportunity to shed light on the full scope of the rights of girls in its recommendations, with a view toward making more decisive progress toward the implementation thereof. In this regard, the

⁶ The IACHR has consistently included references to trans women in pronouncements that have traditionally been conceptualized in terms of cisgender women. See: IACHR. Press Release No.61/2019, [IACHR Calls on States to Promote and Strengthen the Political Participation and Representation of Women in the Americas On International Women’s Day, the IACHR Calls on States to Promote and Strengthen the Political Participation and Representation of Women in the Americas](#), March 8, 2019. IACHR, Press Release No. 65/2019. [IACHR Expresses Concern over Recent Violent Attacks against LGBTI People in the Americas](#), March 14, 2019. Additionally, the IACHR has noted that the Belém do Pará Convention is a “living instrument” and, as such, when Article 9 thereof refers to the State’s obligation to especially take into account the situation of violence that a woman may endure, by reason of several factors, among others, these factors must include sexual orientation and gender identity.” IACHR. [Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas](#). OEA/Ser.L/V/II. Rev.2.Doc. 36. 2015. Par. 56.

⁷ IACHR. [Violence, Children and Organized Crime](#). OEA/Ser.L/V/II. Doc. 40, 2015.

Commission recognizes that girls require specific actions to address the particular and interconnected challenges of gender-based, age-based and development level-based inequality.

13. In examining the scope and content of the duty of special protection, it must be taken into consideration that the condition of dependence of children evolves naturally over time in accordance with their growth, maturity level and increasing personal autonomy. This results in a corresponding change in the content of the duties and responsibilities of the family, community, and State toward children. Consequently, those duties and responsibilities must be consistent with the children's level of development and their gradually evolving ability to take decisions independently about themselves and the exercise of their rights.⁸ This rationale is consistent with the view of children as subjects of rights that must be respected and promoted integrally, thus leaving behind the notion of regarding children simply as objects and recipients of assistance and care.⁹

C. Objective, Scope and Limitations of the Report

14. This thematic report is part of the execution phase of the project "Eradication of Violence and Discrimination against Women and Girls in Latin America and the Caribbean," which the IACHR is carrying out, thanks to the support of the Government of Canada, over a period of two and a half years (2017-2019) for purposes of promoting compliance with the Commission's recommendations and decisions in light of the inter-American standards on the rights of women and girls in Latin America and the Caribbean. The main objective of the project, in the light of the IACHR's standards and recommendations, is to contribute to the implementation of Inter-American standards by the Member States in order to prevent and eradicate violence and discrimination against women and girls. This report, specifically, seeks to analyze best practices identified in the region for the advancement of the rights of women and girls, and, at the same time, to shed light on issues of special concern in Latin America and the Caribbean with a view toward furthering the understanding of and responses to these human rights problems.
15. In view of the breadth of the topic, and recognizing that there is no single set of practices to be emulated and followed and that forms of violence and discrimination are not static either, the approach followed in the report is to address the most salient issues identified by the IACHR as being at the core of the defense and

⁸ The Inter-American Court of Human Rights has established that "in the case of children, they exercise this right in a progressive manner in the sense that the minor of age develops a greater level of personal autonomy with time." IA Court of HR, Case of Gelman v. Uruguay. Merits and Reparations. Judgment of February 24, 2011 Series C No. 221, para. 129. IACHR. The Right of Girls and Boys to a Family. Alternative Care. Ending Institutionalization in the Americas. OEA/Ser.L/V/II., Doc. 54, 2013, para. 44. United Nations Committee on the Rights of the Child. General Comment No. 12, The right of the child to be heard, CRC/C/GC/12, 2009, pars. 84 and 85; and UN Committee on the Rights of the Child, General Comment No. 7, Implementing Child Rights in Early Childhood, CRC/C/GC/7/Rev.1, of September 20, 2006, 40th session, para. 17.

⁹ IACHR, The Right of Girls and Boys to a Family. Alternative Care. Ending Institutionalization in the Americas. OEA/Ser.L/V/II., Doc. 54, 2013, para. 44.

protection of women's rights. The report does not aim to provide an exhaustive comparative analysis. The present report intends to analyze the extent the IACHR standards and recommendations supported the elimination of violence and discrimination against women and girls in Latin American and the Caribbean.

D. Structure and Methodology

16. As input for this report, the Commission took into account information it received on its working visits, in exercising its competence through the petitions and cases system and precautionary measures mechanism, at public hearings it held at the request of parties, in authoring thematic and country reports; and through requests for information from States pursuant to the authority conferred on it under Article 41 of the ACHR. The IACHR also distributed a survey questionnaire to States, civil society and other non-state actors in order to gather pertinent information managed by them on the subject of violence and discrimination, specifically about challenges and best practices in complying with IACHR recommendations and decisions, as they pertain to the eradication of violence and discrimination against women and girls in Latin America and the Caribbean. The IACHR is grateful to the States that responded to the questionnaire,¹⁰ as well as to the civil society organizations,¹¹ who also submitted their responses to the Commission.
17. The IACHR also included the pronouncements of different international treaty oversight bodies in its analysis. In this report, the pronouncements of the United Nations Special Rapporteurship on Violence against Women, as well as the United Nations Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child (CRC), and other universal human rights system mechanisms, were especially taken into consideration.
18. This report consists of four main sections and two annexes. Following a brief introduction laying out the rationale and relevance of a report of this type in Chapter 1, Chapter 2 the IACHR analyzes the most significant achievements on this issue and identifies best practices in the region. Chapter 3 of the report discusses, looking

¹⁰ In the context of drafting the instant report, the IACHR received responses to the questionnaire from the States of Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Panama, Peru and Uruguay.

¹¹ In the context of the drafting of the instant report, the IACHR received responses to the questionnaire from the following civil society organizations: CLADEM, Equipo Latinoamericano de justicia y género (ELA), UNICEF, Asociación de abogadas feministas de Chile, Lawyers without Borders (Canada), La Coalición Colombiana por la Implementación de la Convención sobre los Derechos de las Personas con Discapacidad, Comisión Nacional de Mujeres Indígenas de Colombia, Fundación Akina Zaji Sauda, Plan International, la Corporación Sisma Mujer, Observatorio de Género de la Universidad Autónoma Latinoamericana (Colombia), Firma Víctor Mosquera Marín Abogados (Colombia), Asociación Ciudadana Acceder (Costa Rica), Centro de Derechos Humanos Fray Matías de Córdova (Mexico), Centro de los Derechos Humanos Miguel Agustín Pro Juárez (Mexico), Campaña Somos la mitad, queremos paridad (Peru), Instituto de Democracia y de Derechos Humanos de la Pontificia Universidad Católica del Perú, Grupo de investigación sobre la Protección Internacional de los Derechos de las personas y los Pueblos (Peru), Instituto Promoviendo Desarrollo Social (IPRODES) Peru, Centro de Promoción y Defensa de Derechos Sexuales y Reproductivos (Peru), Comité de Familiares de las Víctimas (COFAVIC), Venezuela.

through an intersectional lens, the situation of risk of enduring human rights violations still faced by women and girls and exposes the challenges to implementing the IACHR's recommendations, while underscoring the pressing and heightened duty to respect and protect the rights of girls.

19. The Report ends with Chapter IV presenting conclusions and recommendations and includes two annexes: a recompilation of the main standards and recommendations on violence and discrimination against women and girls, and another one on regarding the following up of recommendations issued by the IACHR in merits reports in cases of violence and discrimination against women and girls.

CHAPTER 2
BEST PRACTICES IN ADDRESSING
VIOLENCE AND DISCRIMINATION
AGAINST WOMEN AND GIRLS

BEST PRACTICES IN ADDRESSING VIOLENCE AND DISCRIMINATION AGAINST WOMEN AND GIRLS

20. As part of its mandate to promote and ensure human rights, the IACHR has affirmed the need to continue to take initiatives to achieve the standards developed by the inter-American human rights system and to monitor recommendations made by its organs, particularly bearing in mind law developed by the inter-American system in the areas of violence and discrimination against women.¹² To that end, in this chapter the Commission analyses a number of novel initiatives related to the rights of women and girls in the Americas that have been identified as examples of good practice in the light of standards in this area¹³.
21. The initiatives and measures referred to in this chapter have been identified on the basis of the IACHR's monitoring mandate and the information received by the Commission for this report. Good practices have been identified by the States themselves or by civil society organizations as conceived and implemented in accordance with inter-American standards in this area, having yielded positive results or contributions in advancing protection for the human rights of women and girls in a given context, in an innovative or significant important way, and which are expected to have the potential to yield similar results in similar contexts.¹⁴ However, the IACHR warns that these examples should not be understood as the best or unique solution applicable to all situations,¹⁵ but as also able to be improved depending on context and scope.
22. In this regard, the Commission understands the identification of good practices as a means of promoting learning on the basis of other experiences and of providing guidance for the development of new initiatives,¹⁶ without prejudice to the fact that the initiatives discussed in this chapter may also present their own implementation challenges. In this chapter, the IACHR examines (1) good practices in addressing the causes and consequences of violence and discrimination against women and girls and (2) good practices in terms of protection, comprehensive prevention, and access

¹² IACHR, Legal Standards related to Gender Equality and Women's Rights in the InterAmerican Human Rights System: Development and Application. Updates from 2011 to 2014 OEA Ser.L/V/II.143. Doc.60. 2015, para. 192.

¹³ Infra Annex 1, Standars and Recommendations regarding Violence and Discrimination against Women and Girl.
¹⁴ Zúñiga Elizalde, Mercedes, Las mujeres en los espacios públicos: entre la violencia y la búsqueda de libertad, Región y Sociedad 4, 2014; Pacto global Costa Rica. Principio 10: Buenas Prácticas. Undated.

¹⁵ OHCHR, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/15/31/Add.1, 1 July 2010, para. 13.

¹⁶ Portal of the Convention of Belém do Pará, Good practices to eradicate violence against women, 2015; OHCHR, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/15/31/Add.1, 1 July 2010, para. 13.

to gender-based justice in cases of violence against women. In that connection, the Commission has sought to identify and present them in the light of the standards and recommendations developed by the Inter-American System and presented in Annex 1 of this report.

A. Good Practices in Addressing the Causes and Consequences of Violence and Discrimination against Women and Girls

1. Laws to Prevent and Punish Sexual Harassment in Public Spaces (Peru, Argentina, and Chile)

23. In Latin America and the Caribbean, the street and public transport are not neutral territories and the degrees of freedom experienced by men and women in the public space are different.¹⁷ According to the findings of the UN Women study "Safe Cities and Safe Public Spaces," sexual harassment and other forms of violence against women and girls in public spaces exist in all countries, both in rural areas and in cities. As a result, the right to freedom of movement of many women and girls is limited. Their job and education opportunities are adversely affected. Their access to services and the enjoyment of culture and leisure are reduced. Women and girls who living in impoverished settings or who belong to socially stigmatized groups are among the most at-risk for harassment and violence.¹⁸ In the public space, women, particularly girls and young women, feel unsafe: unsolicited compliments, whistling, staring, groping, and exhibitionism are some of the forms of street harassment with which they live daily and which inspire sensations ranging from discomfort to fear.¹⁹
24. In view of the above, while it is a problem affecting the enjoyment of women's rights throughout the region, few legislative initiatives have been advanced at the national level to address it. In that regard, the Commission has been aware of the efforts made in Peru, Chile and Argentina to introduce laws and punish street harassment at the national level. Thus, the IACHR recognizes that Peru was the first country in Latin America to criminalize street harassment through Law No. 30314 to prevent and punish sexual harassment in public spaces,²⁰ enacted in March 2015 with the aim of providing assistance for people who are harassed on the street or on public transport.²¹ Similarly, the Commission highlights the 2019 amendment of Article 494 of the Criminal Code in Chile, criminalizing sexual harassment in public

¹⁷ ECLAC, [Sexual harassment in public spaces: The city in debt with the rights of women](#), November 18, 2015.

¹⁸ UN Women, [Safe Cities and Safe Public Spaces: Global results report](#), October 2017.

¹⁹ [Plan Internacional, \(In\)seguras en la ciudad](#), October 8, 2018.

²⁰ Republic of Peru, [Law No. 30314 to Prevent and Punish Sexual Harassment in Public Spaces](#), March 26, 2015.

²¹ ECLAC, [Sexual harassment in public spaces: The city in debt with the rights of women](#), November 18, 2015.

spaces;²² and the recognition in 2019 of the offense of street harassment in Law No. 26.485 on Comprehensive Protection for Women in Argentina.²³

25. In this regard, the Commission notes that, while local laws exist in the region addressing street harassment, those laws specifically recognize sexual harassment in public spaces as a form of gender-based violence against women. In the case of Peru, sexual harassment in public spaces is defined as "physical or verbal conduct of a sexual nature or connotation by one or more persons against another person or other persons, who do not want or reject such behaviors because they are an affront to their dignity and their fundamental rights, including the rights to freedom, well-being, and free movement by creating intimidation, hostility, degradation, humiliation or an offensive environment in public spaces." The aforementioned law allows any legal or natural person, not necessarily the victim, to file a complaint; requires its local implementation to include administrative fines and, in the most serious cases, punishment with up to 5 years in prison for the perpetrator; it also provides for the inclusion of training for officials on such matters, as well as public awareness campaigns to identify and understand harassment as a form of violence.²⁴ In the case of Chile, the law also includes punishments for anyone "in public places or places of free public access who by any means captures, records, films or photographs images, videos or any audiovisual record of the genitals or other intimate part of the someone else's body for the purposes of sexual significance and without their consent."²⁵ In Argentina, the law requires the National Women's Institute to set up a toll-free hotline to report cases of harassment.²⁶
26. The Commission recalls that the Convention of Belém do Pará states that violence against women includes physical, sexual and psychological violence that occurs in the community, in educational institutions, health facilities or any other place.²⁷ The Commission considers that these laws address a form of violence normalized and tolerated as a result of sexist and discriminatory social patterns and, therefore, that they contribute to implementing the recommendations of the organs of the inter-American system in this area.²⁸ In addition to recognizing those initiatives, the Commission encourages the States that have adopted them to ensure the means for their effective implementation, public awareness measures to improve women's

²² Republic of Chile, [Law No. 21.153, amending the criminal code to criminalize sexual harassment in public spaces](#), May 3, 2019.

²³ Republic of Argentina, [Law No. 27.501, amending the Law on Comprehensive Protection for Preventing, Punishing, and Eradicating Violence against Women. Inclusion of street harassment as a form of violence against women](#), April 16, 2019.

²⁴ Observatorio Violencia, [Las municipalidades contra el acoso sexual en espacios públicos](#), June 1, 2018.

²⁵ Republic of Chile, [Law No. 21.153, amending the criminal code to criminalize sexual harassment in public spaces](#), May 3, 2019.

²⁶ DW, [Acoso callejero: ¿qué medidas toma América Latina?](#) December 12, 2016.

²⁷ OAS, MESECVI, [Third Hemispheric Report on the Implementation of the Belém do Pará Convention, Prevention of Violence against Women in The Americas: Paths to Follow](#), OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.242/17, 2017.

²⁸ See *supra*, Chapter 2.

knowledge of their rights, the availability of resources, and training for police and judicial officials on the matter.

2. Laws on Gender Training

a. *Law No. 27499 (Micaela García Law) on mandatory gender training for all persons in all three branches of government (Argentina).*

27. The Commission learned of the adoption by the Argentine Congress of Law No. 27.499, which aims to train and sensitize all the officials and workers in the three branches of government (executive, legislature, and judiciary), at every tier and hierarchy, about gender and violence against women.²⁹ The Commission regards as positive that the bill was introduced in order to comply with the obligations under the Convention of Belém do Pará, in the light of the case-law of the I/A Court H.R.IACHR and the recommendations made to the Argentine State by the Committee on the Elimination of Discrimination against Women and MESECVI.³⁰ The Commission has also learned that several provinces are reportedly evaluating acceding to the law.³¹
28. Based on the information available, the Commission understands that the National Women's Institute hereinafter ("INAM") is the authority responsible for the proper enforcement of the law, since it has the duty to train the highest authorities of the country's executive, legislative and judicial branches, the responsibility to certify the quality of the training that each agency develops and implements, and the power to make modifications and suggestions.³² This authority is also required to submit and disseminate the degree of compliance with the provisions in each agency and publish an annual report on compliance with the provisions of this law, identifying those responsible for training in each agency and the percentage of people trained, disaggregated according to their hierarchy, as well as an assessment of the impact of the training imparted by each agency.³³
29. Similarly, it is worth noting that the law details the responsibility of the highest authorities of the agencies belonging to the three branches of government to ensure,

²⁹ Clarín, [Ley Micaela: Diputados aprobó la capacitación de género obligatoria para los tres poderes del Estado](#), December 18, 2018.

³⁰ Derecho en Zapatillas, [Nueva ley "Micaela" para capacitar contra la violencia de género](#), December 19, 2018.

³¹ Provincias para adherirse: El Observador. [Presentaron proyectos para que Chubut adhiera a la Ley Micaela](#), January 19, 2019; Vía Gualaguaychú, [Ley Micaela: el Municipio busca la adhesión para capacitar sobre violencia de género](#), March 12, 2019; Official Gazette, [Law No. 27499 \(Micaela Law\) on mandatory gender training for all persons in all three branches of government](#), December 19, 2018.

³² Republic of Argentina, [Law No. 27499 \(Micaela Law\) on mandatory gender training for all persons in all three branches of government](#), January 10, 2019, Articles 5 and 6.

³³ Republic of Argentina, [Law No. 27499 \(Micaela Law\) on mandatory gender training for all persons in all three branches of government](#), January 10, 2019, Article 7. See also Derecho en Zapatillas, [Nueva ley "Micaela" para capacitar contra la violencia de género](#), December 19, 2018.

with the collaboration of their gender offices—where they are in operation—and trade union organizations, the implementation of the training, granting them, for that purpose, autonomy to adapt materials and/or programs, or develop their own; they must, however, adhere to the regulations, recommendations, and other provisions established by the treaty-based bodies for the issues of gender and violence against women to which the State has subscribed.³⁴ Finally, the Commission notes that there are concrete consequences for anyone who refuses without due cause to undergo the above-mentioned training, including the possibility of being deemed to have committed serious misconduct and the imposition of subsequent disciplinary penalty, as well as public disclosure of the refusal to participate in training on the National Women's Institute website.³⁵

30. The Commission welcomes the enactment of this internal law by the Argentine State as a measure to strengthen and enhance the nature and scope of the measures implemented for training public officials at all levels on the human rights women, even those who are not involved in the prosecution of cases of discrimination and violence, insofar as it leads to promptly achieving more-efficient interventions and a break with the negative stereotypes that undermine women's rights. Through this law, the Commission notes that the State has also sought to ensure mechanisms for monitoring and evaluating the implementation of the law and the specific impact of mandatory training in each agency. While there is no other information available on progress in its implementation, the Commission welcomes the recognition of the gender recommendations and standards made by protection systems, as a guide and barriers to addressing the matter appropriately.

3. Judicial Decisions concerning Discriminatory Sociocultural Stereotypes and Patterns

a. *Supreme Court ruling in favor of the inclusion of the gender perspective in the National Curriculum of Basic Education (Peru)*³⁶

31. The Commission was informed of the decision of Supreme Court of Justice of Peru in favor of the inclusion of the gender perspective in the National Curriculum of Basic Education (CNEB).³⁷ In that judgment, on April 9, 2019, the Supreme Court declared unfounded “in all respects” the suit brought by the group Parents in Action (PEA), which claimed infringement of the alleged right of parents to decide on the education of their children and considered that the school curriculum sought to promote a so-called “gender ideology.” The supreme court's decision overturned the

³⁴ Republic of Argentina, [Law No. 27499 \(Micaela Law\) on mandatory gender training for all persons in all three branches of government](#), January 10, 2019, Article 4.

³⁵ Republic of Argentina, [Law No. 27499 \(Micaela Law\) on mandatory gender training for all persons in all three branches of government](#), January 10, 2019, Article 8.

³⁶ Republic of Peru, [Case No. 23822, Supreme Court of Justice rules in favor of the inclusion of the gender perspective](#), March 8, 2019.

³⁷ El Comercio, [El currículo y el enfoque de género: ¿Qué es lo que generó tanta controversia?](#) April 5, 2019.

judgment of the Superior Court of Lima which in 2016 partially upheld the suit and ordered the removal from the CNEB of the sentence: "Although what we consider female or male is based on a biological and sexual difference, they are notions that we develop day by day in our interactions."³⁸

32. A number of human rights bodies had expressed concern about the possibility of removing the gender perspective from the CNEB, stating that a decision in this regard would affect the right of more than 7 million children and adolescents to a quality basic education "that protects and educates them for life, without discrimination and with equal opportunities," as well as amounting to backtracking on the State's international obligations to eliminate violence against women and promote human rights and gender equality.³⁹ The IACHR, for its part, following its working visit to Peru in 2018, had reminded the Peruvian State of its obligation to take specific steps to change sociocultural patterns of heteronormative behaviors, including the design of formal and non-formal education in order to counter prejudice, customs, and all other practices based on the premise of the inferiority of women or other groups historically discriminated against on the basis of their sexual diversity or gender identity.⁴⁰
33. The Commission notes that the Supreme Court's decision reiterates the importance of the role of education in eradicating violence against women and recognizes that "development with gender equality involves dismantling the culture, values and traditional gender roles that reproduce and maintain the subordination of women," which makes it necessary that "from the earliest age children be taught outlooks that are compatible with the constitutional values of equality and non-discrimination." The Court also reiterated that these beliefs are learned socially and have been incorporated into people's behavior through formal and informal education, for which reason the CNEB has a fundamental role as it "seeks to [...] reaffirm the freedom of women—and men—to escape the roles that have traditionally been assigned to them and that [...] perpetuate the inequality of women in our society."⁴¹
34. Similarly, the IACHR recognizes the importance of integrating the gender perspective in order to educate about the importance of diversity and respect for all people, especially those with different gender identities and sexual orientations. Thus, the judgment reiterates the recognition of gender identity as constitutionally protected content of the right to personal identity. Accordingly, the Court determined that "if we come across heterosexual, homosexual, transgender or intersex people in our society we have a human, treaty-based, and constitutional obligation to show them the same respect and consideration as any other human

³⁸ La Ley, [Corte Suprema ratifica el enfoque de género en el currículo escolar](#), April 3, 2019.

³⁹ United Nations in Peru, [Proteger el derecho a una educación de calidad con igualdad de género: nuestro compromiso](#), March 14, 2018; OAS, MESECVI, OHCHR, [Expertas de la OEA y la ONU expresan su preocupación por la situación del Currículo Nacional de Educación y por los supuestos casos de corrupción que buscarían la impunidad en delitos contra niñas y adolescentes en Perú](#), September 10, 2018.

⁴⁰ IACHR, Press Release No. 243/18, [IACHR Completes Working Visit to Peru](#), November 16, 2018.

⁴¹ Republic of Peru, [Case No. 23822, Supreme Court of Justice rules in favor of the inclusion of the gender perspective](#), March 8, 2019, pars. 15, 16, 18, 19 and 20.

being. Therefore, the National Curriculum of Basic Education also cannot be claimed to be unconstitutional for instilling in our students respect for different forms of expression of sexuality. Moreover, the incorporation in said curriculum of the so-called gender perspective only responds to the State's obligation to promote a culture of tolerance as part of what is ordered in the American Convention."⁴²

35. In relation to the above, the IACHR notes that the judgment of the Supreme Court of Peru is based on respect for the country's constitutional values as well as on the duty to comply with its international human rights obligations and, in particular, with what was established by organs of the inter-American system in the Case of Atala Riffo v. Chile⁴³ and Advisory Opinion OC-24/17.⁴⁴ Similarly, in a context marked by a rise in anti-human rights tendencies,⁴⁵ the Commission heralds this decision as a crucial pronouncement for ensuring the inclusion of the gender perspective in education in Peru and guaranteeing a human rights education that is free from stereotypes based on notions of women's inferiority or subordination and that is respectful of different sexual orientations, gender identities, and all people.⁴⁶

B. Good Practices in Terms of Protection, Comprehensive Prevention, and Access to Gender-Based Justice in Cases of Violence against Women

1. Initiatives for Compliance with Due Diligence Obligations in Prevention, Comprehensive protection, and Access to Justice

a. "Ciudad Mujer" Initiative (El Salvador)

36. The Commission has been made aware of the implementation of the "Ciudad Mujer" initiative, a program implemented by the State of El Salvador through the Secretariat for Social Inclusion with technical and financial support from the Inter-American Development Bank (IDB).⁴⁷ According to the information available, "Ciudad Mujer" aims to provide comprehensive care to women, girls and adolescents at a single center, through specialized services grouped into five modules: sexual and reproductive health, prevention and care for violence against women, collective

⁴² Republic of Peru, [Case No. 23822, Supreme Court of Justice rules in favor of the inclusion of the gender perspective](#), March 8, 2019, para. 28.

⁴³ I/A Court H.R., [Case of Atala Riffo and Girls. v. Chile](#), Merits, Reparations and Costs, Judgment of February 24, 2012, Series C. No. 239.

⁴⁴ I/A Court H.R., [Gender identity, and equality and non-discrimination with regard to same-sex couples](#), [Advisory Opinion OC-24/17](#), November 24, 2017, Series A.

⁴⁵ See *supra*, Chapter 3.

⁴⁶ IACHR, Press Release No. 208-17, [IACHR Regrets Ban on Gender Education in Paraguay](#), December 15, 2017.

⁴⁷ Secretariat for Social Inclusion of El Salvador, [Proyecto Ciudad Mujer](#), 2019.

education, economic autonomy, and child care. The Commission notes that since 2011, the Secretariat for Social Inclusion of El Salvador has implemented 6 “Ciudad Mujer” centers in different parts of the country (Colón, Usulután, Santa Ana, San Martín, San Miguel, Morazán),⁴⁸ which concentrate in a single space 18 state institutions, offering more than 30 services to address users’ needs in an accessible and quality way at no cost.⁴⁹

37. Following the working visit to El Salvador in 2017, the Commission recognized the “Women’s City” model as one of the region’s best practices for the advancement and promotion of the rights of women and girls, especially those who are in a vulnerable situation or have suffered serious violations of their rights.⁵⁰ The Commission was able to verify that its facilities provide services to women and girls who have been victims of violence, give them the support they need to rebuild their lives, and make available various administrative, police and health care services,⁵¹ all of them provided by staff properly trained in the care for women and/or victims of gender-based violence. The IACHR further notes that “Ciudad Mujer” also offers development and empowerment opportunities through various courses and trainings to improve their living conditions, while providing women with care services for their sons and daughters.⁵²
38. In addition, the Commission notes the implementation of “Ciudad Mujer Joven,” the aim of which is to provide specialized care to girls and adolescents, including sexual and reproductive health and education services, as well as modules on identification and care for gender-based violence. The Commission has also learned that, due to the effectiveness of the “Ciudad Mujer” model, there are reportedly plans to develop centers specializing in care for girls and adolescents under this same model in other countries of the region, such as Colombia, Paraguay, Peru, and Trinidad and Tobago, also with the support of the Inter-American Development Bank.⁵³
39. In relation to the above, the IACHR notes that the results of the IDB’s evaluation of “Ciudad Mujer” in El Salvador indicate the importance of this comprehensive services model as an effective tool for delivering specialized services to women, as it reduces barriers to access.⁵⁴ Specifically, the implementation of “Ciudad Mujer” centers contributes to the removal of barriers to access to health and justice services provided by specialized personnel on an equal and non-discriminatory basis and with a gender perspective. It also contributes to the promotion of women’s rights

⁴⁸ ECLAC, [Ciudad mujer en El Salvador: una experiencia transformadora](#), undated.

⁴⁹ Verdad Digital, [BID presenta evaluación sobre impacto de Ciudad Mujer](#), August 28, 2016.

⁵⁰ IACHR, Press Release No. 011A/18, [Conclusions and Observations on the IACHR’s Working Visit to El Salvador](#), January 29, 2018.

⁵¹ IACHR, Press Release No. 011A/18, [Conclusions and Observations on the IACHR’s Working Visit to El Salvador](#), January 29, 2018.

⁵² Revista Mercados y Tendencias, [Lactosa y Ciudad Mujer unen esfuerzos para formar microempresarios](#), August 27, 2018.

⁵³ La Nación, [Con más de 80 servicios gratuitos, “Ciudad Mujer” ya es realidad](#), February 23, 2018.

⁵⁴ [IDB, Evaluación de impacto del Proyecto Ciudad Mujer en El Salvador, October 2016, p. 49.](#)

and reporting and care mechanisms for victims and survivors of violence against women.

2. Gender Violence Investigation Agreement and Protocol with a Gender Perspective

a. *Protocol for the investigation and litigation of violent homicides of women (femicides) by the Specialized Prosecution Unit for Violence against Women (Argentina)*⁵⁵

40. The Commission has welcomed the adoption of the Protocol for the investigation and litigation of violent homicides of women (femicides) by the State of Argentina as an important step forward for the prevention, punishment, and eradication of gender-based violence against women and girls in the country.⁵⁶ The Commission has noted as positive the effort made by the State to harmonize the Protocol with inter-American human rights standards and its alignment with the Latin American Model Protocol for the investigation of gender-related killings (femicide/feminicide) prepared by the Regional Office for Central America of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women.⁵⁷
41. According to the information received, the Protocol was developed by the Specialized Prosecution Unit for Violence against Women and adopted by resolution PGN No. 31/1832 of March 28, 2018, of the Office of the Attorney General of the Nation in which it was recommended that the tool be used by national and federal prosecutors in the country for the investigation and litigation of all cases of violent killings of women. The Commission notes that the State receives support from EUROsociAL+ and the Office of the United Nations High Commissioner for Human Rights, as well as technical assistance from the Argentine Forensic Anthropology Team and input from prosecutors, other units of the Public Prosecution Service (*Ministerio Público*), judges/judges, lawyers and academics, as well as governmental, community-based, women's, and feminist organizations in the country.⁵⁸ The Commission notes that, according to available information, the Protocol is a tool that provides simple gender-based procedural guidelines for officials of Public Prosecution Service,⁵⁹ in keeping with the adoption in 2012 of Law 26.791, amending Article 80 of the Criminal Code by including femicide as an aggravating factor in murder (paragraph 11) and other aggravated offenses that

⁵⁵ Specialized Prosecution Unit for Violence against Women, [Homicide investigation and litigation protocol](#), 2018.

⁵⁶ IACHR, Press Release No. 119/18, [IACHR Welcomes the Approval of the Protocol for the Investigation and Litigation of Femicides in Argentina](#), May 29, 2018.

⁵⁷ IACHR, Press Release No. 119/18, [IACHR Welcomes the Approval of the Protocol for the Investigation and Litigation of Femicides in Argentina](#), May 29, 2018.

⁵⁸ Response to the questionnaire submitted by the Public Prosecution Service of Argentina for this report, IACHR Archive.

⁵⁹ IACHR, Press Release No. 119/18, [IACHR Welcomes the Approval of the Protocol for the Investigation and Litigation of Femicides in Argentina](#), May 29, 2018.

may be linked, as the case may be, to gender-based violence (paragraphs 1, 4 and 12).⁶⁰

42. Indeed, the IACHR notes that the protocol provides parameters for effectively investigating and litigating cases of violent homicides of women, taking into account the State's enhanced due diligence obligations, while promoting the inclusion throughout the investigation and litigation of a gender perspective and a comprehensive protection approach for women with two or more intersecting discrimination factors, including girls; older women; women with disabilities; trans women; migrant women; women with non-normative sexual orientation; indigenous women.⁶¹ In particular, the text suggests steps to be carried out at the scene of the crime and/or place where the body was found, as well as during the investigation. Also included are some provisions for the treatment of victims during the various stages of the process, as are recommended measures for the preparation of the trial, the oral stage, and the enforcement of sentences. It is also notable that it encourages coordination between the Public Prosecution Service, security forces, medical examiners, and other actors and auxiliary personnel of the judiciary involved in the investigation, as well as mentioning the transformative nature of reparations recognized by reason of the case-law of the I/A Court H.R.
43. In the same vein, the Commission stresses that the protocol recognizes the importance of adopting necessary security measures to ensure protection for the physical and mental wellbeing of survivors, indirect victims, and those close to them, before, during, and after the process, operating under the presumption of risk in such crimes. Among the security measures, the protocol highlights, *inter alia*, the prohibition of any contact, even by electronic means, between the alleged aggressor and the surviving and/or indirect victims; a restraining order to prevent the alleged aggressor from carry out any direct or indirect acts of disturbance or intimidation or, if he is deprived of liberty, persons close to him who might do violence to them; and an order prohibiting the alleged aggressor from the purchase or possession of weapons and the seizure of any weapons in his possession.⁶²

*b. Plenary Agreements of the Tenth Supreme Jurisdictional of the Permanent and Transitional Criminal Chambers of the Supreme Court of Justice of Peru*⁶³

44. The Commission understands that the plenary agreements were adopted as a result of a process implemented by the Judiciary in Peru with the participation of experts from different areas and consultations in various parts of the country with the aim

⁶⁰ Specialized Prosecution Unit for Violence against Women, [Homicide investigation and litigation protocol](#), 2018, p. 15.

⁶¹ Specialized Prosecution Unit for Violence against Women, [Homicide investigation and litigation protocol](#), 2018, p. 26.

⁶² Specialized Prosecution Unit for Violence against Women, [Homicide investigation and litigation protocol](#), 2018, P. 62.

⁶³ Supreme Court of Justice of Peru, [Tenth Jurisdictional Plenary Meeting of the Permanent and Transitional Criminal Chambers](#), [Plenario Decision No. 001-2016/CJ-116](#). October 17, 2017; Legis. [Estos son los cinco acuerdos plenarios del X Pleno Jurisdiccional Penal Supremo](#), February 25, 2018.

of analyzing the challenges confronting the justice sector. As a result, the Supreme Court drafted a number of plenary agreements, including: Plenary Agreement 1-2016 on the typical scope of the crime of femicide; Plenary Agreement 002-2016/cj-116 on injuries and misdemeanours due to from mental harm and psychological impairment; and Plenary Agreement 5-2016 on crimes of violence against women and family members within the scope of Law 30.364 "Law to Prevent, Punish and Eradicate Violence against Women and Family Members."⁶⁴

45. In this regard, the Commission welcomes the fact that the decisions include references to inter-American instruments for the protection of women in their analysis and provide arguments in favor of different lines of interpretation. For example, Plenary Agreement 1-2016 recognizes that "gender-based violence against women and the occurrence of femicides are not individual or isolated events, but stem from a social mindset that still defines identities and relationships between men and women unequally, as well as through the lens structural stereotypes and gender roles of subordination."⁶⁵
46. At the same time, the IACHR notes that the plenary agreements were the result of meetings of all the Supreme Court justices and included a set of consultations in various parts of the country to agree on issues on which conflicts arise in the country's jurisprudence. According to the information available, the main objective of the agreements was to ensure better development and uniformity of jurisprudential doctrine that would enable the courts to better attend to victims, taking into account also that they would be binding on the other courts in the judiciary.⁶⁶ In that regard, the Commission acknowledges that the practice of developing Plenary Agreements or equivalent practices is positive in that it specifies the legal and conceptual foundations of various topics and entails a process of building clear jurisprudential criteria that can serve as guidelines for judges who impart justice, avoiding arbitrary legal arguments that fail to respect human rights and/or contain gender stereotypes.
47. In the same vein, the Supreme Court of Justice of Mexico has adopted protocols of action,⁶⁷ including (i) for those who impart justice in cases involving children and adolescents, (ii) for those who impart justice in cases involving sexual orientation and gender identity,⁶⁸ and (iii) for adjudicating with a gender perspective.⁶⁹ Though not binding on justice operators, the Commission notes that these protocols offer

⁶⁴ Republic of Peru, Law No. 30364, to prevent, punish, and eradicate violence against women and family members.

⁶⁵ Legis, Estos son los cinco acuerdos plenarios del X Pleno Jurisdiccional Penal Supremo, February 25, 2018.

⁶⁶ Response submitted by CLADEM regarding Peru for this report, IACHR Archive.

⁶⁷ Supreme Court of Justice of Mexico, Protocolos de actuación para quienes imparten justicia, 2015.

⁶⁸ IACHR, IACHR Congratulates Mexican Supreme Court for Adoption of Protocol Involving Sexual Orientation and Gender Identity, August 29, 2014.

⁶⁹ Supreme Court of Justice of Mexico, Protocolo para juzgar con perspectiva de Género, 2015. [The Supreme Court adopted this Protocol, which recognizes the importance of taking an intersectional or contextual approach to discrimination and the fact that people do not experience discrimination in a vacuum but in a particular social, economic, and cultural context, where privileges and disadvantages are built and reproduced].

guiding principles and internationally recognized human rights standards that serve as important, key tools for judges when passing judgment.

3. Laws and Decisions that Include an Intersectional Approach to Violence against Women

*a. Concerning Women with Political Commitments: Law No. 243 against Political Violence against Women (Bolivia)*⁷⁰

48. As mentioned earlier in this report, the Commission has noted that while more and more women are involved in the construction and strengthening of representative, transparent and accountable governments in the region, women with political commitments continue to face a variety of obstacles, particularly violence and discrimination against them.⁷¹ In this regard, the Commission has recognized Law No. 243 against political violence against women, adopted by the Plurinational State of Bolivia in 2012, as a pioneering initiative in the region.⁷²
49. 170. In this regard, the Commission notes that Law No. 243 was adopted with the aim of "establishing mechanisms for the prevention, assistance, and punishment of individual or collective acts of harassment and/or political violence towards women, in order to ensure the full exercise of their political rights."⁷³ Thus, the Commission notes that this law identifies both administrative and criminal proceedings and their respective penalties. In particular, the Commission notes that the offenses envisaged include the imposition of gender stereotypes; restrictions on speaking at during sessions meetings; exerting pressure for them to resign from office; and disclosure of personal or private information of women whether as candidates, once elected, or in office.⁷⁴ For its part, the criminal process specifies the offenses of political harassment and political violence, and prohibits the possibility of conciliation in either case.⁷⁵ Thus, the Commission notes that Law No. 243 addresses penalties for those who exert acts of pressure, persecution, harassment or threats against any woman elected or in public office, in addition to punishments for physical, psychological or sexual assault against a female public representative. The law also contains provisions on access for women victims of political violence

⁷⁰ Plurinational State of Bolivia, [Law No 243, Law against Political Violence against Women](#), May 28, 2012.

⁷¹ [See supra, Chapter 3.](#)

⁷² IACHR, Press Release No. 220 A/18, [Annex to Press Release 220/18: Summaries of Hearings 169th Period of Sessions in Boulder, Colorado](#), October 19, 2018; UN Women, [Bolivia Approves a Landmark Law against Harassment of Women Political Leaders](#), 11 June, 2012; América Economía, [¿Sabía que Bolivia es el único país de A. Latina con una ley contra la violencia política hacia las mujeres?](#) May 30, 2016.

⁷³ Plurinational State of Bolivia, [Law No 243, Law against Political Violence against Women](#), May 28, 2012, Article 2.

⁷⁴ Plurinational State of Bolivia, [Law No 243, Law against Political Violence against Women](#), May 28, 2012, Article 8.

⁷⁵ Plurinational State of Bolivia, [Law No 243, Law against Political Violence against Women](#), May 28, 2012, Article 23.

to justice, prevention measures, punishment, and reparation, as well as their compatibility with the legal systems of indigenous peoples.

50. The Commission also notes that the adoption of this law was prompted by the assassination of the indigenous councilor Juana Quispe, who had faced pressure to abandon her parliamentary term in addition to numerous threats and attacks for her political activities.⁷⁶ Following the adoption of Law No. 243, the Commission has been informed about other initiatives complementing its contents and scope. For example, political violence was recognized as a form of violence against women as part of the adoption of the Comprehensive Law to Guarantee Women a Life Free from Violence in 2013,⁷⁷ while in 2016 Decree 2,935 was adopted, regulating Law No. 243 and incorporating the mechanism for the prevention and immediate assistance to protect the rights of women victims of this type of violence.⁷⁸
51. While the Commission has received information about the prevalence of violence against women with political commitments in Bolivia,⁷⁹ it recognizes the adoption of this law as a positive step in drawing attention to political violence more as a specific form of violence against women based on their gender, as well as introducing mechanisms to prevent, address and punish such acts.⁸⁰ To that extent Law 243 contributes to follow-up on the recommendations of the organs of the inter-American system in this area and aligns with inter-American standards in this regard.
52. Without prejudice to the above, the Commission calls on the State of Bolivia in particular to continue its efforts to definitively overcome the cultural obstacles that hinder the implementation of the law, exercise the necessary vigilance in seeing to its effective implementation, raise awareness of its contents; and effectively coordinate the actions of the courts and their operators. In addition, the Commission invites States in the region to refer to the Inter-American Model Law to Prevent, Punish and Eradicate Violence against Women in Political Life with a view to adopting a legal framework consistent with inter-American standards in that regard.⁸¹

⁷⁶ Paginas Siete, [Juana Quispe, seis años de un asesinato político impune](#), April 16, 2018.

⁷⁷ UN Women, [Law No. 348 of 2013 \(Comprehensive Law to Guarantee Women a Life Free from Violence\)](#), 2013.

⁷⁸ Albaine, Laura, [Marcos Normativos contra el acoso y/o violencia política en razón de género en América Latina](#), 2017.

⁷⁹ IACHR, Press Release No. 220 A/18, [Annex to Press Release 220/18: Summaries of Hearings 169th Period of Sessions in Boulder, Colorado](#), October 19, 2018.

⁸⁰ Albaine, Laura, [Marcos Normativos contra el acoso y/o violencia política en razón de género en América Latina](#), 2017.

⁸¹ CIM, Mechanism to Follow up on Implementation of the Convention of Belém do Pará (MESECVI), [Inter-American Model Law to Prevent, Punish and Eradicate Violence against Women in Political Life](#), OAS, Official documents, OEA/Ser.L/II.6.17. 2017.

*b. Regarding LGBTI women's rights: Judgment concerning the murder of trans activist Diana Sacayán issued by Criminal and Correctional Court No. 4 of the Federal Capital, City of Buenos Aires, Argentina*⁸²

53. The judgment, handed down on June 18, 2018 by Criminal and Correctional Court No. 4 in Buenos Aires, concerned the murder in October 2015 of Diana Sacayán, a transgender woman and activist for the human rights of trans people. In the judgment, the court sentenced Gabriel David Marino to life imprisonment as co-author of the murder, with gender-based violence and gender-identity hatred as aggravating factors, in accordance with, *inter alia*, Article 80(4) and (11) of the Argentine Criminal Code.⁸³
54. In that regard, the Commission notes that the content of the judgment includes an analysis of the context and facts of the case on the basis of which the judicial authority acknowledged that the murder of Diana Sacayán had been motivated by her triple condition: her gender status as a woman, her status as a trans person, and her status as a trans rights activist as a team member of the INADI Sexual Diversity Program, leader of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), and leader of the Anti-Discrimination Movement for Liberation (MAL).⁸⁴ Both the prosecutors with the Specialized Prosecution Unit for Violence against Women (UFEM) and the judges of the aforementioned court agreed that "the injuries inflicted on Diana Sacayán over a sustained period leading up death were of an extreme brutality, insensitivity and, by their plurality and specificity, designed to make clear the specific nature of the hatred, beyond simply indicating the existence of malice or cruelty."⁸⁵
55. Recently, the Commission recognized this ruling as an important precedent in Latin America in adopting the necessary measures to implement due diligence standards in the prevention, investigation and punishment of violence based on sexual orientation, gender identity and expression, and body diversity.⁸⁶ The Commission points out that, according to the information available, this was the first judgment in Argentina in which a court recognized that a crime motivated by gender hatred fell into an aggravated category of the offense and referred to it as "transvesticide," handing down a conviction for femicide of a trans woman.
56. Although another judicial investigation seeking a second person involved remains at the preliminary inquiry stage,⁸⁷ the Commission welcomes the court's decision in that it draws attention to the particular violence suffered by trans women and the need for a differentiated and intersectional approach, taking particular account of

⁸² Argentina, [Verdict of Criminal and Correctional Court No. 4](#), June 18, 2018.

⁸³ Argentina, [Criminal Code of Argentina](#).

⁸⁴ Argentina, [Verdict of Criminal and Correctional Court No. 4](#), June 18, 2018. p. 3 (unofficial translation).

⁸⁵ Argentina, [Verdict of Criminal and Correctional Court No. 4](#), June 18, 2018. p. 178 (unofficial translation).

⁸⁶ IACHR, 2018 Annual Report, [Chapter V. Follow-Up on Recommendations Issued by the IACHR in Its Country or Thematic Reports](#), 2018, para. 279.

⁸⁷ Infobae, [Arrancó el juicio por el "travesticidio" de la referente trans Diana Sacayán](#), March 14, 2018.

the sectors especially at risk of human rights violations. The IACHR became aware, in particular, that the terms “transvesticide” and “transfemicide” have been adopted into official use, given that the Supreme Court of Justice uses them in its records, while the Public Prosecution Service added them a month ago to its specialized protocol.⁸⁸

*c. Regarding the Rights of Indigenous Women: Judgment of the High Risk Court of Guatemala in the Sepur Zarco case*⁸⁹

57. The Sepur Zarco case has to do with the violence that occurred during the armed conflict in Guatemala, in particular from August 1982, to the detriment of women of the Maya Q'eqchi ethnic group and their relatives, all inhabitants of the community of Sepur Zarco, near a military base. The judgment delivered February 26, 2016, by High Risk Court A of Guatemala City, convicted Esteelmer Francisco Reyes Girón and Heriberto Valdez Asig, commander of the Army and military commissioner, respectively, as perpetrators of offenses that included murder, forced disappearance, rape, and sexual and domestic servitude, and granted 18 measures of reparation to the female survivors and their communities. With regard to the latter, the IACHR notes that the reparation measures stemmed from the non-exercise by the victims and their community of their rights to health, education, and access to land in Sepur Zarco, for which reason, the ruling, *inter alia*, instructed the Government of Guatemala to reopen the land claim files; set up a health center in Sepur Zarco; improve primary school infrastructure; open a secondary school, and provide scholarships for women and children.⁹⁰
58. The Commission hailed the above judgment as the first by a national court to convict crimes of sexual slavery in an armed conflict on the basis of domestic law and international criminal law.⁹¹ On this occasion, the Commission again highlights the momentous achievement of this judgment in the search for justice for women victims of sexual violence in armed conflict and in rooting out of impunity.⁹² The IACHR further notes that in the context of the proceedings a cultural expert opinion and a gender expert opinion were presented and weighed in the analysis of the facts, the criminal responsibility of the accused, and the reparation measures. As a result,

⁸⁸ Clarín, [Juicio inédito. El caso Diana Sacayán: perpetua en la primera condena por un travesticidio](#), June 18, 2018; Filo news, [Perpetua por travesticidio: 3 claves para entender el crimen de Diana Sacayán](#), June 18, 2018; Infobae, [Condenaron a prisión perpetua al único acusado por el travesticidio de Diana Sacayán](#), June 18, 2018.

⁸⁹ Republic of Guatemala, [Judgment in the Sepur Zarco trial](#), February 26, 2016. The Commission notes that the above-mentioned judgment became final on 28 December 2018, after the Constitutional Court dismissed a motion for constitutional relief filed by the defense of one of the convicted persons and confirmed the sentences given to the former military servicemen Esteelmer Reyes Girón and Heriberto Valdez of 120 years and 240 years in prison, respectively. La Hora, [Sentencia firme en Caso Sepur Zarco; califican hecho como histórico](#), November 28, 2018.

⁹⁰ UN Women, [Sepur Zarco: In pursuit of truth, justice, and now reparations](#), October 22, 2017.

⁹¹ IACHR, Press Release No. 031/16, [IACHR Welcomes Progress and Urges States to Ensure Favorable Conditions for the Exercise of Women's Rights](#), March 8, 2016; UN Women, [Sepur Zarco case: The Guatemalan women who rose for justice in a war-torn nation](#), October 19, 2018.

⁹² IACHR, Press Release No. 031/16, [IACHR Welcomes Progress and Urges States to Ensure Favorable Conditions for the Exercise of Women's Rights](#), March 8, 2016.

the court found it established that the facts occurred in relation to the context of armed conflict in Guatemala and, specifically, that they originated as a result of the applications for legalization of lands initiated by the husbands of the women who were raped, the q'eqchi' leaders who were disappeared or executed for being considered subversives.⁹³

59. The Commission notes that the analysis considered the oppression and disproportionality used against the women of Sepur Zarco to be proven since “they, as poor, peasant women, alone, unprotected, uneducated, with hungry children, were treated like animals, subjected to the will of the base commander, who, instead of watching over the people of the community, allowed the violation of all their rights, especially those relating to their sexual freedom, in addition to exploiting them for work and subjecting them to domestic slavery.”⁹⁴ Thus, the judgment states that the rapes in Sepur Zarco, which were committed “systematically,” highlighted “the poor woman’s plight, in which the authorities took the use of physical and psychological force to its utmost extremes, turning them into a military objective in order to neutralize and vanquish people regarded as enemies.”⁹⁵

*d. Concerning Women with Disabilities: Judgment T-573-16. Ninth Review Chamber of the Constitutional Court. Action for constitutional protection brought by Consuelo on behalf of her daughter Silvia v. Hospital Unit AA, State Social Enterprise XX and CC EPS*⁹⁶

60. This judgment concerns an action for constitutional protection brought by Consuelo, a woman seeking protection for the fundamental rights that the Hospital Unit AA, State Social Enterprise of XX, and CC EPS allegedly violated to the detriment of Silvia, her minor daughter with Down syndrome, by refusing to remove a contraceptive device inserted in her right arm, which appeared to have caused her health problems, and to perform a surgical sterilization procedure instead. In Consuelo’s view, the decisions taken in this regard by the sued entities infringed the rights to health, wellbeing, and social security of Silvia, who is suffering on account of the symptoms arising from the implanted contraceptive device.
61. The Commission notes that the court considered that the examination of the case could not be limited to verifying that the respondents had not removed the contraceptive device, despite the adverse effects that its implantation caused the girl, but that the action involved another series of constitutional dilemmas

⁹³ Republic of Guatemala, [Judgment in the Sepur Zarco trial](#), February 26, 2016, p. 488; UN Women, [Sepur Zarco case: The Guatemalan women who rose for justice in a war-torn nation](#), October 19, 2018.

⁹⁴ Republic of Guatemala, [Judgment in the Sepur Zarco trial](#), February 26, 2016, p. 489 (unofficial translation).

⁹⁵ Republic of Guatemala, [Judgment in the Sepur Zarco trial](#), February 26, 2016, pp. 477, 488, and 495 (unofficial translation).

⁹⁶ Republic of Colombia, Judgment T-5.584.835. [Action for constitutional protection brought by Consuelo on behalf of her daughter Silvia v. Hospital Unit AA, State Social Enterprise XX, and CC EPS](#), October 19, 2016; IACHR, 2018 Annual Report, [Chapter V. Follow-up on Recommendations Issued by the IACHR in Its Country and Thematic Reports](#), 2018, para. 279.

associated with the fact that decisions were taken in relation to the exercise of Silvia's sexual and reproductive rights without seeking or obtaining her consent.

62. In its interpretation of the obligations set out in the Convention on the Rights of Persons with Disabilities and of progress made in the implementation of measures to ensure that women and girls with disabilities enjoy their rights and freedoms in full, the court concluded that no circumstance allows decisions that concern persons with disabilities to be made via surrogate consent, and that, in any event, it must be presumed that they have the legal capacity to take free and autonomous decisions by means of the support, reasonable adjustments, and safeguards that the State must provide them for that purpose. In the same vein, the Court stated that "prejudice towards persons with disabilities, especially women and girls - the persistence of patterns of discrimination that, on the basis of stereotypes, question their fitness for sexual and reproductive self-determination."⁹⁷
63. The Commission observes that the court's analysis found it proven that Silvia's opinion was never consulted and, on the contrary, only Consuelo's interests and concerns were emphasized in the formalities. In that regard, the Chamber concluded that, as long as she was a minor, Silvia could not be subjected to a permanent contraceptive procedure because of the general prohibition provided in Article 7 of Law 1412 of 2010, and that even when she reached the age of majority she should not be made to undergo a sterilization procedure or any type of medical intervention without her consent. The Chamber emphasized that "a person with a disability who has reached majority age should only undergo a permanent contraceptive procedure if, in the context of a judicial proceeding, it is verified that they expressed their free and informed consent on the matter after having been provided the appropriate support and safeguards, and received the necessary guidance as to the risks, benefits and alternatives to the procedure."⁹⁸
64. The IACHR also welcomes the measures ordered by the court, insofar as it ruled, *inter alia*, that the respondents should refrain from authorizing any permanent contraceptive procedures on Silvia or, in general, any invasive medical procedure to which she had not consented; and ordered that an interdisciplinary team be formed, comprising a doctor, a psychologist, and a social worker, who, together with the representatives of Pro-familia and the Ombudsman's Office, would meet with Silvia and her parents, separately if necessary, to identify specific barriers that Silvia may face when making decisions about her sexual and reproductive rights. The team would also determine the reasonable adjustments, support and safeguards that would allow Silvia to exercise her legal capacity in that regard, and accompany the process by which she would decide whether to use any method of contraception, and inform her, for that purpose, about the one that would best suit her specific needs.

⁹⁷ Republic of Colombia, Judgment T-5.584.835. [Action for constitutional protection brought by Consuelo on behalf of her daughter Silvia v. Hospital Unit AA, State Social Enterprise XX, and CC EPS](#), October 19, 2016.

⁹⁸ Republic of Colombia, Judgment T-5.584.835. [Action for constitutional protection brought by Consuelo on behalf of her daughter Silvia v. Hospital Unit AA, State Social Enterprise XX, and CC EPS](#), October 19, 2016.

65. The court also advised State Social Enterprise XX and CC EPS of their duty to design, implement and finance reasonable adjustments so that persons with disabilities can access the health services on an equal footing and to take measures to raise awareness and train professionals at all points of care on the social approach to disability; and ordered the Ministry of Health and Social Protection to issue, with the participation of organizations of persons with disabilities, rules governing access by persons with disabilities to appropriate and sufficient information about their rights and on the related obligations of the State in relation to the adoption of informed decisions on health matters and, in particular, on matters involving the exercise of their sexual and reproductive rights.

4. Reparations for Women Victims of Sexual Violence

- a. *Judgment T-718/17 of the Constitutional Court of Colombia on the action for constitutional protection brought against the Comprehensive Victim Assistance and Reparation Unit (UARIV)*⁹⁹
66. Judgment T-718/17 of the Third Review Chamber of the Constitutional Court concerns an action for constitutional protection brought against the UARIV by six victims of violence and rape that occurred in February 2000 in the context of a raid by paramilitary groups in district of El Salado, known as the El Salado massacre. In particular, the Commission notes that the community of El Salado had launched a pilot collective reparation program in 2008 with the National Commission for Reparation and Reconciliation (CNRR), now the UARIV, which consisted of a participatory process in which the community formulated reparation measures and concluded with a community proposal enshrined in a Collective Reparation Plan in 2011. However, the six victims mentioned argued that there had been a violation of the rights to equality and non-discrimination, access to justice, and collective reparation in that a program had been designed and implemented without their participation and without including a differential approach to reparation, despite the fact that they had reported the acts of sexual violence to the State authorities.
67. In that regard, the Constitutional Court confirmed that the existing Collective Reparation Plan with the community of El Salado only contained generic claims about sexual violence and the restoration of dignity to victims; therefore, it ordered the entity to "design, adjust and implement a viable way for the victims to participate in the identification of injuries and collective reparation measures that were directly aimed at repairing the social fabric of the community of El Salado and

⁹⁹ Republic of Colombia, Judgment T-6.118.808. [Action for constitutional protection brought by Gloria, Amparo, Alejandra, Luisa, and Lina against the Comprehensive Victim Assistance and Reparation Unit](#), December 11, 2017.

gradually transform the structural conditions of discrimination and violence against women that enabled or caused criminal acts."¹⁰⁰

68. The Commission notes that, bearing in mind the transformative nature that reparation should have in cases of gender-based violence, in particular sexual violence offenses committed in the context of armed conflict, the court considered the urgency of steering the collective reparation with a differential and gender-based approach, which involves taking into account the opinions of women and a special and differentiated methodology to enable the participation of victims of sexual violence, in order to identify the injuries and collective violations as well as collective reparation measures.¹⁰¹
69. The Commission also highlights that the Court delineated in detail how the involvement of victims of sexual violence "is not only necessary to carry out the comprehensive reparation process, but that their non-participation may entail a violation of their basic rights to collective redress and their participation in its formulation if: (i) they were not informed in a timely and appropriate manner without exposing them to re-victimization; (ii) no safe and confidential spaces were created to enable them to participate in conditions of safety where they would not be re-victimized; (iii) it is not recognized that sexual violence is a gender-based form of violence, not only because it is directed primarily or even exclusively at women, but also because it takes place in contexts of heightened discrimination against women; and (iv) the forms of participation did not afford the necessary flexibility bearing in mind the victims of sexual violence."¹⁰² This concrete development could be essential for the analysis of future claims in the context of collective reparation processes involving acts of violence and rape.

C. Good Practices in Relation to Girls and Adolescents

1. Ownership of Rights and Progressive Autonomy

70. As mentioned in this report, the main paradigm shift in relation to the rights of girls was the recognition of children and adolescents as bearers of rights, capable of exercising and demanding them in their own right, leaving behind the strictly tutelary vision.¹⁰³ This important paradigm shift, based on a new international legal

¹⁰⁰ Republic of Colombia, Judgment T-6.118.808. Action for constitutional protection brought by Gloria, Amparo, Alejandra, Luisa, and Lina against the Comprehensive Victim Assistance and Reparation Unit, December 11, 2017, para. 232.

¹⁰¹ Republic of Colombia, Judgment T-6.118.808. Action for constitutional protection brought by Gloria, Amparo, Alejandra, Luisa, and Lina against the Comprehensive Victim Assistance and Reparation Unit, December 11, 2017, paras. 204, 206, and 229.

¹⁰² Republic of Colombia, Judgment T-6.118.808. Action for constitutional protection brought by Gloria, Amparo, Alejandra, Luisa, and Lina against the Comprehensive Victim Assistance and Reparation Unit, December 11, 2017, para. 213.

¹⁰³ IACHR, Towards the Effective Fulfillment of Children's Rights: National Protection Systems, OEA/Ser.L/V/II.166 Doc. 206/17, November 30, 2017, paras. 38 ff., 275 and 276.

framework epitomized in particular by the Convention on the Rights of the Child (CRC), has led to legislative changes ensuring that children and adolescents are also recognized as bearers of rights in each country. In the process of adapting to this paradigm, most countries in the region have adopted comprehensive new laws on the rights of children and adolescents and recognized their ownership of rights. The Commission highlights the following examples of those who have promoted these changes:

71. In the case of Bolivia, Article 5 of the Juvenile Code (Law No. 2.026) provides that girls, boys and adolescents, as subjects of rights, enjoy all the fundamental rights and constitutional guarantees inherent in all people. That same provision states that it is the obligation of the State to guarantee the same opportunities and facilities for women and men, ensuring their integral development and conditions of equality and equity.¹⁰⁴
72. In turn, the Colombian Juvenile Code states at Article 3 that all persons under the age of 18 are bearers of rights, the term "bearers" (*titulares* in Spanish) being the innovation to the law's text, whereas other laws in the region only use the term "subjects of rights" (*sujetos de derechos*). In addition, with regard to the Colombian case, the Commission welcomes the mention of the youngest children as being bearers of rights, as mentioned in Article 29 of that Code: "From early childhood, children are bearers of rights recognized in international treaties, the Political Constitution, and this Code."¹⁰⁵ This express mention of early childhood is not only groundbreaking, but, at the same time, important for emphasizing that ownership of rights does not depend on the age or maturity of the child, and the exercise of their rights should not be limited by their age.
73. The principle of progressive autonomy enshrined in Article 12 of the CRC, which is linked to ownership of rights, recognizes that children and adolescents have the right to participate in decisions affecting them, to express their views freely, and for those views to be given due weight in accordance with their age and maturity.
74. The Commission has noted that most national laws deal with the principle of progressive autonomy in a limited manner, applying it only in specific situations, such as in the context of judicial proceedings to decide custody or in adoption proceedings. However, the Commission points out that the CRC does not impose limits on the right of children to express their views on matters that affect them but applies the principle of progressive autonomy broadly and without restrictions. Article 12.2, in turn, merely emphasizes that the child should be heard in any judicial and administrative proceeding, a consideration deemed worthy of inclusion in the treaty text; however, it does not limit the application of the principle to that situation in particular.
75. With regard to progressive autonomy and the laws that implement it in a comprehensive way, the Commission highlights two examples that adequately

¹⁰⁴ Plurinational State of Bolivia, *Juvenile Code, Law No. 2,026*, October 27, 1999.

¹⁰⁵ Republic of Colombia, *Law No. 1098 promulgating the Juvenile Code*, November 8, 2006

incorporate that principle. In Argentina, the current Civil Code, adopted in 2014, evolved from the old dichotomy between the concepts of capacity and incapacity to insert the principle of progressive autonomy as a way of determining the capacity of adolescents to undertake civil acts without establishing a minimum age, as is the legal tradition in the region. Article 26 of the Code provides that children and adolescents of sufficient age and maturity may undertake acts permitted by law on their own and that, in the event of a conflict of interest with their legal representatives, the child has the right to the assistance of legal counsel.¹⁰⁶ Thus, Argentine law implements the exercise of civil capacity in a fluid manner, in relation to the maturity of the child or adolescent and not to a specific age, which is in line with the principle of progressive autonomy envisaged in the CRC.

76. In Mexico, the General Law on the Rights of Children and Adolescents recognizes progressive autonomy as a guiding principle for the protection of those rights at Article 6.XI.¹⁰⁷ Therefore, the inclusion of progressive autonomy as a principle means that it encompasses all enforcement of the law, not simply specific situations. In addition to establishing that the principle of progressive autonomy is broadly applicable, Mexican legislation has also been concerned with allowing children and adolescents to have an effective say in administrative and judicial proceedings, given that Article 83 provides that proceedings shall be adjusted in that regard. The Commission recognizes the importance that the principle of progressive autonomy be effective and welcomes the efforts of the Mexican State to ensure that the procedures adequately allow the intervention of children and adolescents, which is consistent with the relevant standards in that regard.

2. Special and Enhanced Protection for Children and Adolescents

77. As mentioned in Chapter 2 of this report, international human rights law recognizes that children and adolescents are entitled to special and enhanced protection by reason of their status and stage of development.¹⁰⁸ As guarantors of the rights of minors, States undertook to take special measures to protect those rights as a matter of priority and taking into account the particularities of that period of life.
78. The Commission recognizes that most states in the region have incorporated the principle of special and enhanced protection into their general laws on the rights of children and adolescents. At the same time, the IACHR values initiatives that incorporate that principle at the highest possible legislative rank. In Brazil, for example, the principle of special protection was included in the Constitution at

¹⁰⁶ Argentina, Civil and Business Code of the Nation, Law No. 26.994, October 1, 2014.

¹⁰⁷ United Mexican States, General Law on the Rights of Children and Adolescents, December 4, 2014.

¹⁰⁸ Article 19 of the American Convention establishes that “[e]very minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.” Similarly, the American Declaration states in its Article VII that “[a]ll women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.”

Article 227, which makes it the duty of the family, society, and the State to ensure the rights of children, adolescents and young people with the utmost priority. That provision also establishes the obligation to protect children and adolescents from all forms of discrimination and violence.¹⁰⁹ The Commission appreciates that the principle of special protection is envisaged at the highest level and that the Brazilian Constitution includes different actors with responsibilities for guaranteeing the rights of children and adolescents.

79. The IACHR also recognizes that special protection cannot only be a principle that permeates the design of public policies by States, but must translate into specific and concrete actions. For example, the Commission appreciates Argentina's adoption of Law No. 27.452, which deals with the economic reparation regime for girls and is popularly known as Brisa's Law. That law establishes a pension scheme equivalent to a monthly retirement pension and full health coverage for anyone under the age of 21 who is a collateral victim of femicide or whose mother/father has died as a result domestic and/or gender-based violence.¹¹⁰ The adoption of the law is a groundbreaking initiative that recognizes the particular vulnerability of children and adolescents who are direct and collateral victims of violence against women and introduces a special protection mechanism to ensure they can attain full development.

3. The Best Interests of the Child

80. The principle of the best interests of the child is at the heart of the Convention on the Rights of the Child; it is a fundamental parameter that must be considered in any decision affecting children and adolescents, whether public or private. The purpose of this concept is to ensure full and effective enjoyment of all the rights provided in the CRC and it is applied in a threefold way: as a substantive right, as an interpretative principle on the rights of the child, and as a rule of procedure, consistent with what the Committee on the Rights of the Child has already expressed.¹¹¹ In line with inter-American standards on the best interests of the child, States should explicitly include it as a guiding principle to be considered in any action, policy or decision affecting the rights of children and adolescents.
81. In keeping with that standard, Mexico's General Law on the Rights of Children and Adolescents, adopted in 2014, is perhaps the one that most overtly refers to the best interests of the child, with 51 mentions in the law's text. Article 6 of the law states that the best interests are a guiding principle of its application that encompasses all its aspects. Article 2 provides that the best interests of the child should be considered primarily in decision-making on minors, while Article 18 expressly

¹⁰⁹ Federative Republic of Brazil, [Federal Constitution of 1988](#), promulgated on October 5, 1998.

¹¹⁰ Argentina; see articles 2 and 3. [Law 27.452 on the Economic Reparation Regime for Children and Adolescents](#), July 27, 2018.

¹¹¹ Committee on the Rights of the Child, General Comment No. [14 on the right of the child to have his or her best interests taken as a primary consideration](#) (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, para. 6.

creates that obligation for state authorities when formulating public policies. In addition, as an innovation, the Mexican law states that the commission of acts contrary to the best interests may be grounds for revoking the authorization granted to organizations and individuals to participate in adoption procedures in accordance with Article 33 of that law.¹¹²

82. However, under Article 2 of the aforementioned Mexican law, in the event of a conflict of interpretation as to the content of the best interests, the provisions of the Political Constitution and the treaties to which Mexico is a party shall prevail.¹¹³ In Colombia the Juvenile Code states that, in case of conflict between rules, the one most favorable to meeting the best interests of the child shall prevail, according to Article 6.¹¹⁴ In turn, Argentina's Law on Comprehensive Protection of the Rights of Children and Adolescents goes further and provides that the best interests prevail even when there is a conflict with another equally legitimate interest, whether public or private, not only in the event of a conflict between rules, but in general.¹¹⁵

4. Participation in Matters that Affect Them

83. Article 12.1 of the CRC assures, to every child capable of forming his or her own views, the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with age and maturity. Intrinsically linked to the aforementioned principles, the right of children and adolescents to participate in issues affecting them is one of the principal rights granted by the CRC, on the grounds that knowing the views of minors and enabling them actively to participate in decision-making has a direct impact on the guarantee of their other rights. According to the Committee on the Rights of the Child in its General Comment No. 12 (2009), the right to participate imposes on States the obligation to revise or amend the relevant legislation to establish that right and to implement measures to ensure their effectiveness.¹¹⁶
84. The Commission has found that in the region most laws on the rights of minors address the right to participation in a limited way, restricting themselves to matters affecting them individually, in particular in judicial or administrative proceedings. The rules that ensure broad participation, including in public matters such as the design of government policies and programs, are still few in number.
85. Among the rules that seek to comply fully with the standards on the right to participate, the Commission highlights the Law on Comprehensive Protection of

¹¹² United Mexican States, General Law on the Rights of Children and Adolescents, December 4, 2014.

¹¹³ United Mexican States, General Law on the Rights of Children and Adolescents, December 4, 2014.

¹¹⁴ Republic of Colombia, Law No. 1098 promulgating the Juvenile Code, November 8, 2006.

¹¹⁵ Argentina, Law 26.061 on Comprehensive Protection of the Rights of Children and Adolescents, September 28, 2005.

¹¹⁶ Committee on the Rights of the Child, General Comment No. 12, The right of the child to be heard, CRC/C/GC/12, 2009.

Children and Adolescents of El Salvador, which has been in force since 2011 and devotes an entire to that right.¹¹⁷ In particular, the IACHR values the fact that the law recognizes the right of petition, providing that children and adolescents have the right to personally petition public authorities and, more importantly, to receive a timely response to their requests (Article 92). The Commission considers this an important step forward in legislation, because it favored the direct petition format for minors even before the adoption of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,¹¹⁸ allowing anyone, even minor victims to submit their communications directly.¹¹⁹

86. In addition, El Salvador's children's law includes the participation of children and adolescents as a strategy of the law itself, particularly in public policy design and development processes at the local and national levels and in public and community spaces, with a view to building civic-mindedness. In addition, the General Law on Youth of El Salvador, applicable to persons aged 15 to 29, establishes the right to political and democratic participation and the commitment of the State to promote the participation of the younger population in matters of importance to the country.¹²⁰ Considering that the right to participate is multidimensional, the IACHR also notes that Salvadoran law includes the right to freedom of thought, conscience and religion, as well as freedom of assembly, association and access to information, and establishes obligations for the media to allocate spaces to raise awareness of the rights of minors.
87. With regard to initiatives that promote the effective participation of children and adolescents in the formulation of public policies, plans and programs, the IACHR highlights Uruguay's experience with the Advisory and Consultative Council of the National Institute of Children and Adolescents (INAU) under the Child and Adolescent Participation Program, which has been in operation since 2009. The Council is a space composed of adolescents aged 13 to 17, representing each department in the country, that meets regularly with the INAU board, which it advises and makes proposals on issues related to the rights of minors.¹²¹ In addition to highlighting this initiative, the IACHR underscores and welcomes the fact that the Government of Uruguay, following a request from the adolescents themselves, sent to the Congress of that country a bill to formalize the Council's role in the structure of the INAU, giving greater stability to this important participation policy.¹²²

¹¹⁷ Republic of El Salvador, [Law on Comprehensive Protection of Children and Adolescents](#), April 15, 2009.

¹¹⁸ The [Juvenile Code of Bolivia](#) also envisages the right of petition in the context of procedural guarantees (Article 230).

¹¹⁹ United Nations General Assembly, [Optional Protocol to the Convention on the Rights of the Child on a communications procedure](#), A/RES/66/138, 19 December 2011.

¹²⁰ Save the Children, [Mapping of Legislation and Policies on Children and Adolescents' Participation in Decision-Making in Latin America and the Caribbean](#), October 2018.

¹²¹ Eastern Republic of Uruguay, [Catálogo de Participación Ciudadana: Consejo Asesor y Consultivo del Directorio del INAU](#), 2017.

¹²² INAU, [Formalización: Consejo Asesor y Consultivo \(CAC\) de INAU y el Directorio analizan avances del Proyecto de Ley](#), 2019.

5. Gender Perspective and Confronting Discrimination

88. The Commission considers it important that national laws on protection of the rights of children and adolescents recognize the particular vulnerability of girls because of their gender. While the vast majority of general laws provide for combating discrimination of any kind, particularly on the basis of sex, the IACHR notes that examples that include a cross-cutting and intersectional gender perspective are scarce.
89. Thus, the Commission finds that the Juvenile Code of Colombia states at Article 12 that the gender perspective, understood as the recognition of biological and social relations between people, according to sex, age, ethnicity and the role they play in the family, should be taken into account when implementing the code in all areas of child and adolescent development with a view to achieving equity.¹²³ The inclusion of the gender perspective as a referential and interpretative framework of the Code is an important initiative that highlights the particularities of the girl population and imposes on the State, as guarantor, the obligation to implement specific actions in relation to the particular rights of that population.
90. Similarly, Mexico's General Law establishes the right to substantive equality in which children and adolescents have the right of access to the same treatment and opportunities for the recognition, enjoyment and exercise of their human rights and fundamental freedoms. The law also includes the duty of State authorities to ensure substantive equality through a number of affirmative actions, including: mainstreaming the gender perspective into all their actions, always seeking not to use sexist language in official documents; implementation of measures to eliminate sexist customs, traditions, and prejudices, gender roles and cultural stereotypes or practices that undermine gender equality or promote any form of discrimination; and the development of ongoing awareness-raising campaigns on the rights of girls.¹²⁴
91. The Inter-American Commission recognizes the various efforts and initiatives of the States of Latin America and the Caribbean aimed at combating discrimination and violence against women, girls and adolescents through laws, rulings and public policies such as those mentioned above. In this regard, the IACHR reiterates the importance of concretizing initiatives of different kinds and at all levels of the State apparatus, in order to advance the recognition, guarantee and protection of the rights of women and girls.

¹²³ Republic of Colombia, [Law No. 1098 promulgating the Juvenile Code](#), November 8, 2006.

¹²⁴ United Mexican States, [General Law on the Rights of Children and Adolescents](#), December 4, 2014.

CHAPTER 3
CHALLENGES IN COMPLYING
WITH RECOMMENDATIONS AND
DECISIONS OF THE IACHR:
MAJOR ISSUES AFFECTING THE
RIGHTS OF WOMEN AND GIRLS

CHALLENGES IN COMPLYING WITH RECOMMENDATIONS AND DECISIONS OF THE IACHR: MAJOR ISSUES AFFECTING THE RIGHTS OF WOMEN AND GIRLS

A. Violence and Discrimination against Women and Girls: Challenges in Addressing the Causes and Consequences from an Intersectional Perspective

92. In keeping with its mandate, the IACHR has affirmed the need to address the causes of gender-based violence against women and girls in all of its manifestations in order to confront the major issues currently plaguing the region, which lead to the violation of the exercise and enjoyment of their human rights. Likewise, the Commission has reaffirmed intersectionality as a basic concept for understanding the overlapping of various layers of discrimination, the impact it has on the enjoyment and exercise of human rights, and the scope of States' obligations in adapting its responses to each particular instance.¹²⁵
93. Based on communications received by the IACHR in the context of drafting this report, information it received through its mechanisms, and notwithstanding positive initiatives in the region, it has become clear that the States of Latin America and the Caribbean are still facing manifold challenges in providing an effective and adequate response to longstanding and intersectional violence and discrimination against women and girls. Next, this report underscores the challenges of particular concern raised by the IACHR, that have still not been overcome, and recommendations on the elimination of structural factors of discrimination and eradication of stereotyping and discriminatory sociocultural behavioral patterns.

¹²⁵ IACHR. [Indigenous Women and Their Rights in the Americas](#). OEA/Ser.L/V/II. Doc. 44/17. April 17, 2017, para. 38

1. Challenges to Eliminating Structural Factors of discrimination

94. The IACHR has stressed that manifold structural or built-in factors perpetuate discrimination against women and place them at increased risk. The Commission has cited, among these factors, male chauvinism (*machismo*), patriarchy, and the prevalence of sexist stereotypes, as well as the longstanding discrimination woven into the social fabric, further compounded by society's tolerance of violence against women in all of its dimensions: the physical, psychological, sexual, economic and other spheres.¹²⁶
95. Based on the information it gathered, the IACHR warns of manifold challenges persisting in the region, which stand as obstacles and hamper the elimination of the aforementioned factors of discrimination. By way of example, the Commission cites: i) the prevalence of discriminatory legal provisions against women and girls; ii) the impact of poverty and inequality on the rights of women and girls; and iii) the lack of coordination between national and local authorities in meeting international obligations.
- *Prevalence of discriminatory laws against women and girls*
96. The IACHR has repeatedly stressed the obligation of States to eradicate gender-based discrimination against women.¹²⁷ In particular, States should enshrine, if they still have not done so, in their national constitutions and in any other appropriate legislation, the principle of equality between men and women and ensure by law or by other appropriate means the practical realization of that principle.¹²⁸ This includes taking all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations, or to change legal or customary practices, that sustain the persistence and tolerance of discrimination and violence against women.¹²⁹ Notwithstanding, based on information received by the IACHR, in some countries of Latin America and the Caribbean, the principle of equality between men and women is not enshrined in constitutions or national laws, the principle of discrimination does not specifically cover gender-based discrimination and, in some instances, gender-based discriminatory provisions against women are still in force.

¹²⁶ IACHR. Press Release No.062/17. [IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts](#). May 16, 2017.

¹²⁷ See above, Chapter 2.

¹²⁸ CEDAW Committee. [Decisión del Comité en virtud del Protocolo Facultativo de la CEDAW](#), Decision of the Committee under the Optional Protocol of the CEDAW. CEDAW/C/50/D/27/2010. November 30, 2011, Article 2.1.

¹²⁹ IACHR. [Report on the Rights of Women in Chile: Equality in the Family, Labor and Politics](#). OEA/Ser.L/V/II.134. Doc.63. March 27, 2009, para. 42; IACHR. [Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application](#). OEA/Ser.L/V/II.143. 2015, para. 52.

97. For example, it was brought to the attention of the Commission that, in Barbados, there are no specific laws on gender equality or any special anti-discrimination legislation. On this score, the UN Committee on the Elimination of Discrimination against Women said that Article 23(1)(b) of the Constitution did not prohibit discrimination on the grounds of sex.¹³⁰ The Commission further notes that in the Bahamas, neither the Constitution nor national law expressly define discrimination against women, or set forth any provisions on gender equality,¹³¹ and even though a constitutional referendum was held in 2016 to ban sex-based discrimination, this proposed constitutional amendment was rejected by the voters.¹³² With respect to Granada, while the Commission notices that the Constitution and national law provide for non-discrimination on the grounds of sex, it also attests to the fact that the definition of discrimination does not encompass direct and indirect discrimination or discrimination carried out by public and private actors.¹³³ Additionally, the CEDAW Committee has ascertained that negative gender-based stereotyping and discriminatory legal provisions and procedures against women still exists in this country.¹³⁴
98. The Commission also notes that, even in the countries that do have legislation punishing discrimination on the grounds of gender, some provisions of domestic law still discriminate against women in those countries, particularly regarding property, services and inheritances. For example, there are still common property regulations in force designating the man as the “representative of the household” in Nicaragua¹³⁵ and in Honduras.¹³⁶ In the case of Saint Lucia, Article 144 of the Civil Code stipulates that, even though the husband must protect his wife, she must obey

¹³⁰ UN. [Recopilación sobre Barbados, Informe de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos. Compilation on Barbados, Report of the Office of the United Nations High Commission for Human Rights](#), November 2017, para. 12.

¹³¹ OHCHR. [Observaciones finales sobre el sexto informe periódico de las Bahamas. Aprobadas por el Comité en su 71º período de sesiones](#). Concluding observations on the sixth periodic report of Bahamas. Approved by the Committee at its 71st session. October 22 to November 9, 2018.

¹³² Global Campaign for Equal Nationality Rights. [A Loss for Gender Equality and Equal Nationality Rights in The Bahamas](#). 2019; UN. [Informe nacional presentado con arreglo al pár.5 del anexo de la resolución 16/21 del Consejo de Derechos Humanos, Bahamas. National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21. Bahamas](#). December 2017, para. 72.

¹³³ UN. [Recopilación preparada por la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos con arreglo al pár.15 b\) del anexo de la resolución 5/1 del Consejo de Derechos Humanos y al pár.5 del anexo de la resolución 16/21 del Consejo](#). Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21. November 2014, para. 16.

¹³⁴ UN. [Recopilación preparada por la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos con arreglo al pár.15 \(b\) del anexo de la resolución 5/1 del Consejo de Derechos Humanos y al pár.5 del anexo de la resolución 16/21 del Consejo](#). Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21. November 2014, para. 17.

¹³⁵ [Código Civil de la República de Nicaragua](#). Civil Code of the Republic of Nicaragua. Book I, De las Personas y De la Familia [Persons and Family], Article 151.

¹³⁶ [Código Civil de la República de Honduras](#). Civil Code of the Republic of Nicaragua. Book I, De las Personas de los Hondureños y Extranjeros, [Honduran and Foreign Persons] Article 167.

her husband.¹³⁷ Elsewhere, Article 135 of the Chilean Civil Code establishes that after marriage, the husband becomes the administrator of the woman's property under the community property system.¹³⁸ Likewise, in Costa Rica and Haiti, laws still discriminate against women whose unions are not officially recognized, thus impairing their right to inherit.¹³⁹ In the Bahamas, the Constitution and Law on Nationality set forth conflicting rules based on gender and the "legitimacy" of the son or daughter: Article 9 of the Constitution and section 4 of the Law on Nationality stipulate that married women may not transfer their nationality to their children born overseas or to children adopted with her spouse.¹⁴⁰

99. According to information gathered by the Commission, regarding legislation on remunerated work, provisions that could have a discriminatory impact on women are still on the books. Even though most States of the region have ratified ILO Convention 111 on discrimination in employment and occupation, women are still not permitted by law to have access to the same jobs and occupations as men for reasons of protecting women's health and safety. This is the case of Argentina, Barbados, Belize, Brazil, Bolivia, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Jamaica, Nicaragua, Panama, Paraguay and Uruguay, where women are restricted from performing hazardous, unhealthy jobs, which require significant physical strength or nighttime work, among other types. As for equal remuneration, the Commission notes that Barbados, Saint Kitts and Nevis, Suriname and Trinidad and Tobago are the only countries that still do not have laws in effect promoting equal wages between men and women.¹⁴¹
100. With regard to discriminatory legislation on maternity protection, the Commission notes that in some countries, specifically Belize, Grenada, Trinidad and Tobago, Guyana and Saint Lucia, women are not protected against dismissal during pregnancy and maternity. Moreover, Bolivia, Paraguay and most of the countries of the Caribbean do not guarantee equivalent income to habitual wages during maternity leave. Furthermore, in some countries, such as Antigua and Barbuda, Belize, Costa Rica, Ecuador, Grenada, Guyana, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname and Uruguay, women's right to an equivalent position when returning to work after birth is not guaranteed and, in Suriname, there is no

¹³⁷ [The Civil Code of Saint Lucia](#), Civil Code of Saint Lucia. Book V, Matrimony. Article 144.

¹³⁸ [Código Civil de la República de Chile](#), [Civil Code of the Republic of Chile](#), Title VI, Obligaciones y Derechos entre los Cónyuges, [Obligations and Rights between spouses]. Art. 135.

¹³⁹ UN Women and SEGIB. "[Análisis de la legislación discriminatoria en América Latina y el Caribe en materia de autonomía y empoderamiento económico de las Mujeres](#)". "Analysis of Discriminatory Legislation on Women's Economic Autonomy and Empowerment in Latin America and the Caribbean." Series Discriminatory Legislation, Binder No. 1, December 2018, pgs. 26 and 29. Also see response submitted by Lawyers Without Borders with respect to the State of Haiti in the context of the preparatory consultation of the instant report. IACHR archive.

¹⁴⁰ Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion. [Joint Submission to the Human Rights Council at the 29th Session of the Universal Period Review: The Bahamas](#), 2017, p. 6.

¹⁴¹ UN Women and SEGIB. "[Análisis de la legislación discriminatoria en América Latina y el Caribe en materia de autonomía y empoderamiento económico de las Mujeres](#)". Analysis of Discriminatory Legislation on Women's Economic Autonomy and Empowerment in Latin America and the Caribbean. Series Discriminatory Legislation, Binder No. 1, 2018, p. 40.

maternity leave.¹⁴² In addition, the Commission notes that in many countries there is no parental leave for men and where there is, it is very short-lasting and essentially aimed at ensuring the presence of the father immediately following birth, which undermines shared responsibilities in caring for newborns.¹⁴³

101. Lastly, the Commission also notes that in a few countries of the region, marital rape is not criminalized,¹⁴⁴ specifically, in Saint Kitts and Nevis¹⁴⁵ and Haiti,¹⁴⁶ or it is only considered an aggravating factor of sexual violence under the law, as is the case of Peru. In different countries, such as Antigua and Barbuda, Bahamas, Barbados, Jamaica and Saint Lucia, violence in certain circumstances is only criminalized to a limited extent.¹⁴⁷ Most of these countries only prosecute the assailant when the partner is separated, in the process of divorce, or when there is a restraining order in effect;¹⁴⁸ and in Jamaica only when the act takes place following legal separation or during judicial proceedings to dissolve the marriage, when the spouse is under a judicial order to not live with or disturb his wife, such as in Barbados, or when the person knows that he has a sexually transmitted disease.¹⁴⁹
102. The Commission notes that if rape is penalized generically and laws restrict the circumstances in which it can be prosecuted, marriage would imply sexual consent between the spouses at all times. These views are predicated on the notion that the aim of the spousal contract is procreation and, therefore, engaging in sexual relations is an inherent duty to the nature of marriage, with or without consent. This duty would especially apply to women because of their gender-based role associated with their reproductive capacity. In this regard, the Commission reiterates that any sexual relation without consent is a form of sexual violence and a form of violence against women. Consequently, the IACHR underscores the

¹⁴² UN Women and SEIGB. “Análisis de la legislación discriminatoria en América Latina y el Caribe en materia de autonomía y empoderamiento económico de las Mujeres”. Analysis of Discriminatory Legislation on Women’s Economic Autonomy and Empowerment in Latin America and the Caribbean. Series Discriminatory Legislation, Binder No. 1, 2018, p. 54.

¹⁴³ El País. Argentina, a la cola de América Latina en licencias de paternidad. [‘Argentina, to back of the line of Latin America in paternity leave’]. April 9, 2018; MenCare, IPPF, WHR, PROMUNDO, EME, MenEngage America Latina. Estado de la Paternidad en América Latina y el Caribe. [State of Paternity Leave in Latin American and the Caribbean.] June 2017, pg. 44; Clarín. Actualizar el régimen de licencias por maternidad y paternidad, una llave hacia la igualdad de género. [‘Updating rules for maternity and paternity leave, a key to gender equality’]. July 20, 2018; UN Women. Uso de Licencias Parentales y Roles de Género en el Cuidado. [‘Use of parental leave and gender roles in care’] 2018.

¹⁴⁴ UN Women. GBV Developments in The Law. Undated.

¹⁴⁵ The Borgen Project. A Look at human rights in St. Kitts and Nevis. October 8, 2017.

¹⁴⁶ OAS. Segundo Informe de Seguimiento a la implementación de las Recomendaciones del comité de Expertas del MESECVI. April 2015. Paragraph 70/ Table 5.

¹⁴⁷ The Nassau Guardian, United Nations call for marital rape laws. December 16, 2017.

¹⁴⁸ See cases of: Bahamas, Antigua and Barbuda, and Saint Lucia. Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to the Bahamas. A/HRC/38/47/Add.2, para.39; UN Women. El progreso de las mujeres en el mundo. En busca de la justicia. Progress of the World’s Women: In pursuit of Justice. 2011-2012.

¹⁴⁹ Government of Jamaica. Jamaican Sexual Offences Act, Section 5.

recommendation of the CEDAW Committee for States to review relevant provisions of law to ensure that the definition of sexual offenses, in particular, marital rape and rape by an acquaintance or date rape, is based on the lack of free consent and takes into account coercive circumstances.¹⁵⁰

103. The above-mentioned provisions of law are the result of the built-in structural discrimination women and girls face in the region and the fact that they remain on the books perpetuates the stereotyped roles of women related to maternity, caregiving tasks, domestic chores, as well as their role as partners or wives” or as “less capable” because of their gender or because of their reproductive capacity. In this regard, the Commission notes that the eradication of all forms of discrimination against women and girls, both in law and in practice, is an essential requirement to achieve equality between men and women and, therefore, reiterates its recommendations on the subject matter¹⁵¹.
- *Lack of coordination between national and local authorities in complying with international obligations*
104. The Commission observes that, for a number of the States of the region, harmonizing and coordinating measures to meet their international obligations between national and state or local authorities continues to pose a challenge. According to information received by the IACHR, differences in how the structures of authority are set up and in the internal distribution of competencies at the local level make it difficult in different scenarios to adequately implement laws and general policies designed to ensure the exercise and enjoyment of human rights.¹⁵²
105. The IACHR affirms that a diversity of legislation or practices within one State does not necessarily imply there is discrimination, as it must be recognized that, even in federal systems, circumstances may arise in which human rights are more or better protected at the local level than at the federal level.¹⁵³ Notwithstanding, the IACHR notes that it is common for local authorities to lack the political, administrative, technical, financial and/or human capacities for the design and implementation of public policies, institutions and adequate and strategic mechanisms to prevent and eradicate gender-based discrimination and violence.
106. On this score, the Commission is concerned that this lack of capacity quite often is a result of a lack of political will on the part of local authorities, in some instances,

¹⁵⁰ CEDAW. [Recomendación general num. 35 sobre la violencia por razón de género contra la mujer, por la que se actualiza la recomendación general num. 19](#). General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. Para. 29 (e).

¹⁵¹ Infra Annex 1. Standards and Recommendations regarding Violence and Discrimination against Women and Girls.

¹⁵² For example: Response of the Office the Ombudsman of the Nation on Argentina for this report. IACHR archive.

¹⁵³ Dulitzky, Ariel. “Federalismo y Derechos Humanos, el caso de la Convención Americana sobre Derechos Humanos y la República de Argentina”. [‘Federalism and Human Rights, the Case of the American Convention on Human Rights and the Republic of Argentina’]. *Anuario Mexicano de Derecho Internacional*, Volumen 1 No. 6. January 2006.

because of their resistance to advancements in the content of standards protecting and defending women’s human rights. For example, the Gender and Law Observatory of the Universidad Autónoma Latinoamericana expressed concern over how little coordination there is between regional governments in Colombia¹⁵⁴ and, for its part, the Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM) labels as unfinished business in Argentina the task of “reinforcing the structure and work dynamic between the National State and the provinces vis-à-vis the inescapable responsibility of providing sufficient resources to make sure that human rights in all jurisdictions are respected and are realized.”¹⁵⁵ An observation was made by the Human Rights Commission of the Federal District with regard to Mexico along those same lines, in remarking that there are still “different levels of authority and competencies within the federal structure of the Mexican State, with differentiated application of the law, for example, with respect to the principle of non-discrimination and equality between women and men.”¹⁵⁶

107. The Inter-American system has clearly and categorically upheld that the provisions of international law concerning human rights protection in the States of the Americas must be respected independently of their federal or centralized structure.¹⁵⁷ Specifically, the system has established that the obligations of the State to respect and guarantee rights must reach into all spheres of action of the State, horizontally and vertically, at both the federal and state or local level, as well as in the private sphere.¹⁵⁸ The IACHR notes that a solid, consensus-based and effective institutional and legal framework must be designed and formally put into place, between the national government and the provincial governments, to enable the implementation of mechanisms and public policies, particularly in light of the host of institutions from different spheres with competence in matters of gender, in an effort to provide a strategic response and prevent acts of gender-based discrimination and violence, while addressing the structural causes and consequences thereof.

2. Obstacles to Eradicating Stereotypes and Sociocultural Patterns of Discrimination

108. Binding instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “CEDAW Convention”) and the

¹⁵⁴ Response of the Gender and Law Observatory of the Universidad Autónoma Latinoamericana on Colombia for this report. IACHR archive.

¹⁵⁵ Response of CLADEM on Argentina for this report. IACHR archive.

¹⁵⁶ Response of the Human Rights Commission of the Federal District on Mexico for this report. IACHR archive.

¹⁵⁷ IA Court of HR. [El derecho a la información sobre la asistencia consular en el marco de las garantías del debido proceso legal. Opinión Consultiva OC-16/99](#) The right to information on consular assistance in the framework of the guarantees of the due process of law. Advisory Opinion OC-16/99 of October 1, 1999. Series A No. 16, para. 140.

¹⁵⁸ IA Court of HR. *Case of Women Victims of Sexual Torture in Atenco v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 28, 2018. Series C No. 371, para. 215.

Convention of Belém do Pará, as well as the IACHR and the IA Court of HR, have recognized that the prevalence of discrimination, stereotypes, social and cultural practices is “one of the causes and consequences of gender-based violence against women.”¹⁵⁹ In this section, based on the information it has received, the IACHR examines current challenges throughout the region, which pose difficulties and hamper the elimination of stereotypes and sociocultural patterns of discrimination affecting women and girls.

- *The media and its role in disseminating discourse and messages that perpetuate gender-based stereotypes and discriminatory sociocultural patterns*
109. The media play a major role in shaping the perceptions of society, on both the news and entertainment sides and, consequently, the Commission has underscored the media’s potential for transforming social perceptions, while warning, for example, of the stereotyped media treatment generally accorded girls and women.¹⁶⁰ Thus, although the IACHR has affirmed the positive role that the different media and journalists can play in promoting the principle of equality and in the fight against discrimination and stereotyping by addressing issues of concern to groups that have historically endured discrimination,¹⁶¹ the Commission has continued to receive complaints about increased discourse inciting to violence on discriminatory grounds in public spaces and on the social media networks, especially, against women, LGBTI persons, Afro-descendants, as well as defenders of land, housing and the environmental rights.¹⁶²
110. The Commission notes that, at times, even without specific intent to encourage this type of conduct, the media spark and funnel messages fraught with discriminatory language and images, that perpetuate harmful gender-based stereotypes, foster inequality¹⁶³ and contribute to the endemic context of violence and discrimination against women.¹⁶⁴ On this score, the IACHR has specifically called attention to sexist

¹⁵⁹ IACHR. [Violence and Discrimination against Women in the Armed Conflict in Colombia](#). OEA/Ser.L/V/II. Doc. 67. 2006, para. 43; IACHR. Report on [Poverty and Human Rights in the Americas](#). OEA/Ser.L/V/II.164. Doc. 147. 2017, para. 187; IA Court of HR. [Case of González et al \(“Cotton Field”\) v. Mexico](#). Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205, para. 401.

¹⁶⁰ IACHR. [Toward Effective Fulfillment of Boys’ and Girls’ Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206/17. 2017, para. 523. IACHR. [Violence, Children and Organized Crime](#). OEA/Ser.L/V/II., Doc. 40/15. 2015, paras. 568 to 575.

¹⁶¹ IACHR. [Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas](#). OAS/Ser.L/V/II.rev.2 Doc. 36. 2015, para. 259; IACHR. Chapter IV: [Hate Speech and Incitement to Violence against Lesbian, Gay, Trans and Intersex Persons in the Americas](#). Special Rapporteurship for Freedom of Expression. 2015.

¹⁶² IACHR. Press Release No. 238/18: [Preliminary Observations of IACHR’s In Loco Visit to Brazil](#). November 10, 2018.

¹⁶³ MESECVI. [Guía para la aplicación de la Convención Interamericana para prevenir, sancionar y erradicar la violencia contra la mujer. Guide to the Application of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women](#). OEA/Ser.L/II.6.14. 2014, para. 29.

¹⁶⁴ IACHR. Press Release No. 044/18: [On International Women’s Day, the IACHR Urges States to Refrain from Adopting Measure that Would Set Back Respect for and Protection of Women’s Rights](#). March 8, 2018.

coverage in the media of politically engaged women,¹⁶⁵ over-representation of women journalists who report news on issues traditionally related to “female interests,” and their under representation in the coverage of top news stories, such as those related to politics, government or economics.¹⁶⁶

111. In light of the foregoing, the Commission holds that transmitting, broadcasting and reproducing this type of message, without penalizing discrimination on the grounds of gender, enables misogynist and discriminatory discourse. In this regard, the Commission recalls that Principle 6 of the Declaration of Principles of Freedom of Expression, adopted in 2000, establishes that journalistic activities should be guided by ethical conduct, and stresses the obligation of States established in the Convention of Belém do Pará to progressively adopt, specific measures to encourage the media to draft adequate guidelines, that contribute to eradicating violence against women in all its forms and to uphold respect for the dignity of women.¹⁶⁷
112. Because this discourse has an even greater impact when it is issued by public officials, the Commission reaffirms that, under the State’s obligations to respect, ensure and promote human rights, public officials are bound by the duty to ensure that when they exercise their right to freedom of expression, they are not causing the rights of others to be ignored.¹⁶⁸ As was established by the Inter-American Court, public officials play a role of guarantors of the fundamental rights of the individual and, therefore, their statements cannot be disregarded.¹⁶⁹ On this score, the IACHR has repeatedly averred that public officials should adopt public discourse that contributes to the prevention of violence based on discriminatory grounds, which requires them to compellingly contribute to building a climate of tolerance and respect, and to refrain from making statements that place different groups at greater risk of being subjected to acts of violence.¹⁷⁰ Even though official discourse may not have been authorized, directed or directly incited to violence, it can often place the potential victims of violence in harm’s way vis-à-vis the State and certain sectors of society.¹⁷¹

¹⁶⁵ IACHR. Press Release No. 250/18: International Day on the Elimination of Violence against Women. November 25, 2018.

¹⁶⁶ IACHR. Women Journalists and Freedom of Expression: Discrimination and Gender-based Violence faced by Women Journalists in the exercise of their profession. OEA/SER.L/V/II CIDH/RELE/INF.20/18. 2018, para. 19.

¹⁶⁷ OAS. La Convención Interamericana para Prevenir, Sancionar y Erradicar la Violencia contra la Mujer, conocida como Convención de Belém do Pará. Art. Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, known as the Convention of Belém do Pará. Article 4(b). 1994.

¹⁶⁸ IACHR. Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas. OAS/Ser.L/V/II.rev.2 Doc. 36. 2015, para. 242.

¹⁶⁹ IACHR. The Inter-American Legal Framework regarding the Right to Freedom of Expression. OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. 2009, para. 203.

¹⁷⁰ IACHR. Press Release No. 2380/18: Preliminary Observations of IACHR’s *In Loco* Visit to Brazil. November 10, 2018.

¹⁷¹ IA Court of HR. *Case of Rios et al v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 194, para. 138; IA Court of HR. *Case of Perozo et al v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 195, para.

- *Trends at odds with women's rights and the impact on progress and protection of their human rights*
113. The IACHR has expressed concern over current trends running counter to women's rights, which have exerted pressure on the States of the region in different scenarios to halt and even reverse the progress achieved in the struggle for gender equality.¹⁷² The Commission notes in particular that groups associated with these trends use stereotyped references to reaffirm discriminatory social practices and patterns of behavior,¹⁷³ insistently holding onto a binary gender vision, the traditional roles assigned to men and women, and the structural domination of men over women, thus perpetrating discrimination and violence against them.
 114. In this same vein, the IACHR has noticed a trend against introducing a gender-based perspective into laws, programs and public policies in several countries of the region. Given that the gender-based perspective is an approach that raises awareness of the position of inequality and structural subordination of women and girls to men based on their gender, and that it is a key tool to combat discrimination and violence against them,¹⁷⁴ preventing the introduction thereof into the legal framework and operational programs poses an obstacle to ending discriminatory gender-based stereotypes, that contribute to perpetuating violence against women.
 115. On this score, the Commission has obtained information related to bills or initiatives in the legislative, judicial and executive spheres, at odds with women's rights and gender equality in several countries of the region, such as Argentina, Bahamas, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Paraguay, Peru, Dominican Republic, Suriname and Trinidad and Tobago.¹⁷⁵ For example, in the case of Guatemala,¹⁷⁶ the legislative bill known as the law for the "Protection of Life and Family," makes reference to the "natural order" of marriage and the family and has sought to introduce provisions and amendments to "protect the right to life, family, the institution of marriage between one man and one woman, freedom of conscience and expression and the right of parents to orient their

157; IACHR. [Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en América](#). OAS/Ser.L/V/II.rev.2 Doc. 36. 2015, para. 242.

¹⁷² OHCHR. [Independent women human rights mechanisms are part of the solution to "push back the pushbacks and keep pushing back": Statement by the Special Rapporteur on Violence against Women, its Causes and Consequences](#). March 20, 2019; MESECVI. [Inter-American Guidelines on Gender Equality for the Good of Humanity](#). November 2017.

¹⁷³ General Assembly. Secretary General's Report: [Estudio a fondo sobre todas las formas de violencia contra la mujer](#). In-depth Study on all Forms of Violence against Women. July 6, 2006. A/61/122/Add.1, para. 58.

¹⁷⁴ IACHR. Press Release No.208/17: [IACHR Regrets Ban on Gender Education in Paraguay](#). December 15, 2017; IACHR. Press Release No.243/18: [IACHR Completes Working Visit to Peru](#). November 16, 2018.

¹⁷⁵ MESECVI. [Inter-American Guidelines on Gender Equality for the Good of Humanity](#). Map of initiatives and actions to set back human rights in Latin America and the Caribbean. November 2017.

¹⁷⁶ Response of Office of the Ombudsman for Human Rights of Guatemala on Guatemalan for this report. Citing HRW. [Guatemala debe rechazar la 'Ley para la Protección de la Vida y la Familia'](#). 31 de agosto de 2108; CEJIL. [Guatemala: Organizaciones de DDHH rechazamos la iniciativa de ley 5272](#). "Guatemala must reject the 'Law to Protect Life and Family' August 31, 2018; CEJIL Guatemala. Human Rights organizations reject draft legislative initiative 5272. August 30, 2018.

children in the sphere of sexuality.”¹⁷⁷ The Commission notes that legislative bills, such as these, are based on stereotyped and discriminatory notions of women and of the social role that has been assigned to them on the grounds of their gender¹⁷⁸ and amounts to a narrow and stereotyped reading of the notion of family, disregarding international standards on the subject matter and arbitrarily excluding diverse families, such as those made up of a single person, as well as same sex couples, all of whom are deserving of equal protection under the American Convention.¹⁷⁹

116. The Commission has also noted with concern setbacks in the areas of education with a gender-based perspective, equal education and sexual education.¹⁸⁰ In this regard, the IACHR has upheld the fundamental role that education plays in eradication of discriminatory gender-based stereotypes and in moving toward equality between men and women. Education programs with a gender and sexual diversity perspective are essential for eradicating negative stereotypes, to combat the gender-based discrimination, that women and girls continue to face and to protect the rights of all people.¹⁸¹
117. Based on the foregoing, the Commission reminds the States of the region of their obligation to adopt specific measures to counter prejudices, customs and any other type of practices, that are premised upon the notion that women are inferior. The Commission also notes that as part of fulfillment of their obligations, States must

¹⁷⁷ BBC. [Guatemala: en qué consiste la controvertida Ley para la Protección de la Vida y la Familia que se está debatiendo en el Congreso](#). [‘Guatemala: what the controversial Law to Protect Life and Family, being debated in Congress, is about]. September 5, 2018.

¹⁷⁸ As for the traditional family role assignment, the Commission recalls that stereotypes on parental role assignment is not based only on a preconceived notion about the role of the woman as mother, according to which it is socially expected that women bear the main responsibility for their children’s upbringing, but also on a male chauvinist or *machista* stereotype about the role of the father, which attaches no value to affection and care that he can offer. IA Court of HR. [Caso Atala Riffo y Niñas Vs. Chile](#). Case of Atala Riffo and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012. Series C No. 239, para. 140; IA Court of HR. [Caso Ramírez Escobar y otros Vs. Guatemala](#). Case of Ramirez Escobar et al v. Guatemala. Merits, Reparations and Costs. Judgment of March 9, 2018. Series C No. 351, paras. 298 and 299.

¹⁷⁹ IACHR, [Towards Effective Fulfillment of Boys’ and Girls’ Rights: National Protection Systems](#). OEA/Ser.L/V/II. Doc.206/17. 2017, para. 408. IA Court of HR. [Caso Atala Riffo y Niñas Vs. Chile. Fondo](#). Case of Atala Riffo and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012. Series C No. 239, para. 142; IA Court of HR. [Identidad de género, e igualdad y no discriminación a parejas del mismo sexo. Opinión Consultiva OC-24/17](#). Gender Identity and Equality and non-Discrimination for Same Sex Couples. Advisory Opinion OC-24/17. November 24, 2017. Series A No. 24, para. 174. Human Rights Council. [Informe del Grupo de Trabajo sobre la cuestión de la discriminación contra la mujer en la legislación y en la práctica. Report of the Working Group on the Issue of Discrimination against Women in Legislation and Practice](#). 2015. A/HRC/29/40, para. 23.

¹⁸⁰ IACHR. Press Release No.208/17. [IACHR Regrets Ban on Gender Education in Paraguay](#). December 15, 2017; IACHR. Press Release No.243/18. [IACHR Completes Working Visit to Peru](#). November 16, 2018; IACHR. Press Release No.238/18. [Observaciones preliminares de la visita in loco de la CIDH a Brasil](#). Preliminary Observations of IACHR’s *In Loco* Visit to Brazil. November 10, 2018.

¹⁸¹ IACHR. Press Release No.208/17. [IACHR Regrets Ban on Gender Education in Paraguay](#). December 15, 2017; IACHR. Press Release No.243/18.

establish a national legal framework that recognizes gender equality in cultural and family life, applying to all spheres of life and preempting any law, regulation, code or rule based on religious, customary or indigenous law, without exception, and without repeal or circumvention.¹⁸² Accordingly, the IACHR has urged the States of the region to prevent the influence of trends seeking to restrict the rights of women, such as the worrying use of the terms “gender ideology” as a pejorative reference to gender perspective, and to refrain from adopting any measures that may have a negative or regressive impact on the respect and guarantee of the fundamental rights of women and girls.¹⁸³

- *Violence and discrimination against women who defy stereotypes associated with their gender: politically engaged women, women journalists and human rights defenders*
118. A growing number of women are participating in building and strengthening representative, transparent and accountable governments in the region. Along with politically engaged women, more and more women are becoming journalists and human rights defenders devoted to the exercise, promotion and protection of human rights and the right to freedom of opinion and expression.¹⁸⁴ Nonetheless, the Commission continues to notice that one of the pending challenges for States is to address the impact that discriminatory gender-based stereotyping has on these women’s professional practice, as well as on the protection of their rights. By defying male chauvinist stereotypes, that are disapproving of their participation in public life, they become victims of gender-based violence and discrimination and gender-differentiated forms of violence,¹⁸⁵ while continuing to be more vulnerable and facing more obstacles in accessing justice than their fellow male human rights defenders.¹⁸⁶
119. **As for politically engaged women**, on several opportunities the IACHR has hailed achievements in the advancement of women’s political involvement in the region.¹⁸⁷

¹⁸² Human Rights Council. [Informe del Grupo de Trabajo sobre la cuestión de la discriminación contra la mujer en la legislación y en la práctica. Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice.](#) April 2, 2015. A/HRC/29/40.

¹⁸³ IACHR. Press Release No.061/19. [On International Women’s Day, the IACHR Calls on States to Promote and Strengthen the Political Participation and Representation of Women in the Americas.](#) March 8, 2019.

¹⁸⁴ Human Rights Council. [Resolución 23/2. Contribución de la libertad de opinión y de expresión al empoderamiento de la mujer. The Role of Freedom of Opinion and Expression in Women’s Empowerment.](#) A/HRC/RES/23/2. June 23, 2013.

¹⁸⁵ IACHR. Press Release No.192/17. [IACHR Calls on States to Recognize and Protect the Work of Women Human Rights Defenders.](#) November 29, 2017. IACHR. [Second Report on the Situation of Human Rights Defenders in the Americas.](#) OEA/Ser.L/V/II., Doc. 66, 2011, para. 283; IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#) OEA/Ser.L/V/II. Doc. 207/17, 2017, para. 43; IACHR. [Criminalización de la labor de las defensoras y los defensores de derechos humanos.](#) Criminalization of the Work of Human Rights Defenders. OEA/Ser.L/V/II. Doc. 49/15. 2015, p. 37.

¹⁸⁶ RFOE. [Report on Women Journalists and Freedom of Expression.](#) OEA/Ser.L/V/II. CIDH/RELE/INF.20/18. 2018, para. 3.

¹⁸⁷ IACHR. Press Release No.061/19. [On International Women’s Day, the IACHR Calls on States to Promote and Strengthen the Political Participation and Representation of Women in the Americas.](#) March 8, 2019; IACHR. Press Release No. 180/18. [IACHR Salutes Gender Parity in the Cabinet of Ministers of Colombia.](#) August 13,

For example, the Commission has positively observed that, in 2018, Barbados first elected a woman to the post of Prime Minister and that, in Costa Rica, the first Afro-descendant woman was elected to hold such a position in Latin America. In the elections held in Colombia in 2018, four of the five candidacies for the Presidency of the Republic had a female candidate as a running mate, while the Government resulting from said election appointed a gender parity ministerial cabinet. In 2018 there was a historical level of participation of women in the electoral cycle held in Mexico, including the election for the first time of a Congress that approaches a composition with gender parity. The Commission also notes positively the progressive increase in the representation of women in the judicial sector and, in particular, the nomination of women Presidents to the highest courts in some countries of the Caribbean region¹⁸⁸.

120. However, the IACHR has also observed that there is still a considerable gap between the formal recognition of women's political rights and the degree of political participation¹⁸⁹. In particular, the IACHR has warned that the exercise of women's political rights is notoriously affected by the prevalence of discriminatory gender stereotypes that frame them in the domestic sphere, ignore their fundamental role in the public space¹⁹⁰ and result in acts of violence against them. According to the information obtained by the Commission, women with political commitments face numerous forms of violence that restrict and inhibit their effective participation in spaces of power, including acts such as the burning of women's election campaign materials; harassment and pressures for them to resign the positions; stereotyped and discriminatory trials against women in the media and social networks; violent messages and threats against them and their families; threats death and/or of sexual violence and even murders.¹⁹¹

2018; IACHR. Informe Anual Capítulo IV A sobre Panorama de la situación de derechos humanos. Annual Report Chapter IV Overview of the Human Rights Situation. OEA/Ser.L/V/II. Doc.30. March 17, 2019, para. 265.

¹⁸⁸ IACHR. Press Release No. 180/18. IACHR Salutes Gender Parity in the Cabinet of Ministers of Colombia. August 13, 2018; CIDH. Comunicado de Prensa No.061/19. On International Women's Day, the IACHR Calls on States to Promote and Strengthen the Political Participation and Representation of Women in the Americas. 8 de marzo de 2019.

¹⁸⁹ CIDH. The Road To Substantive Democracy: Women'S Political Participation In The Americas. OEA/Ser.L/V/II. Doc. 79. 18 de abril de 2019.

¹⁹⁰ Entendiendo como "espacio o vida pública y política" el concepto desarrollado por la Recomendación número 23 del Comité CEDAW, según la cual, la vida política y pública es un concepto amplio que se refiere al ejercicio del poder político, en particular, al ejercicio de los poderes legislativo, judicial, ejecutivo y administrativo. El término abarca todos los aspectos de la administración pública y la formulación y ejecución de la política en los niveles internacional, nacional, regional y local; y abarca también muchos aspectos de la sociedad civil y de las actividades de organizaciones, como son los partidos políticos, los sindicatos, las asociaciones profesionales o industriales, las organizaciones femeninas, las organizaciones comunitarias y otras organizaciones que se ocupan de la vida pública y política. Ver: MESECVI. Ley Modelo Interamericana para prevenir, sancionar y erradicar la violencia contra las Mujeres en la vida política. OEA/Ser.L/II.6.17. 2017, p.11; CIDH. Comunicado de prensa No.061/19. En el Día Internacional de la Mujer, la CIDH llama a los Estados a fomentar y fortalecer la participación y representación política de las mujeres en las Américas. 8 de marzo de 2019.

¹⁹¹ MESECVI. Ley Modelo Interamericana para prevenir, sancionar y erradicar la violencia contra las Mujeres en la vida política. OEA/Ser.L/II.6.17. 2017, p.13; ONU Mujeres. Violencia Política por razón de género. 2010.

121. In this regard, the Commission has noted with concern the prevalence of violence against women with political commitments in several countries of the region. In Mexico, in 2015, Aidé Nava González, a candidate for mayor of Ahuacuotzingo (Guerrero), was kidnapped and brutally murdered. In turn, the Office of the Special Prosecutor for the Attention of Electoral Crimes (FEPADE, acronym in Spanish) registered more than 200 cases of political violence against women between January 2016 and November 2019, while, in the 2018 electoral process, 62 candidates reported having suffered various forms of violence and online harassment, and 17 candidates were killed¹⁹². In Colombia, the Commission has observed that women with political commitments face various forms of violence, from macho comments, disqualification of their management based on their personal appearance and questions about their intellectual capacity, to aggressions, threats, kidnappings and even murders. According to public information, between 2012 and 2015, 63% of women politicians reported having suffered some type of violence, which led some of them to resign their positions or leave politics permanently. Similarly, in the electoral process of the year 2019, various incidents of violence against women were reported, including the murder of Karina García¹⁹³. In Bolivia, the Commission observes that the murder of the indigenous councilwoman Juana Quispe continues in impunity since 2012. Furthermore, and despite the efforts directed by the State to deal with political violence¹⁹⁴, in the first months of 2018, 65 cases of harassment and violence against women were reported, facts that include insults, public humiliation and beatings as forms of pressure to abandon their positions or their candidacies¹⁹⁵.
122. Moreover, the creation and use of gender stereotypes, premised on the inferiority of women, is one of the causes and consequences of violence against women in political life. Thus, “a considerable minority of the population in the Americas continues to think that women do not have the same capacity as men to manage public affairs.”¹⁹⁶ In this same vein, when you examine the differences between violence against men

¹⁹² ILSB. [¡Basta de violencia política hacia las mujeres!](#). 2015. Animal Político. [62 candidatas fueron víctimas de violencia política por internet en la pasada elección](#). 24 de octubre de 2018. Animal Político. [Violencia política de género](#). 12 de marzo de 2019. Aristegui Noticias. [17 candidatas asesinadas en el actual proceso electoral; urgen poner fin a violencia de género](#). 4 de junio de 2018.

¹⁹³ El Espectador. [El 63 % de las mujeres que hacen política en Colombia son víctimas de violencia de género](#). 13 de marzo de 2017. Revista Semana. [Día de la Mujer: la violencia silenciosa contra las que hacen política](#). 3 de agosto de 2017. El Comercio. [Violencia electoral regresa a Colombia con brutal asesinato de candidata](#). 13 de marzo de 2017. MAPP OEA. [MAPP/OEA repudia asesinato de candidata a Alcaldía de Suarez y violencia política contra mujeres en Colombia](#). 3 de septiembre de 2019. El Espectador. [La violencia política también tiene rostro de mujer](#). 4 de Septiembre de 2019.

¹⁹⁴ [Supra](#), Chapter II.

¹⁹⁵ Página Siete. [Juana Quispe, seis años de un asesinato político impune](#). 16 de abril de 2018. EFE. [Concejales bolivianas rompen el silencio ante un incontenible acoso político](#). 27 de mayo de 2019. Naciones Unidas Bolivia. [ONU Mujeres condena los hechos de acoso y violencia política que se generan en el país](#). 12 de abril de 2018. France24. [La violencia contra mujeres políticas adquiere niveles de terror en Bolivia](#). 7 de junio de 2018. AP News. [Violencia política obstaculiza gestión de mujeres en Bolivia](#). 25 de agosto de 2019.

¹⁹⁶ MESECVI. [Ley Modelo Interamericana para prevenir, sancionar y erradicar la violencia contra las Mujeres en la vida política. Inter-American Model Law on the prevention, punishment and eradication of violence against women in political life](#). OEA/Ser.L/II.6.17. 2017, p. 15.

and women in the political sphere, civil society organizations have identified that “the latter [violence against women] has a double aim: to punish women for attempting to occupy men’s place and restrict their participation and, therefore, their ability to make decisions that affect society in general.^{197”}

123. **With regard to women journalists**, the Commission and its Special Rapporteur for Freedom of Expression have asserted that, although women journalists face the same risks as their male peers, they also face specific gender-based dangers due to the mere fact of being women.¹⁹⁸ Thus, while it is reported that an increasing number of women have begun to practice journalism in the past years, social norms and gender-based stereotypes still pose a huge challenge for women who embark on and engage in a career in journalism on an equal footing with men and in many contexts, there is still a perception that journalism is not an ‘appropriate’ profession for women, which puts heavy social pressure on them to either not enter the profession or to leave it.¹⁹⁹ In the region, women journalists and media workers claim that not only does gender trigger specific forms of violence, such as verbal and psychological abuse, physical, sexual and on-line violence and even murders,²⁰⁰ but they claim that the acts of violence habitually perpetrated against them have a differentiated impact on their lives and their families, reporting acts of violence aimed at intimidating and silencing them, that are perpetrated on their family including their children.²⁰¹
124. Regarding the situation of women journalists, the Commission has warned that between 2012 and 2016, 7% of the total number of journalists killed for their work in the world were women. In Mexico, the IACHR has documented five homicides of women related to their work in the media since 2012, including the cases of reporter Regina Martínez (Veracruz); of Irasema Becerra (Veracruz), administrative of a newspaper; of María del Rosario Fuentes Rubio, @Miut3 on Twitter; of Miroslava Breach (Chihuahua); and Leslie Ann Pamela Montenegro of Real (Acapulco)²⁰². In addition, and in relation to Colombia, the Commission has decided over the case of journalist Yineth Bedoya Lima, that relates to a series of human rights violations

¹⁹⁷ Amnesty International. Latinoamérica: leyes contra la violencia política hacia la mujer, el próximo paso a la paridad. [‘Latin America: Laws countering political violence against women, the next step to parity’]. 2018.

¹⁹⁸ IACHR’s Office of the Special Rapporteur on Freedom of Expression (RFOE). Report on Women Journalists and Freedom of Expression. OEA/Ser.L/V/II. CIDH/RELE/INF.20/18. 2018, para. 12.

¹⁹⁹ IACHR’s Office of the Special Rapporteur on Freedom of Expression (RFOE). Report on Women Journalists and Freedom of Expression. OEA/Ser.L/V/II. CIDH/RELE/INF.20/18. 2018, para. 16.

²⁰⁰ IACHR’s Office of the Special Rapporteur on Freedom of Expression (RFOE). Report on Women Journalists and Freedom of Expression. OEA/Ser.L/V/II. CIDH/RELE/INF.20/18. 2018, para. 31.

²⁰¹ Meeting of experts to draft this report, February 20, 2018, Bogota. IACHR Archive. Marcela Turati. “Mujeres Periodistas, nuestros retos” [‘Women journalists, our challenges’], in *El poder de cacicazgo. Violencia contra mujeres periodistas 2014-2015* [‘The power of local bosses. Violence against women journalists’]. CIMAC 2016; FECOLPER. *Sociedad, guerra y periodistas: La información en tiempos de fusiles* [‘Society, war and journalists: Informing in times of guns.’]. October 2017, pg. 157.

²⁰² CIDH. Comunicado de prensa conjunto R38/17: Organismos internacionales expresan su firme condena por el asesinato de la periodista Miroslava Breach en Chihuahua, Chihuahua. 23 de marzo de 2017. Animal Político. Desde ciberacoso, hasta feminicidios: CIDH alerta aumento de violencia contra mujeres periodistas. 9 Marzo de 2019

arising from kidnapping, torture and sexual rape for reasons related to her profession. In concluding that the State is responsible for the violation of the rights to life, personal integrity, personal freedom, private life, freedom of expression, equality before the law, judicial guarantees and judicial protection, to the detriment of Jineth Bedoya, as well as for the violation of the right to personal integrity to the detriment of her mother, Luz Nelly Lima, the Commission submitted the case to the Inter-American Court. This case would constitute the first opportunity for the Court to rule on the State's duty of prevention in cases related to the exercise of the freedom of expression of women journalists, and the positive obligations of protection with a gender approach that States are obliged to adopt to ensure their safety²⁰³.

125. Regarding the above, the Special Rapporteurship for Freedom of Expression of the IACHR has recognized the efforts made by some countries in the region to establish protection programs and mechanisms. However, it is also evident in some countries the absence of specific protection mechanisms or the deficiencies associated with the effective design and implementation of existing mechanisms. Frequently, protection plans neglect the particularities of the beneficiaries family situation, such as having children of school age, as well as housework, school supervision and unpaid care that falls disproportionately on women, that deepens the impact of violence. In addition, in those cases where acts of violence affecting women journalists are reported, impunity remains the norm rather than the exception²⁰⁴.
126. **As concerns women human rights defenders**, the Commission has continued to receive troubling information about discrimination and violence that women defenders continue to face in a number of countries of the region,²⁰⁵ such as

²⁰³ IACHR. Press Release R177/19: [CIDH presents case on Colombia before the Court](#), 19 July, 2019. CIDH. Informe No. 150/18: [Caso 12.954 Jineth Bedoya y otra Vs. Colombia](#). OEA/Ser.L/V/II. Doc.172. 7 diciembre 2018. El Espectador. [Caso Jineth Bedoya: Estado colombiano va al banquillo de los acusados en Corte IDH](#), 17 de julio de 2019.

²⁰⁴ IACHR. Press Release R60/19: [On The Occasion Of 2019 International Women's Day, The Office Of The Special Rapporteur For Freedom Of Expression Presents The Report "Women Journalists And Freedom Of Expression: Discrimination And Gender-Based Violence Faced By Women Journalist In The E8](#) de marzo de 2019.

²⁰⁵ IACHR. Press Release No.192/17. [IACHR Calls on States to Recognize and Protect the Work of Women Human Rights Defenders](#). November 29, 2017; IACHR. [Informe Anual Capítulo IV A sobre Panorama de la situación de derechos humanos. Annual Report Chapter IV Overview of the Human Rights Situation](#). OEA/Ser.L/V/II. Doc.30. 2019.

Brazil,²⁰⁶ Colombia,²⁰⁷ Cuba,²⁰⁸ Guatemala,²⁰⁹ Honduras,²¹⁰ Mexico,²¹¹ Nicaragua²¹² or Peru,²¹³ by way of example. On this score, the IACHR has said that women human rights defenders continually face individuals or groups of individuals who, in addition to disapproving of their participation in public life and their leadership in the defense of human rights, their territories and their traditions,²¹⁴ use male

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- ²⁰⁶ IACHR. Press Release No. 066/19. [Brasil debe asegurar justicia para la defensora de derechos Marielle Franco, asesinada hace un año, dicen expertos de la ONU y de la CIDH. \[‘Brazil must ensure justice for rights defender Marielle Franco killed a year ago, say UN and IACHR experts\].](#) March 14, 2019; CIDH. Press Release 052/18. [Comunicado de prensa 052/18. CIDH repudia asesinato de concejal y defensora de derechos humanos en Brasil. IACHR repudiates murder of councilor and Defender of Human Rights in Brazil.](#) March 16, 2018.
- ²⁰⁷ OAS. [Towards Effective Integral Protection Policies for Human Rights Defenders.](#) 2017. OEA/ Ser. L/V/II. Doc. 207; IACHR, [Violence against Women Human Rights Defenders of Colombia, Letter of Request for Information. \(Art. 41\),](#) September 19, 2018. IACHR archive.
- ²⁰⁸ IACHR. [Informe Anual Capítulo IV B. Informe Especial: Cuba. Annual Report Chapter IV B. Special Report: Cuba.](#) OEA/Ser.L/V/II. Doc.30. 2019.
- ²⁰⁹ Response of the Office of the Human Rights Ombudsman of Guatemala on Guatemalan for this report. IACHR archive.
- ²¹⁰ IACHR. Press Release No.024/16:[CIDH repudia asesinato de Berta Cáceres en Honduras. IACHR Condemns the Killing of Berta Cáceres in Honduras.](#) March 4, 2016.
- ²¹¹ IACHR. Press Release No.067/17: [CIDH repudia asesinato de defensora de derechos humanos en Tamaulipas, México. IACHR Repudiates Killing of Human Rights Defender in Tamaulipas.](#) May 24, 2017.
- ²¹² In Nicaragua, for example, the Commission attested to a pattern of gender-differentiated harassment, violence and assaults against women defenders after the protests of April 18, 2018 broke out, which included threats of physical and sexual violence; criminalization; appearing on lists of “persons to persecute;” denigration and smear campaigns through social media networks; taking photos of the women, their organizations and of their family members; dissemination of private telephone numbers to incite harassment; threats against their children and family members; as well as misogynistic and discriminatory attacks on women, based on both their work as defenders and their gender and sexual orientation. GIEI Nicaragua. [Informe sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo de 2018. Report on the acts of violence of April 18 to May 30, 2018.](#) 2018, pg. 331; IACHR. Resolution 41/2018. [Migueliuth Sandoval Cruz y otros respecto de Nicaragua. Migueliuth Sandoval Cruz et al with respect to Nicaragua.](#) June 12, 2018; IACHR. Press Release No.255/18. [CIDH condena la expulsión arbitraria de defensora de derechos humanos de Nicaragua. IACHR condemns the arbitrary expulsion of human rights defender in Nicaragua.](#) November 28, 2018; IACHR. [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua. Gross Human Rights Violations in the Context of the Social Protests in Nicaragua.](#) OEA/Ser.L/V/II. Doc.86/18. 2018, pars. 255, 265, 266; Iniciativa Nicaragüense de Defensoras de Derechos Humanos (IM-Defensoras). [Criminalización, amenazas, asedio y ataque armado contra la casa y el negocio de Maritza Sevilla. \[‘Criminalization, threats, harassment and armed attack against the home and business of Maritza Sevilla.](#) July 23, 2018; IACHR. Press Release No.223/18. [CIDH alerta sobre nueva ola de represión en Nicaragua. IACHR warns of new wave of repression in Nicaragua.](#) October 18, 2018; IACHR. Resolution 62/18. [Nahomy Doris Urbina Marcenario \(‘Masha’\) y su núcleo familiar respecto de Nicaragua. 15 de agosto de 2018 Nahomy Doris Urbina Marcenario \(‘Masha’\) and her core family with respect to Nicaragua.](#) August 15, 2018. IACHR. [Informe Anual Capítulo IV B sobre Panorama de la situación de derechos humanos. Annual Report Chapter IV B Overview of the situation of human rights.](#) OEA/Ser.L/V/II. Doc.30. 2019.
- ²¹³ PERU21. [Máxima Acuña denunció al Perú ante la CIDH por no protegerla de la violencia de género. Maxima Acuña files a complaint against Peru with the IACHR for not protecting her from gender-based violence.](#) November 28, 2017; Amnesty International. [Peru: Peruvian authorities put an end to the criminalization of defender Máxima Acuña.](#) May 3, 2017.
- ²¹⁴ IACHR. Press Release No.2380/18: [Observaciones Preliminares de la visita in loco de la CIDH a Brasil. Preliminary Observations of IACHR’s In Loco Visit to Brazil.](#) November 10, 2018.

chauvinist or *machista* stereotypes to delegitimize their work.²¹⁵ Attacks and assaults on women are perpetrated at times by their own family members or members of their inner circle, who accuse them of being “bad mothers” or “bad women.”²¹⁶ As a result, women defenders are not always able to practice their profession on a par with their male counterparts and face obstacles and additional risks when they belong to historically discriminated against groups, such as Afro-descendants, indigenous peoples or peasants.

127. In particular, the Commission has noticed that, besides the many risks faced by women defenders on the grounds of their gender and other intersectional factors, they are exposed to a heightened risk of enduring acts of violence, threats, harassment and other violations of their right to live free from violence, especially in contexts of militarization and in countries in conflict, and it is more likely that their children are threatened or attacked as a form of intimidation in such countries.²¹⁷ In addition, women who advocate for issues, which in and of themselves challenge established sociocultural patterns, also run a heightened risk of facing acts of specific violence against them. Thus, defenders engaged in the field of women’s rights and, especially, women’s sexual and reproductive rights and the rights of lesbian, bisexual, transsexual and intersex women are particularly delegitimized, attacked and assaulted, firstly, for being women and, secondly, because of the particular rights they defend.²¹⁸
128. In this regard, the Commission has learned of acts of violence against defenders of the rights of LGBTI women, such as harassment and threats faced by defenders Karla Avelar in El Salvador²¹⁹ and Erin Greene in the Bahamas²²⁰, or murders of the defender known as 'La Verito' in Ecuador²²¹, Sheryl Montoya in Honduras²²² or

²¹⁵ IACHR. PM 939/18 and 1067/18 - Yerling Marina Aguilera Espinoza y otras (diecisiete defensoras de derechos humanos). Yerling Marina Aguilera Espinoza et al (seventeen human rights defenders). Nicaragua. September 17, 2018, para. 65; IA Court of HR. Caso Mujeres víctimas de tortura sexual en Atenco Vs. México. Case of Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Objection, Merits, Reparations and Costs. Judgment of November 28, 2018. Series C No, 371, para. 216.

²¹⁶ IACHR. Otorgamiento MC 1358-18 Joana D'Arc Mendes respecto de Brasil. Granting of PM1358-18 Joana D'Arc Mends with respect to Brazil. December 7, 2018.

²¹⁷ IACHR. Otorgamiento MC 1358-18 Joana D'Arc Mendes respecto de Brasil. Granting of PM1358-18 Joana D'Arc Mends with respect to Brazil, December 7, 2018.

²¹⁸ IACHR. Towards Effective Integral Protection Policies for Human Rights Defenders. OEA/Ser.L/V/II. Doc. 207/17. 2017, para. 43; CIDH. Preliminary Observations of IACHR's In Loco to Honduras. 2018; IACHR. Press Release No. 066/19. Brasil debe asegurar justicia para la defensora de derechos Marielle Franco, asesinada hace un año, dicen expertos de la ONU y de la CIDH. Brazil must ensure justice for rights defender Marielle Franco killed a year ago, say UN and IACHR experts. March 14, 2019; Equality Bahamas. Equality Bahamas Supports Erin Greene. January 20, 2019; Tribune242. I have been discriminated against my sexuality. June 12, 2013.

²¹⁹ Agencia Presentes. Karla Avelar: «En El Salvador hay un genocidio de las personas LGBTI» January, 14 2019

²²⁰ Equality Bahamas. Equality Bahamas Supports Erin Greene. January 20, 2019.

²²¹ El Comercio. Colectivo Coccinelle e INREDH condenan el asesinato de la activista LGTBI en Quito. February 26, 2019.

²²² Front line Defenders. Asesinato de defensora de derechos LGBTI Sherlyn Montoya. April 7, 2017

Marielle Franco in Brazil²²³, for example. The Commission has also followed up cases of violence against women defenders of the land and indigenous peoples, such as the harassment faced by Máxima Acuña in Peru or the case of the murder of Berta Cáceres in Honduras²²⁴.

129. Additionally, according to information obtained by the IACHR, the use of information technologies to smear and discredit women defenders and/or incite the perpetration of abuses against their rights through on-line harassment, cyberbullying, invasion of privacy, censorship and illegal access to e-mail, cell phone and other electronic device accounts is increasingly more common, just to mention a few. These methods create growing concern and can amount to a manifestation of systemic gender-based discrimination, which requires effective responses in accordance with human rights.²²⁵ Thus, these technologies are used to transmit *machista* and misogynist messages aimed at smearing the women defenders by attacking their image, their sexual orientation, their reputation and their families.
130. The IACHR has been emphatic in its calls for States to meet their obligations to eradicate structural risk factors women face, as well as their duty of heightened protection and investigation and due diligence in the case of women journalists, women human rights defenders and women politicians, in order to protect their human rights, as well as the work they carry out, which is essential to the development of democracy and the rule of law in the region.²²⁶ Based on the foregoing, States must implement prevention strategies and comprehensive, culturally appropriate, specialized protection measures, with an intersectional perspective, in order to ensure that women are able to carry out their work of protecting human rights, political participation and representation and exercise their right to freedom of expression and opinion, free from any form of violence and discrimination.

²²³ IACHR. Comunicado de prensa No.66/2019: [Brazil must ensure justice for rights defender Marielle Franco killed a year ago, say UN and IACHR experts](#), March 14, 2019.

²²⁴ IACHR. Press Release 72/2017: [IACHR issues call for OAS States to Protect Defenders of the Land and Environment](#). June 5, 2017. La Republica. [Máxima Acuña denuncia al Estado peruano ante la CIDH por falta de protección](#). 27 de noviembre de 2017. CIDH. Comunicado de prensa No.256/2018: [Ante el próximo fallo en el Caso de Berta Cáceres, OACNUDH y CIDH expresan su preocupación por la exclusión de la representación de las víctimas y las demoras injustificadas en el proceso](#). 28 de noviembre de 2018.

²²⁵ UN General Assembly. [Resolución No. 68/181 sobre la promoción de la Declaración sobre el Derecho y el Deber de los Individuos, los Grupos y las Instituciones de Promover y Proteger los Derechos Humanos y las Libertades Fundamentales Universalmente Reconocidos: protección de las defensoras de los derechos humanos y los defensores de los derechos de la mujer](#). Resolution 68/181 on Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: Protecting women human rights defenders A/RES/68/181. January 30, 2014.

²²⁶ IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#). OEA/Ser.L/V/II. Doc. 207/17. 2017.

3. Challenges that Continue to Undermine Access to Justice for Woman and Girl Victims of Violence

131. Access to justice for women victims of gender-based violence has been a priority issue for to the IACHR over the years and has been the subject of extensive development of legal standards.²²⁷ However, in the framework of its mandate, the Commission continues to receive information attesting to persistently high rates of impunity, as well as the prevalence of many obstacles for women and girls to have access to an equitable, impartial justice within a reasonable time.²²⁸
- *Obstacles for institutions to guarantee effective access to justice for woman and girls, who are victims of violence*
132. The Commission has reiterated the obligation of States to ensure due diligence so that all cases of gender-based violence undergo a serious, timely, thorough and impartial investigation, as well as lead to adequate punishment of those responsible and full reparation for the victims. In light of this duty, the Commission has stressed that the criminal investigation must be carried out by competent and impartial officials, who have received training on gender and women’s rights and on care for victims of gender-based discrimination and violence²²⁹.
133. On this score, the IACHR has received information attesting to women persistently being unaware of what may amount to a violation of their rights. Because certain types of violence are tolerated by society, many women may tolerate it and accept it as “normal.”²³⁰ According to the regional report written by Oxfam about social belief systems linked to gender-based violence among young people, “the normalization of violence pervades our discourse, our conversations, the way we relate to others, and also the sources of mass knowledge and public policies. [...] Male violence has become normalized to the extent that 86% of young women and men in the region would not interfere if a male friend hit their female partner. The situation in Nicaragua is alarming, with four out of ten young men reporting that they know a friend who hits his female partner. In the Dominican Republic three out of ten young people state that their male friends hit their female partner.²³¹” On this score, the

²²⁷ [Infra, Chapter II.](#)

²²⁸ IACHR. Press Release No.250/18. [International Day on the Elimination of Violence against Women](#). November 25, 2018.

²²⁹ [Infra](#)

²³⁰ On this score, CLADEM Paraguay reported to the Commission that “impunity for violence against women has historically been viewed as natural and, therefore, a major challenge must be addressed to raise awareness of citizens in general about practices of abuse of power in all spheres, in addition to putting into place mechanisms of [dissemination of] knowledge about the law and respect for it, mainly by State organs so they properly comply with it. For this purpose, in addition to campaigns to disseminate the law, there must be timely intervention at all levels, thus ensuring access to a life free from violence.” Response submitted by CLADEM on Paraguay for this report. IACHR archive.

²³¹ Oxfam. [Rompiendo moldes: transformar imaginarios y normas sociales para eliminar la violencia contra las mujeres](#). Breaking the mould: changing belief systems and gender norms to eliminate violence against women. Pg. 6. July 2018

Commission stresses that no act of violence should be tolerated or considered normal, natural, or acceptable in any circumstance.

134. The IACHR has also obtained information about a patchwork of institutions with the legal authority to receive complaints of violence against women and the failure of these State institutions to coordinate and work with each other.²³² Consequently, the victims and/or their family members face confusing paths to care or assistance, lacking in coordination or in specialized training, in a context of procedures rife with *machista* and discriminatory stereotyping.²³³ This discourages women from continuing to bring forth their claims and completing the complaint process. In this regard, the State of Bolivia identified one of the major challenges to eradicating violence against women to be a cycle of roadblocks that are characterized by the fact that “some stops on the path to assistance do not provide a timely response. A lack of empathy with the women in a situation of violence has been detected, and often their credibility is called into question. Women who resort to the justice system run the risk of facing another set of limitations, [that are] typical of public officials, with negative stereotyping and *machista* prejudices. [This] can distort the investigation process and even the trial proceedings and potential punishment of the offender. There are cases in which the authorities explicitly or underhandedly regard the victim as having brought on the crime on her own and [regard] the acts of violence as ‘normal’ acts. The frustration and distrust in the justice system usually leads to impunity, which drives and reaffirms criminal conduct, leaving a deep feeling of insecurity.”²³⁴
135. Another obstacle is the lack of knowledge and/or training among justice operators on the topic of gender equality, which makes it difficult to gauge the true scope of the need to introduce changes, adopt or apply legal provisions that protect women’s rights and, additionally, assist women with an intersection of two or more factors of discrimination. In this regard, the IACHR notices that people still do not grasp the connection between the different forms of violence that can be perpetrated against women, which can be physical, psychological, sexual, economic, symbolic or other forms of violence. This leads to discriminatory and revictimizing treatment of women, complaints that women are not taken seriously, investigations conducted without adequate seriousness, which has an impact on the gathering and assessment of evidence and the legal weight given to it, and even on judicial decisions, which are pervaded by a heavy male chauvinist bias.²³⁵

²³² IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser.L/V/II. Doc. 68, 2007, para. 183.

²³³ Response of State of Peru for the drafting of this report. IACHR archive.

²³⁴ Response of Bolivia for the preparation of this report. IACHR archive.

²³⁵ For example, CLADEM Nicaragua reported that “there are major challenges and one of them is impunity in many cases, because not all of the cases even get to court and there still are challenges within the judiciary, especially, there continue to be *machista* judgments[or court rulings;] one example of them is Judgment 2526, which was handed down by the Appeals and Cassation Court of Managua in the case of Victim Fátima Hernández for the crime of rape by a public official. This judgment did not adhere to the law or to human rights standards this case is before international justice tribunals at the IACHR. Response of CLADEM on

136. As an example of the above, the State of Bolivia reported that one of the main challenges in the area of access to justice for women victims of violence is that “there are some types of violence that are still very difficult to prove, such as psychological violence and media violence. Additionally, the problems of discrimination, stereotyping and preconceived notions typical of patriarchalism fall outside of the administration of justice. The crimes of gender-based violence not only carry the difficulties of any judicial proceeding, but also the preconceived notions that still do not recognize equality between men and women.”²³⁶
137. For its part, with regard to Ecuador, it was brought to the attention of the Commission that “moving agents from one place to another keeps them from assisting in investigatory steps and contributing positively in the proceedings in which they acted. [...] The politicization of the administration of justice and the continual transfer of officials and officers makes it impossible to retain trained personnel to manage cases relating to women.”²³⁷ Along those same lines, the Office of the Chief Public Defender of the Nation of Argentina explained that “the lack of seriousness and thoroughness in the investigation of early acts of violence makes it evident that these situations do not give rise to effective preventive activities, even in circumstances of repeated complaints, longstanding backgrounds [of violence] and obvious indicators of imminent risk. Thus, the opportunity for early intervention with high likelihood of success is lost [...] and, with impunity for the acts, it contributes to the assailant feeling empowered to commit such acts.”²³⁸
138. Additionally, information gathered by the IACHR also shows that very few justice operators and agencies are either specialized in the subject matter or have the legal authority to know how or be able to address violence against women in both urban and rural areas. Even though the Commission has commended efforts put forth by several countries of the region to strengthen the framework of specialized institutions in the field of protection and access to justice for women victims of violence,²³⁹ it has also become aware that the lack of resources and personnel impacting many of these institutions undermines their ability to take effective action. These agencies may be unable to cope with the deluge of complaints they receive, while linguistic, geographic, physical and cultural gaps still need to be bridged in order to achieve access for women belonging to particularly at-risk or

Nicaragua for this report. IACHR archive. Also see: Confidencial. [Caso de Fátima en la CIDH](#). Case of Fátima at the IACHR. November 27, 2011.

²³⁶ Response of Bolivia for the preparation of this report. IACHR archive.

²³⁷ Taller de Comunicación Mujer, Fundación Regional de Asesoría en Derechos Humanos (INREDH), Centro de Apoyo y Protección de los Derechos Humanos SURKUNA, Coalición Nacional de Mujeres del Ecuador, [Situación de los derechos humanos de las mujeres en Ecuador](#), [‘Situation of Women’s Human Rights in Ecuador’]. Thematic hearing held during the 167th Session of the IACHR in Bogota (Colombia), on February 28, 2018.

²³⁸ Response of the Office of Chief Public Defender of the Nation on Argentina for preparation of this report. IACHR archive.

²³⁹ IACHR. [Situation of Human Right in Guatemala](#). OEA/Ser.L/V/II. Doc. 208, 2017; Observatorio Violencia [Observatory on Violence]. [Fiscalías especializadas en violencia contra las mujeres y los integrantes del grupo familiar](#). [‘Prosecutor’s offices specialized in violence against women and members of the family group’]. December 12, 2018.

excluded groups.²⁴⁰ By way of example, the Public Prosecutor's Office of the City of Buenos Aires decided to dissolve the specialized prosecutor's office in gender-based violence, replacing it with one dealing with traffic violations.²⁴¹ As for Nicaragua, the IACHR learned that an important step forward had been taken in creating the Woman and Child Victim Assistance Units (*Comisarías de la Mujer y de la Niñez*), offices attached to the national police, "however, they were arbitrarily eliminated by the State of Nicaragua, thus creating a challenge for women to have specialized assistance again when reporting male chauvinist-based violence."²⁴²

139. In such a context, the Commission has recommended that States encourage multidisciplinary investigation of these crimes and design protocols to facilitate and promote effective, standardized and transparent investigation of acts of physical, sexual and psychological violence, including in settings such as schools and health care institutions. These protocols should describe the degree of complexity of the evidence, and specify the minimum evidence that is required to be gathered in order to provide an adequate evidentiary basis, which includes scientific, psychological, physical and testimonial evidence. The IACHR reiterates the usefulness of drafting protocols or "road maps" to guide law enforcement agents and public officials, from the time a report is received, through the investigation and judicial proceedings, and with regard to any care and treatment that may be required, that involves administrative authorities as well as the justice sector, and when relevant, the health sector, for a comprehensive vision. Strict adherence to protocol helps to decrease the discretionary power of law enforcement agents in performance of their duties, as the abuse of this discretion is the main way in which they engage in prejudicial and discriminatory practices.

- *Challenges regarding reparations with a gender perspective and an intersectional approach*

140. As an essential part of access to justice for women victims of violence, the IACHR has often stressed the States' obligation to provide adequate, effective and prompt reparation to victims, that is proportional to the wrong inflicted upon them, and to include guarantees of restitution, compensation, rehabilitation, satisfaction and non-repetition.²⁴³ Reparation should be comprehensive, inasmuch as the measures must be consistent with and complementary to each other as a package of actions aimed at restoring the rights of victims.²⁴⁴ Along these lines, the Inter-American system has interpreted that in the context of built-in structural discrimination faced

²⁴⁰ IACHR. Press Release No.041A/18 *Audiencia sobre la situación de derechos humanos de las mujeres en Ecuador realizada en el marco de periodo de sesiones No. 167. Hearing on the situation of women's human rights in Ecuador held during the 167th Session.* February 28, 2018.

²⁴¹ Notas Periodismo Popular. *CABA: disolvieron la Fiscalía especializada en violencia de género.* [‘CABA: Prosecutor's Office specialized in gender violence dissolved’]. November 1, 2018.

²⁴² Response of CLADEM on Nicaragua for this report. IACHR archive.

²⁴³ IACHR. *Access to Justice for Women Victims of Violence in the Americas.* OEA/Ser.L/V/II. Doc. 68. 2007, para. 58.

²⁴⁴ IACHR. *Access to Justice for Victims of Sexual Violence in Mesoamerica.* OEA Ser.L/V/II Doc.63. 2011, recommendation 108.

by women on account of their gender, reparations must have “a transformative purpose, in order to produce both a restorative and corrective effect and promote structural changes, dismantling certain stereotypes and practices that perpetuate discrimination.”²⁴⁵ Thus, States must introduce a gender perspective in the design and implementation of reparations to benefit woman and girl victims of violence,²⁴⁶ in view of their circumstances of special vulnerability.²⁴⁷

141. The IACHR has also recommended that States eliminate specific barriers faced by women in their pursuit of justice and reparation and implement reparation measures through a comprehensive and holistic approach taken by institutions and specialized personnel.²⁴⁸ States must address and explicitly recognize, through an intersectional approach, the particular circumstances of different groups of women, their social characteristics, special situation of vulnerability, and the scope of the wrong caused to them by the gender-differentiated impact. When determining punishment for this type of discrimination, the intersectional nature and the infringed rights as a whole must be taken into account.²⁴⁹
142. Regarding full reparation for women victims of violence belonging to a particularly vulnerable group, the IACHR has understood, by way of example, that reparations for indigenous women victims of violence should not only involve prosecuting and punishing the perpetrators, but also paying due attention to the tangible and intangible damages suffered by these women. This, in turn, should lead to individual and/or collective reparations, as appropriate, including implementing any legal,

²⁴⁵ IACHR. Press Release No.144/18. IACHR expresses Concern over Prevalence of Murder and Other Forms of Extreme Violence against Women in Peru, July 2, 2018; IA Court of HR. Caso Atala Riffo y niñas vs. Chile. Case of Atala Riffo and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012; IA Court of HR. Caso González y otras (“Campo Algodonero”) vs. México. Case of González et al (“Cotton Field”) v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205; MESECVI and UN Women. Análisis de legislación sobre femicidio/feminicidio en América Latina y el Caribe e insumos para una ley modelo. Analysis of Femicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law. 2018.

²⁴⁶ IA Court of HR. Caso Fernández Ortega y otros Vs. México. Excepción Preliminar, Fondo, Reparaciones y Costas. Case of Fernandez Ortega v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010 Series C No. 215, para. 230; IA Court of HR. Caso Rosendo Cantú y otra Vs. México. Case of Rosendo Cantú et al v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2010, para. 213.

²⁴⁷ The UN Special Rapporteur on Torture has stated that “reparations must be premised on a full understanding of the gendered nature and consequences of the harm suffered and take existing gender inequalities into account to ensure that they are not themselves discriminatory. [...] addressing the underlying causes and consequences of violations, and offer continued protection for and respectful engagement with victims.” Human Rights Council. Informe del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes. Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. A/HRC/31/57. January 5, 2016, para. 66.

²⁴⁸ IACHR. Truth, Justice and Reparation: Report on the Situation of Human Rights in Colombia. OEA/Ser.L/V/II. Doc. 49/13. 2013, para.532, Recommendation 3.

²⁴⁹ Andrea Catalina Zota-Bernal. Incorporación del análisis interseccional en las sentencias de la Corte IDH sobre grupos vulnerables, su articulación con la interdependencia e indivisibilidad de los derechos humanos. [‘Incorporation of intersectional analysis in the judgments of the IA Court of HR regarding vulnerable groups, their coordination with the interdependence and indivisibility of human rights.’] *Eunomía. Revista en Cultura de la Legalidad* No. 9, October 2015 – March 2016, pgs. 67-85.

political and institutional reforms that may be required to guarantee indigenous women's access to justice and ensure that their particular circumstances, their social characteristics, their special situation of vulnerability, their values and their customs, are taken into consideration.²⁵⁰

143. Notwithstanding, the Commission has identified several obstacles that undermine women's and girls' access to reparation, as it is defined in the Inter-American human rights system, exposing difficulties that still exist in follow up on the Commission's recommendations and in meeting the standards set by the system on this subject matter.²⁵¹ For example, regarding Antigua and Barbuda, the CEDAW Committee underscored "the inadequate provisions of redress for women and girls who are victims of gender-based violence."²⁵² The Office of the Public Prosecutor of Argentina asserted that "in most judicial matters before the court, [that are] linked to discrimination or violence against women and girls, there is an absence of full reparation measures, which include measures of restitution, compensation, satisfaction and non-repetition."²⁵³ And with regard to obtaining compensation, the Office of the Chief Public Defender of the Nation of Argentina noted that it is difficult to deliver economic reparation to victims because of an shortcomings in the ability to track down and recover assets from the assailant, to seize assets in a timely fashion, and due to an absence of regulations prioritizing the victims as the principal beneficiaries, over State-administered trust funds.²⁵⁴
144. Another obstacle that has been identified is to sweep under the carpet in the design of reparation mechanisms different forms of gender-based violence endured by women that have not been defined as such and therefore have not been listed as eligible for reparation. In this regard, the Peruvian State cited enactment of Law

²⁵⁰ IACHR. Annual Report 2016. Capítulo V Seguimiento de recomendaciones formuladas por la CIDH en el informe sobre la situación de los derechos humanos en Guatemala: diversidad, desigualdad y exclusión, pár. Chapter V Follow-Up of Recommendations Issued by the IACHR in its Report on the Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion. Par. 124.

²⁵¹ In addition to the obstacles noted in this section, the IACHR cites the realities identified by Julie Guillerot, that women face when accessing any social program, such as: a higher illiteracy rate among women and greater difficulties to gain direct access to information; higher poverty rates and a lack of economic autonomy; distrust in State institutions, that do not appear protective during conflicts, or lack of knowledge or understanding about the institutional structure of the State, which can impact males and females indiscriminately. See: Informe sobre seguridad y Derechos Humanos. Report on Citizen Security and Human Rights. OEA/Ser. L/V/II. Doc.57, December 31, 2009.

²⁵² CEDAW. Observaciones finales sobre los informes periódicos cuarto a séptimo combinados de Antigua y Barbuda. Concluding observations on the combined 4th to 7th periodic reports of Antigua and Barbuda. CEDAW/C/ATG/CO/4-7. March 14, 2019, para. 27.

²⁵³ Office of the Public Prosecutor of Argentina. Additionally, in particular, regarding human trafficking in women, the Office of the Chief Public Defender of the Nation of Argentina noted "the lack of design and of implementation of coordinated public policies, both of prevention and repression of human trafficking, as well as detection and identification of the victims, comprehensive assistance, protection, social reintegration and full restoration of rights in accordance with the legal framework and with international standards in particular, as a consequence of the lack of budget resources allocated for these purposes." Response of CLADEM on Argentina for this report. IACHR archive.

²⁵⁴ Response of the Office of the Chief Public Defender of the Nation of Argentina on Argentina for this report. IACHR archive.

28.592 creating the Comprehensive Reparations Plan (PIR for its Spanish acronym: Plan Integral de Reparaciones) to provide reparation to victims of violence that took place from May 1980 to November 2000. The plan expressly sets forth in the definition of ‘victims’ persons who suffered rape.²⁵⁵ Nonetheless, civil society organizations report that in the implementation of the aforementioned Plan “it only recognizes as victims of rape victims who suffered rape, leaving out cases of sexual slavery, forced pregnancies, forced prostitution, forced abortion, among other ones.”²⁵⁶ Additionally, regarding the State of Chile and the report of the National Commission on Prison Policy and Torture of Chile (known as the Valech Report 1 and 2), the IACHR was apprised of the failure to address the causes and consequences of rape and other forms of violence against women, such as sexual torture, as well as of the lack of gender-differentiated and specific reparation for women.²⁵⁷

145. The Commission reaffirms the duty of States to eliminate specific barriers faced by women in the pursuit of justice and reparation and to adopt reparation through a comprehensive and holistic approach taken by specialized institutions and personnel.²⁵⁸ States must ensure that judicial, administrative, political or other remedies for women and girls who have been subjected to gender-based violence, such as restraining orders and shelters, are women-centered, available, accessible, acceptable, take age and gender into account and adequately address the rights and needs of the victims/survivors, including providing them with information and education about the importance of protecting confidentiality, preventing stigmatization, revictimization or further harm to the victim, and give a reasonable amount of time for women victims of violence to seek reparation, should they wish to do so, as well as ensure reasonable evidentiary standards.²⁵⁹

- *Challenges regarding production and dissemination of data and statistical information on violence and discrimination against women and girls*

146. The IACHR has recommended that States develop data-collection systems, gather complete, disaggregated and reliable information on a periodic basis and make it public on their own initiative, in order to form an accurate picture of how violence and discrimination impact the most vulnerable groups of women and to “serve as a basis for the formulation of public policies oriented towards prevention, sanction,

²⁵⁵ Response of CLADEM on Peru for this report. IACHR archive.

²⁵⁶ Legal Defense Institute. [Avances y desafíos en las reparaciones a las víctimas de la violencia política](#). [‘Advancements and challenges for reparations to victims of political violence.’] August 26, 2011. Julissa Mantilla Falcón. [Reparaciones con perspectiva de género: haciendo visible lo invisible](#). [‘Reparations with a gender-based perspective: making the invisible visible’] September-October 2015.

²⁵⁷ Ana María Baeza Carvallo, Gonzalo Salazar Vergara. “[Violencia sexual policial](#)”. [Entrevista con la abogada de Corporación Humanas, Catalina Lagos](#). [Sexual police violence.” Interview with attorney of Corporación Humanas Catalina Lagos.

²⁵⁸ IACHR. [Truth, Justice and Reparation: Report on the Situation of Human Rights in Colombia](#). OEA/Ser.L/V/II. Doc. 49/13. 2013, para. 532. Recommendation 3.

²⁵⁹ Human Rights Council. Resolution 35/10 [Accelerating efforts to eliminate violence against women: engaging men and boys in preventing and responding to violence against all women and girls](#). June 22, 2017.

and eradication of acts of violence and discrimination perpetrated against them, and the improvement of interventions from the justice system.”²⁶⁰ In this regard, the High Commissioner for Human Rights has specifically noted how information-collection is particularly crucial to bringing the needs of women and girls exposed to intersectional discrimination and violence into the processes of public policy formulation, implementation, oversight and evaluation and resource allocation.²⁶¹

147. The Commission notes in particular an absence of up-to-date, precise and reliable figures and statistical information in some countries of the region such as Cuba, Venezuela and Nicaragua.²⁶² The IACHR has received worrying reports of an overall restriction on access to information relating to figures and statistics on women’s rights, including allocated budget amounts, as well as figures pertaining to fundamental issues or crimes linked to violence against women and, when data is available, in some instances, it is several years old.²⁶³ On this score, by way of the example, COFAVIC has decried that in Venezuela “even the data presented by the State to international agencies about health services in the framework of the current crisis is information that does not reflect actual conditions of functioning and response capacity of hospitals and care facilities.”²⁶⁴
148. Additionally, it was brought to the attention of the IACHR that, despite their efforts to collect and produce statistics on acts of discrimination and violence against women and girls, some States continue to make only spotty and sporadic efforts at the national and local level, thus making it difficult in many contexts to perform a diagnostic assessment reflecting the true scope and prevalence of the different manifestations of violence against women.
149. Using Argentina to illustrate the foregoing point, the Commission was apprised that even though initiatives have been taken since 2015 by the Office of Women of the Supreme Court of Justice of the Nation and the National Institute of Statistics and Censuses for “the consolidation and harmonization of data provided by some public agencies that make records of cases of gender-related violence against women in order to create a Single Register of cases of violence against women,” supplementary information indicates that “there is no mechanism in place for the collection of qualitative information and production of comprehensive statistics on acts of discrimination and violence against women and girls.”²⁶⁵ According to the

²⁶⁰ IACHR. [Access to Justice for Victims of Sexual Violence in Mesoamerica](#). OEA Ser.L/V/II Doc.63. 2011, recommendation 14.

²⁶¹ United Nations General Assembly. [Informe anual del Alto Comisionado de las Naciones Unidas para los Derechos Humanos e informes de la Oficina del Alto Comisionado y del Secretario General. Annual Report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and of the Secretary General. A/HRC/35/10](#). April 21, 2017, para. 52.

²⁶² IACHR. [Informe Anual 2018. Capítulo 4. B Cuba](#), Annual Report 2018. Chapter 4.B Cuba. para. 106; IACHR. [Informe Anual 2018. Capítulo 4 B](#), Annual Report 2018. Chapter 4.B Nicaragua, para. 220.

²⁶³ IACHR. Press Release No.076/19. [IACHR Grants Precautionary Measures to Protect Women and Newborns at the Concepción Palacios Maternity Hospital in Venezuela](#). March 21, 2019.

²⁶⁴ Response of COFAVIC on Venezuela for this report. IACHR archive.

²⁶⁵ Response of CLADEM on Argentina for this report. IACHR archive.

information gathered to write this report, the Dominican State does not have a single, comprehensive system of registry and processing of data on violence against women and girls, “because it is currently putting into operation the Department of Research and Statistics of the Observatory on Gender Equality and Equity, where it will attempt to rectify that lack of data,” while “the agencies mostly use the information they collect at their own institutions, with the exception of the National Office of Statistics, which collects information from different organizations of the State.”²⁶⁶

150. The Commission recalls that the absence of consolidated, updated and properly disaggregated data impairs a comprehensive analysis of the phenomenon of gender-based violence against women, conceals factors of additional violations such as ethno-racial origin, sexual orientation or gender identity, and contributes to perpetrating the impunity of these crimes in a context of deep-rooted gender-based discriminatory stereotypes and structural discrimination against women.²⁶⁷ It is vital and critical to periodically produce complete statistics on violence and discrimination against women and information disaggregated at a minimum by gender, age, race, ethnic origin, socioeconomic status, disability, sexual orientation and gender identity, as well as by location where the acts took place.²⁶⁸
151. In this regard, the IACHR urges States to adopt protocols or take any other initiatives they deem appropriate to address the lack of uniformity in the forms used at different offices.²⁶⁹ Specifically, the IACHR reiterates that the information gathered must be used as a basis for the design and evaluation of effectiveness of the legal framework and public policies adopted to prevent, punish and eradicate violence against women and girls.²⁷⁰ Hence, it is crucial to take viable initiatives to gather information, statistics, research and studies in order to facilitate the exercise and protection of rights within the administration of justice.²⁷¹

²⁶⁶ Response of CLADEM on the Dominican Republic for this report. IACHR archive.

²⁶⁷ IACHR. [Informe Anual 2018. Capítulo 4.B. Cuba.](#) Annual Report 2018. Chapter 4.B Cuba. para. 106.

²⁶⁸ IACHR. [Informe Anual 2018. Capítulo 4.B. Venezuela.](#) Annual Report 2018. Chapter 4.B Venezuela, para. 151.

²⁶⁹ IACHR. Press Release No.95/14. [IACHR Congratulates Mexican Supreme Court for Adoption of Protocol Involving Sexual Orientation and Gender Identity.](#) August 29, 2014.

²⁷⁰ IACHR. Press Release No. 68/18. [IACHR Calls on Nicaragua to Eradicate Violence Against Women, Girls and Adolescents.](#) March 28, 2018.

²⁷¹ IACHR. [Access to Information, Violence against Women and the Administration of Justice in the Americas.](#) OEA/Ser.L/V/II.154 Doc.19. 2015, para. 14.

B. Challenges in Addressing Prevalent Forms of Violence and Discrimination against Women and Girls and Their Differentiated Impact on Groups in Vulnerable Situations

152. In the framework of its mandate, the Inter-American Commission continues to receive reports of many forms of violence and discrimination faced by women and girls in Latin America and the Caribbean at all stages of their lives, in various fields and in multiple forms and dimensions. In the region, women and girls continue to face multiple forms of harassment; domestic violence; labor exploitation; various forms of sexual violence; disappearances; and murders based on their gender among others. In addition, women and girls continue to face various forms of discrimination and violence in access to justice, health and basic services; as well as violence in areas such as the labor market, educational settings and new technologies.²⁷² In addition, the IACHR warns in the region the existence of violence and discrimination, specifically affecting women and girls in special situations of vulnerability, such as peasant and rural women, indigenous girls or of African descent.²⁷³
153. In this regard, the IACHR warns that the prevalence of these forms of violence accounts for the numerous challenges that States continue to encounter in their approach, such as those that will be analyzed below.

1. Violent Gender-related Deaths

154. Violent, gender-related murders of women are the most extreme and irreversible manifestation of violence and discrimination against women.²⁷⁴ On this topic,

²⁷² IACHR. Press Release No. 256/19: [On the International Day of the Girl Child, the IACHR Stresses States' Obligation to Grant Special, Reinforced Protection to Girls' Fundamental Rights](#). October 11, 2019. IACHR. Press Release No. 250/18: [International Day on the Elimination of Violence Against Women](#). November 25, 2018. IACHR. Press Release No. 188/17: [International Day on the Elimination of Violence Against Women](#), November 22, 2017. IACHR, Press Release No. 095/17: [Joint Statement on Gender Equality and Violence against Women](#). July 10, 2017. IACHR, Press Release No. 024/17: [On International Women's Day, the IACHR urges the States to reaffirm commitment to gender equality and non-discrimination in the workplace](#), March 7, 2017.

²⁷³ IACHR, Press Release No. 117/17: [IACHR Urges the States to Reaffirm Commitment to Gender Equality and Non-discrimination and to Guarantee the Rights of Afro-descendant Women](#), August 8, 2017. IACHR, Press Release No. 259/19: [En el Día Internacional de las Mujeres Rurales, la CIDH llama a los Estados a reconocer sus derechos humanos y a garantizarles una vida libre de violencia](#). October 15, 2019. IACHR, Press Release, No. 161/18: [On International Afro-Latin American, Afro-Caribbean and Diaspora Women's Day, the IACHR calls on States to encourage and strengthen their political participation](#), July 25, 2018.

²⁷⁴ Human Rights Council. [Informe de la Relatora Especial sobre la violencia contra la mujer, sus causas y sus consecuencias](#). Report of the Special Rapporteur on Violence against Women, its Causes and Consequences. May 23, 2012. A/HRC/20/16, para.15; Model Law Femicide MESECVI, pg. 11.

bodies of the Inter-American system have affirmed that these deaths are not an isolated problem, but are symptomatic of a pattern of discrimination against women, impacting all of the Americas.²⁷⁵ Additionally, despite States' international obligations on due diligence, the IACHR has reiterated that the murders of women are characterized, all the same, by impunity in a context of limited access to justice for women victims of violence, by stereotyped patterns and by social permissiveness.²⁷⁶

155. In the past years, the IACHR has acknowledged the different legislative and institutional efforts undertaken by the States to address gender-based murders of women. Thus, we note that several countries of Latin America and the Caribbean have expressly incorporated them as punishable conduct under criminal law, indiscriminately using for the names “femicide” and “feminicide.”²⁷⁷ The IACHR acknowledges that in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic, Uruguay and in Venezuela, said offence has been criminalized, differentiating it from the concept of homicide -which is gender neutral – with the intention of raising awareness of the manifestation of violence resulting from the position of subordination and risk in which women live.²⁷⁸
156. Nonetheless, despite these normative advancements, the countries of the region continue to post troubling statistics relating to the murder of women, thus exposing the challenges that still exists to eradicate this form of violence. According to data from ECLAC, every day an average of 12 Latin American and Caribbean women die for the sole reason of being women²⁷⁹ and, at least, 3,287 women were victims of murders based on their gender in 15 countries of Latin America and the Caribbean in 2018.²⁸⁰ Moreover, the IACHR has noted that murders specifically impact certain groups of women in especially vulnerable situations, such as Afro-descendant women and lesbian and transsexual women.²⁸¹ In Brazil, for example, while there

²⁷⁵ IACHR. Press Release No. 250/18: [International Day on the Elimination of Violence against Women](#). November 25, 2018; IA Court of HR. [Caso González y otras \(“Campo Algodonero”\) vs. México](#). Case of González et al (“Cotton Field”) v. Mexico. Judgment of November 16, 2009, Preliminary Objection, Merits, Reparations and Costs. pars. 399 to 401.

²⁷⁶ IACHR. Press Release No.062/17. [IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts](#). May 16, 2017.

²⁷⁷ See [Análisis de legislación sobre femicidio/feminicidio en América Latina y el Caribe e insumos para una Ley Modelo](#). Analysis of Femicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law. For a conceptual approach to the terms “femicide” and “feminicide.” Undated.

²⁷⁸ UN Women. [Modelo de protocolo latinoamericano de investigación de las muertes violentas de mujeres por razones de género \(femicidio/feminicidio\)](#). Latin American Model Protocol for Investigation of Gender-Related Killings of Women (femicide/feminicide). 2014.

²⁷⁹ CEPAL. [Al menos 2.795 mujeres fueron víctimas de femicidio en 23 países de América Latina y el Caribe en 2017](#). November 15, 2018.

²⁸⁰ ECLAC. [CEPAL: Al menos 2.795 mujeres fueron víctimas de femicidio en 23 países de América Latina y el Caribe en 2017](#). ECLAC: At least 2,795 women were victims of femicide in 23 countries of Latin America and the Caribbean in 2017. November 15, 2018.

²⁸¹ IACHR. Press Release No.062/17. [IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts](#). May 16, 2017.

has been a decrease in the past years of murders of women, the murder rate of black women continues to be on the rise.²⁸² Additionally, the Commission has viewed with concern that 80% of Latin American transsexual women die before age 35, many of them, murdered.²⁸³

157. In the region of the Caribbean, most countries have passed laws on prevention and punishment of domestic violence and have criminalized certain violent conduct against women. Notwithstanding, the criminal offenses have not yet been included in the criminal codes to address the specific form of gender-related murder of women.²⁸⁴ The Commission recognizes the efforts of States in objectivizing the distinctive elements of gender-based murders, the circumstances or conditions to be considered in prosecution and investigation, as well as the different aggravating factors that have been adopted under the legal framework of each country in addressing gender-related murder of women.²⁸⁵ However, the information received in the context of drafting this report exposes a wide gap between the development of the aforementioned legal frameworks and specific implementation thereof.
158. Moreover, some frameworks or criminal codes still do not recognize the concept of gender as a root cause of the death or mistreatment of women. For example, in Chile “being a woman is really not the important thing, but the existing relations with the assailant. [...] The laws have not measured up in the area of prevention and protection of femicides: this is so because there are circumstances that cannot be subsumed into the legal concept of femicide, such as violence between partners, who are not in a domestic partnership (fiancées or “dating” “boyfriend and girlfriend”) or violence targeting family members of a person who is or was a partner that do/did not cohabit. Therefore, there is an urgent need for Chilean legislation to recognize as femicide all homicides motivated by gender, step up efforts to prevent them and make sure that the perpetrators are investigated, prosecuted and convicted.”²⁸⁶
159. Furthermore, based on information received by the Commission, “a general problem with almost all the criminal offense definitions provided for in legislation is the use

²⁸² IACHR. Preliminary observations visit to Brazil 2018; El Comercio. [Una mujer es asesinada cada dos horas en Brasil, el país de los femicidios](#). [‘A woman is murdered every two hours in Brazil, the femicide country’], March 7, 2018; TELAM. [La Unesco denuncia que las mujeres negras corren doble riesgo de femicidio](#). [‘Unesco denounces that black women run dual risk of femicide.’] December 11, 2017.

²⁸³ IACHR. Press Release No.137/15. [On the International Transgender Day of Remembrance, IACHR urges States to increase the life expectancy of trans persons in the Americas](#). November 20, 2015; TELAM. [El promedio de vida de las personas trans que murieron en 2018 es de 36 años](#). [‘The average lifespan of trans persons who died in 2018 is 36 years old’]. February 23, 2018; El Observador. [¿Por qué las personas trans viven tan poco?](#) [‘Why do trans persons live such short lives?’]. October 19, 2018.

²⁸⁴ OAS, MESECVI, UN Women. [Ley modelo Interamericana para Prevenir, Sancionar y Erradicar la muerte Violenta de Mujeres y niñas \(Femicidio/feminicidio\)](#). Inter-American Model Law on the Prevention, Punishment and Eradication of the Gender-Related Killing of Women and Girls (Femicide/feminicide). Pg. 16. 2018

²⁸⁵ In this regard, see the [análisis comparativo de los marcos legales relacionados con los tipos de femicidio y feminicidio](#) comparative analysis of legal frameworks related to types of femicide, developed by UN Women.

²⁸⁶ Response of CLADEM on Chile for this report. IACHR archive.

of ambiguous or excessively abstract language, which provides for open-ended criminal offenses and therefore can be challenged on the grounds of undermining the principles of legality, no punishment without a crime (*tipicidad*), and legal certainty.”²⁸⁷ Thus, some specific categories of gender-based murder of women, that have not been identified since the time the research and legal doctrine and scholarly analysis and writing by experts on the subject matter have emerged, have not necessarily been reflected in the legal descriptions of the criminal offense in the region. For example, child femicides/feminicides, in the case of the murder of young girls; the murder of women on gender-related grounds in contexts of their profession or stigmatized and high-risk activities, such as sex work; race-, lesbophobia- and transphobia-based murders, that bear the hallmark of hate crimes with additional brutality; non-intimate or impersonal murders, in which there is no personal relationship between assailant and victim;²⁸⁸ or murders that constitute international crimes (crimes of genocide, against humanity and war crimes), among other ones.²⁸⁹

160. The IACHR has also expressed concern that, in many instances, the murdered women had previously reported their assailants, faced serious acts of domestic violence or had sustained attacks or attempted homicides in the past.²⁹⁰ This situation exposes the existing shortcomings in the mechanisms of prevention and protection of women from the risks of gender-based violence and, in particular, from the risk of murder.²⁹¹ Additionally, the Commission notes that the countries that have laws on the books criminalizing femicide/feminicide but have not approved comprehensive laws, have focused their response to the problem on the criminal justice system, even though the Convention of Belém do Pará requires States to also implement actions of prevention, protection, investigation and reparation, in addition to criminalizing violence against women.²⁹²

²⁸⁷ UN Women. [Análisis de legislación sobre femicidio/feminicidio en América Latina y el Caribe e insumos para una Ley Modelo. Para una aproximación conceptual de los términos “femicidio” y “feminicidio”.](#) Analysis of Femicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law. For a conceptual analysis on the terms “femicide” and “feminicide.” Pg. 59. Undated.

²⁸⁸ Information received at meeting with the Office of the Ombudsman of Colombia, IACHR’s visit to Colombia November 27-30, 2018. IACHR archive.

²⁸⁹ UN Women. [Análisis de legislación sobre femicidio/feminicidio en América Latina y el Caribe e insumos para una Ley Modelo. Para una aproximación conceptual de los términos “femicidio” y “feminicidio”.](#) Analysis of Femicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law. For a conceptual approach to the terms “femicide” and “feminicide.” Pgs. 20 and 21. Undated.

²⁹⁰ IACHR. Press Release No.024/19. [IACHR Expresses Deep Concern over Alarming Prevalence of Gender-based Killings of Women in Brazil.](#) February 4, 2019.

²⁹¹ IACHR. [Access to Justice for Women Victims of Violence in the Americas.](#) OEA/Ser.L/V/II. Doc. 68. 2007, para. 166.

²⁹² UN Women. [Análisis de legislación sobre femicidio/feminicidio en América Latina y el Caribe e insumos para una Ley Modelo. Para una aproximación conceptual de los términos “femicidio” y “feminicidio”.](#) Analysis of Femicide/Feminicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law. For a conceptual approach to the terms “femicide” and “feminicide.” According to the study, 13 of the countries that criminalize femicide also have a comprehensive law against violence: 7 criminalize femicide in that same law (Bolivia, El Salvador, Guatemala, Nicaragua, Panama, Paraguay and Venezuela); 4, in a free-standing subsequent law (Argentina and Colombia) or previous law (Peru and Uruguay) and Mexico introduces it in a

161. The challenges still looming in order to address gender-based murder of women include widespread impunity in investigating and identifying those responsible and punishing them for these crimes. So, in addition to the obstacles in access to justice that have been so extensively examined by the Commission,²⁹³ it underscores the difficulty of integrating these descriptions of criminal offenses into legal contexts that generally lack, on the one hand, a crosscutting gender perspective and, on the other hand, effective coordination between the agencies and entities of the State. As is mentioned in the analysis of legislation on femicide/feminicide in Latin America and the Caribbean, conducted jointly with the IACHR, criminal law doctrine in general has not fully incorporated the gender perspective and many authoritative legal scholars are reluctant to adopt anthropology- and sociology-based notions. Then there is the added difficulty of crafting a legal definition of a criminal offense out of a complex phenomenon, which has manifold manifestations and whose distinctive elements are misogyny and the context of discrimination and subordination of women. Consequently, “laws that classify femicide/feminicide which are not included in the criminal code could be marginalized and applied less frequently because of a lack of gender perspective in the criminal justice system or a lack of knowledge of principles and scope of the laws themselves.” In this regard, introducing these offenses into the Criminal Code could contribute to ensuring knowledge and mandatory study thereof in the academic training of justice operators. However, it is equally necessary for this criminal offense to be analyzed and interpreted under specialized concepts and criteria, that are in general provided for in special laws. Therefore, as the experts write, “it is especially important to ensure, regardless of whether these types of crimes are included in the criminal code or not, that the legal principles they represent are not only restricted to right to life, but that they include the right to a life free from violence,” in other words, free from gender-based violence.²⁹⁴
162. On this score, the Commission recalls that under the obligations set forth in the Convention of Belém do Pará, when a woman, a young or adolescent girl is murdered and the murder is committed in the general context of gender-based violence, it is the obligation of States parties to investigate *ex officio* any potential discriminatory connotations of the crime, regardless of whether it was committed in the public or

law amending several laws (comprehensive law on violence and the Criminal Code, among other laws). Ecuador introduced it in the general amendment to the Criminal Code prior to approving the comprehensive law. Another 5 countries do not have a comprehensive law on violence against women, but do criminalize femicide: Brazil, Chile, Costa Rica, Honduras and the Dominican Republic. 3 of those countries do so through specific laws for those purposes (Brazil, Chile and Honduras), the Dominican Republic criminalized it when it overhauled the Criminal Code and Costa Rica introduced it in the law on criminalization of violence against women.

²⁹³ IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/ Ser. L/V/II. Doc. 68, January 20, 2007.

²⁹⁴ UN Women. Análisis de legislación sobre femicidio/feminicidio en América Latina y el Caribe e insumos para una Ley Modelo. Para una aproximación conceptual de los términos “femicidio” y “feminicidio”. Analysis of Femicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law. For a conceptual approach to the terms “femicide” and “feminicide.” Undated.

private sphere.²⁹⁵ Thus, in cases of killings of women, States must take into account the political, social and economic contexts in which it take place, including the responses of men to women’s empowerment; the political, legal and societal reaction to such killings; the principle of the continuum of violence and patterns of structural discrimination and inequality, that continue to form part of the reality of women’s lives.²⁹⁶

2. Disappearances of Women and Girls

163. The United Nations Working Group on Enforced or Involuntary Disappearances has argued that if a woman is a victim of enforced disappearance for reasons associated with being a woman, she is a victim of violence against women. In addition, it has considered that the effects of forced disappearance on women may be aggravated due to sexual violence, unwanted pregnancies, among other forms of violence. In addition, the Inter-American Convention on Forced Disappearance of Persons defines forced disappearance as “the deprivation of liberty to one or more persons, whatever their form, committed by State agents or by persons or groups of persons acting with the authorization, the support or acquiescence of the State, followed by the lack of information or the refusal to recognize said deprivation of liberty or to inform about the whereabouts of the person”. Likewise, the Convention of Belém do Pará refers to the right of women to a life free of violence in the public and private spheres and declares their right to have their life, physical, mental and moral integrity, freedom and personal security and their dignity be respected, not to be subjected to torture, the right to a simple and rapid recourse to the courts and the right to equal protection before the law. The disappearances of women and girls, forced or not, constitute a clear violation of several of these rights.²⁹⁷
164. In line with the foregoing, the inter-American system has determined that the obligation to investigate effectively has a wider scope when dealing with the case of a woman whose personal liberty is impaired within the framework of a general context of violence against women.²⁹⁸ In that regard, it has considered that the news of the abduction or disappearance of a woman must should trigger a heightened duty of due diligence on the part of the State, since such circumstances create an propitious setting for the commission of acts of violence against the woman and entail a particular vulnerability to other acts of violence, including sexual violence, which in itself poses a risk to their lives and wellbeing, regardless of any given

²⁹⁵ IACHR. Press Release No.068/18: [IACHR Calls on Nicaragua to Eradicate Violence Against Women, Girls and Adolescents](#). March 28, 2018.

²⁹⁶ Human Rights Council. [Informe de la Relatora Especial sobre la violencia contra la mujer, sus causas y sus consecuencias](#). Report of the Special Rapporteur on Violence against Women, its causes and consequences. May 23, 2012. A/HRC/20/16, para. 18.

²⁹⁷ OEA- MESECVI. [Recomendación General del Comité de Expertas del MESECVI \(No.2\)](#). OEA/Ser.L/II.6.24. 2018.

²⁹⁸ I/A Court H.R., [González et al. case \(“Cotton Field”\) v. Mexico](#), Preliminary Objection, Merits, Reparations and Costs, Judgment of November 16, 2009, Series C. No. 205, para. 293.

context.²⁹⁹ As a result, the Commission considers it crucial that there be adequate procedures in place to receive complaints and that they lead to an effective investigation begun in the immediate hours thereafter, based on the presumption that the disappeared person has been deprived of liberty and is still alive until there is no longer any uncertainty about her fate.³⁰⁰ The duty of strict due diligence requires the thorough conduct of search activities: it is essential that police authorities, prosecutors and judicial officials take prompt immediate action by ordering, without delay, the necessary measures to determine the whereabouts of the victims or the place where they may have been retained.

165. According to information collected by the IACHR, based on data from the Office of the UN High Commissioner for Human Rights in Mexico, more than 9,000 women are missing.³⁰¹ In the case of Guatemala, in 2017, 1,180 women were reported missing and 5,531 disappearance or abduction alerts were put out for girls (52% teenagers and 17% young girls).³⁰² In addition, reports of missing women have increased considerably in Honduras, "from 91 cases in 2008 to 415 in 2016 (2,342 cases in nine years according to data from the Public Prosecution Service), with 50% of cases concentrated in a single department."³⁰³ In Peru, during 2017 the police received 4,454 reports of disappearances, of which 2,654 were related to minors and 1,914 to girls.³⁰⁴ Additionally, the IACHR has been informed that in Ecuador 10,000 missing persons are reported annually, of which 67% are women.³⁰⁵
166. In that context, in addition to the challenges with respect to investigations examined earlier in this report,³⁰⁶ the Commission has identified shortcomings in the way in

²⁹⁹ I/A Court H.R., Case of López Soto et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, Judgment of September 26, 2018, Series C. No. 362, para.145.

³⁰⁰ I/A Court H.R., Case of López Soto et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, Judgment of September 26, 2018, Series C. No. 362, para. 142; I/A Court H.R., Case of the Hacienda Brasil Verde Workers v. Brazil, Preliminary Objections, Merits, Reparations and Costs, Judgment of October 20, 2016, Series C. No. 318, para. 427; I/A Court H.R., González et al. case ("Cotton Field") v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment of November 16, 2009, Series C. No. 205, para. 283; IACHR, Situation of Human Rights in Mexico, OEA/Ser.L/V/II. Doc. 44/15, December 31, 2015, para. 186; Access to justice for Women Victims of Violence in the Americas, OEA/Ser.L/V/II. Doc. 68, 2007, para. 298.

³⁰¹ RT, ONU Alerta sobre más de 9.000 Women desaparecidas en Mexico, March 9, 2019. The Human Rights Commission of the Federal District of Mexico reported 930 pre-teen and teenage girls who disappeared in that jurisdiction in 2016 as "direct victims of the conflict in Mexico, associated with the fight against drug trafficking," the highest number of disappearances recorded. For its part, CLADEM stressed that in the State of Mexico, according to the National Registry of Missing Persons (RNPD), 18.2 percent of the total disappearances during 2017 were children and adolescents and that 6 in every 10 cases of disappearance involved pre-teen and teenage girls.

³⁰² Response submitted by the Office of the Human Rights Ombudsman regarding Guatemala for this report. IACHR Archive.

³⁰³ Response submitted by CLADEM regarding Honduras for this report. IACHR Archive.

³⁰⁴ Response submitted by Peru for this report. IACHR Archive.

³⁰⁵ IACHR. 167 Period of Sessions. 26 February to March 1, 2018. La línea de fuego. Diez mil personas desaparecen en Ecuador desde el 2014. 11 de septiembre de 2018. INREDH. El alto número de personas desaparecidas en Ecuador preocupa a los comisionados de la CIDH. 3 de octubre de 2018.

³⁰⁶ See *supra*, Chapter 3.

which cases of missing women are dealt with. First, the Commission notes a persistence of discriminatory attitudes and practices on the part of State authorities in the face of reports of missing women, as demonstrated by a lack of seriousness in the response and an absence of concrete, immediate measures that in different cases could make a difference to the physical integrity of women at risk. Such attitudes or practices can be observed, not only in investigators, but also, among others, in civil servants such as social workers and government officials.³⁰⁷ Likewise, although some countries have eliminated, for example, the need to wait for a certain number of hours before a missing person's complaint is accepted or an investigation opened,³⁰⁸ in practice, State actors often allow their responses or lines of inquiry to be guided by the victim's lifestyle and relationships,³⁰⁹ resulting in investigations that are neither diligent nor impartial.³¹⁰

167. The Commission reiterates that such responses undermine investigations, delay prosecutions, and render invisible cases of missing women, not to mention the attendant risk of detracting from the victim's importance and/or blaming or discrediting them.³¹¹ In particular, the Commission notes the impact that this type of state response has on the relatives of victims in having to contend with discriminatory behavior on the part of officials who prevent their access to proceedings. In the case of Mexico for example, it has been described how in the majority of cases it is the mothers or other women in the immediate family who look for the missing woman, teenager or child, which has meant that they, in turn, have to put up with discriminatory attitudes and behaviors on the part of the authorities because of their gender:³¹² when filing a report or requesting information on investigations or proceedings they receive vague, contradictory, incorrect, or stigma-laden responses from the authorities, which are perceived as an absence of genuine will to investigate the disappearance of women and girls.³¹³ Thus, in response to the lack of attention, the Commission has received information recounting the efforts of relatives to determine the whereabouts of the victims, often without specific clues, thereby themselves risking threats, intimidation and even murder.³¹⁴ The Commission notes the potential emotional and physical harm that

³⁰⁷ INREDH, *Familiares de personas desaparecidas y organizaciones de DD.HH solicitan audiencia en la CIDH*, July 23, 2018; INREDH, *La audiencia sobre personas desaparecidas en Ecuador será este miércoles ante la CIDH*, October 1, 2018.

³⁰⁸ Response submitted by Peru for this report. IACHR Archive.

³⁰⁹ Response submitted by CLADEM regarding Honduras for this report. IACHR Archive; Hemisferio Izquierdo, *Gurisas desaparecidas, pobreza y redes de trata*, March 15, 2015; IDHEAS, *Informe alternativo sobre la desaparición de mujeres en el Estado de México*, June 2018.

³¹⁰ IACHR, *Annual Report 2018, Chapter IV, Ecuador*, para. 184.

³¹¹ IACHR, *Report on Merits No. 33/16, Case 12.797, Merits*, Linda Loaiza López Soto and Relatives, Venezuela, July 29, 2016, para. 162; IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, 2007, para. 135.

³¹² IDHEAS, *Informe alternativo sobre la desaparición de mujeres en el Estado de México*, June 2018; IACHR, *Press Release No. 067/17, IACHR Repudiates Killing of Human Rights Defender in Tamaulipas, Mexico*, May 24, 2017.

³¹³ IACHR, *Hearing "Situation of Disappeared Persons in Ecuador and the Rights to Truth and Justice"*. *Annex to Press Release 220/18: Summaries of Hearings 169th Period of Sessions in Boulder, Colorado*, October 19, 2018.

³¹⁴ Request for a hearing on "Violations of women's rights due to the disappearance of women and girls in the State of Mexico," IDHEAS et al. IACHR, *Annual Report 2018, Chapter V, Mexico*, para. 58.

such undertakings can bring, which, along with the ongoing uncertainty about the whereabouts of the victim, can have a great impact economically speaking or in terms of placing them in grave danger.³¹⁵

168. The Commission notes that some States in the region, such as Bolivia,³¹⁶ Panama,³¹⁷ and Ecuador,³¹⁸ do not have specific regulatory frameworks governing the disappearance of women or recognizing its link to gender-based violence against women. Furthermore, the Commission notes an absence of investigative protocols for victims of disappearances or,³¹⁹ where they are in place, the existence of different institutional protocols for searching for missing persons that are not always aligned with a gender perspective or include one at all.³²⁰
169. The Commission obtained information about how protocols fail to detail how complaints should be received or explain how investigation processes should be carried out by competent units or efforts coordinated where the participation of different agencies is required.³²¹ The IACHR notes that the absence of rules detailing the obligations of the authorities when a woman is reported missing or setting out detailed procedures and time limits to be observed can have a significant impact in terms of conducting an immediate search and preventing other acts of violence against victims. For example, human rights organizations report that in Ecuador, when a disappearance is reported, the absence of provisions prevents criminal investigative proceedings from being initiated, so that in practice "a non-specialized administrative authority takes [them] up,"³²² and "the missing person has to appear—alive or deceased—in order to initiate the preliminary investigation and subsequent phases."³²³

³¹⁵ I/A Court H.R., Report on Merits No. 33/16, Case 12.797, Linda Loaiza López Soto and Relatives. Preliminary Objections, Merits, Reparations, and Costs, Judgment of September 26, 2018, Series C. No. 362, para. 264.

³¹⁶ Response submitted by Bolivia for this report, IACHR Archive.

³¹⁷ Response submitted by CLADEM regarding Panama for this report, IACHR Archive.

³¹⁸ INREDH, *Familiares de personas desaparecidas y organizaciones de DD.HH solicitan audiencia en la CIDH*, July 23, 2018; INREDH, *La audiencia sobre personas desaparecidas en Ecuador será este miércoles ante la CIDH*, October 1, 2018; IACHR, *Annual Report 2018, Chapter IV*, Ecuador, para. 184.

³¹⁹ Perú 21, *En el 2016 desaparecieron 2,551 personas y solo se halló al 23%*, January 7, 2017; ; CLADEM indicated that there are no public policies on this issue and, therefore, there is no investigation protocol for victims of disappearances, with the exception of the Early Warning Law ..., which applies specifically to children and teenagers. Reports of missing women have risen considerably in Honduras, from 91 cases in 2008 to 415 in 2016. Response submitted by CLADEM regarding Honduras for this report, IACHR Archive.

³²⁰ Request for a hearing "Situation of missing persons in Ecuador and right to truth and justice" in the framework of the 169th session of the IACHR, IACHR Archive.

³²¹ RRR Data. *¿Cómo busca Perú a las mujeres desaparecidas?*, June 20, 2018.

³²² IACHR, Hearing "Situation of Disappeared Persons in Ecuador and the Rights to Truth and Justice". *Annex to Press Release 220/18: Summaries of Hearings 169th Period of Sessions in Boulder, Colorado, October 19, 2018*, October 19, 2018.

³²³ INREDH, *Familiares de personas desaparecidas y organizaciones de DD.HH solicitan audiencia en la CIDH*, July 23, 2018; INREDH, *La audiencia sobre personas desaparecidas en Ecuador será este miércoles ante la CIDH*, October 1, 2018.

170. Another obstacle identified in addition to the above is the lack of unified records by which to keep clear statistics that make the problem more visible, reliably map its extent, and serve to design prevention and action policies against cases of missing women. In that regard, the IACHR has learned of the absence of such records in countries such as El Salvador,³²⁴ Peru,³²⁵ and Argentina,³²⁶ resulting in different institutions handling different figures whose sharing is not obligatory, hampering the identification of a person when they are found, whether deceased or alive.³²⁷ The Commission notes the importance of having a single victims' registry that is publicly accessible, up-to-date, unified, screened, and offers disaggregated information, as well as of an adequate and effectively enforced protective legal framework and prevention policies and practices that allow effective action in response to complaints.³²⁸
171. Finally, the IACHR has obtained information about the creation and implementation of urgent search or immediate recovery mechanisms in Honduras,³²⁹ the Bahamas,³³⁰ Ecuador, Peru,³³¹ Mexico,³³² and Guatemala,³³³ particularly in the case of minors, which have led to a significant number of victims being found. However, the information gathered by the Commission suggests the need to modify certain aspects given that the mechanisms are not effective at tackling the problem, owing to the fact that they are rarely applied and the procedure for activating them is perceived as complicated and overly bureaucratic.³³⁴

³²⁴ USAID, UNDP, Guatemala, Honduras y El Salvador, intercambian experiencias en Registro de Personas Desaparecidas, 2019.

³²⁵ RRP Data, Vulnerables y Olvidadas, March 8, 2018,

³²⁶ La Nación, Ellas ya no están: son 3231 las mujeres desaparecidas, 7 January 2016.

³²⁷ RRP Data, Vulnerables y Olvidadas, March 8, 2018; La Nación, Ellas ya no están: son 3231 las mujeres desaparecidas, January 7, 2016; Borde Periodismo, Son 3.228 las niñas y mujeres desaparecidas en Argentina, May 4, 2017.

³²⁸ IACHR, Annual Report 2018, Chapter V. Colombia, para. 73.

³²⁹ Superior Court of the Accounts of Honduras, Ley de Alerta Temprana "AMBER", para Localizar y Proteger a Niños, Niñas y Adolescentes Desaparecidos o Secuestrados, 2015.

³³⁰ The Nassau Guardian, MARCO Alert system relaunched, July 6, 2018.

³³¹ Response of Peru, Alerta Mujer proposes that an immediate search and investigation should be launched in cases of violence against women; Decree 1428, establishes an alert level for women who have previously been victims of violence, as well as providing the police with new tools for tackling such cases and solving them as quickly as possible. La República, Una de cada 10 mujeres desaparecidas termina muerta en nuestro país, December 3, 2018; Ministry of the Interior of Peru, Fortalecen sistema de búsqueda de personas desaparecidas, September 16, 2018.

³³² Mexico, Programa Alerta AMBER launched in 2012. According to the response from CONAVIM, the Program was operational in 100 percent of Mexican State entities in 2018.

³³³ Alba-Keneth Alert System Law. The ALBA-KENETH Alert System was introduced in 2010 with the aim of locating and providing immediate protection for abducted or missing children (Decree 28-2010). The Missing Women Immediate Search Law (Decree 8-2016) establishes an immediate search mechanism for missing women. Office of the Human Rights Ombudsman, Response to the questionnaire for this report, IACHR Archive; 2018 Annual Report, Chapter V. Guatemala, para. 77.

³³⁴ 3er. Sector, ONGs denuncian ante el GDFI los obstáculos que enfrentan los menores al ser víctimas de desaparición, September 1, 2017.

172. For example, with regard to alert mechanisms established for searching for minors in Mexico, the IACHR has been informed that ambiguous criteria are often used by officials when it comes to their activation, who adopt discretionary interpretations, commonly colored by discriminatory stereotypes, with the result that alerts are not triggered in all cases.³³⁵ In addition, officials reportedly require family members to demonstrate the imminent risk to their physical integrity or life,³³⁶ and there is no provision for efficient media participation since it is not mandatory for them to transmit the alert.³³⁷ In the Bahamas, for instance, the Commission has noted the absence of a detailed procedure for the public dissemination of missing children alerts to facilitate their rapid location: citizens have to register to receive alerts on their own initiative,³³⁸ which limits its scope.

3. Sexual Violence

173. In keeping with international jurisprudence, and taking into account the provisions of the Convention of Belém do Pará, the inter-American system has considered that sexual violence against women is constituted by acts of a sexual nature committed against a person without their consent that, in addition to encompassing the physical invasion of the human body, could include acts that do not involve penetration or even any physical contact.³³⁹ The organs of the inter-American system have also found that rape should also be understood as acts of vaginal or anal penetration, without the consent of the victim, using other parts of the perpetrator's body or objects, as well as oral penetration by the male organ,³⁴⁰ and for which any penetration, however, slight, is sufficient to be considered it to have occurred.³⁴¹ The Commission underscores that sexual violence is not only a manifestation of gender-based violence, but, specifically when directed against women, reflects gender inequalities and socio-cultural patterns of discrimination towards women that exist in a society.

³³⁵ Más por más, *Fallas en la Alerta Amber*, June 2, 2016.

³³⁶ La Jornada, *Defensor critica ineficacia de Alerta Amber*, January 24, 2017.

³³⁷ Más por más, *Fallas en la Alerta Amber*, June 2, 2016.

³³⁸ EW News, Dames: *More than Marco Alert needed to address social issues*, March 5, 2019; IACHR, promotional visit to the Bahamas, protocolary meeting with civil society, February 20, 2018; IACHR, *Annual Report, Chapter 4A*, The Bahamas,

³³⁹ I/A Court H.R., *Case of J v. Peru*, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 27, 2013, para. 358.

³⁴⁰ I/A Court H.R., *Case of J v. Peru*, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 27, 2013, para. 359.

³⁴¹ I/A Court H.R., *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations, and Costs, Judgment of November 28, 2018, Series C. No. 371, para. 182; I/A Court H.R., *Case of Espinoza Gonzáles v. Peru*, Preliminary Objections, Merits, Reparations, and Costs, Judgment of November 20, 2014. Series C. No. 289, para. 192; and I/A Court H.R., *Case of Favela Nova Brasília v. Brazil*, Preliminary Objections, Merits, Reparations, and Costs, Judgment of February 16, 2017, Series C. No. 333, para. 247.

174. In this regard, the Commission has repeatedly addressed the scope of state obligations in relation to cases of sexual violence—including the duty of prevention—establishing standards and putting forward recommendations in that respect. The Commission has been emphatic on the subject of criteria that States must follow in cases of sexual violence against women so that investigations and criminal prosecutions are conducted with due diligence.³⁴²
175. However, despite various efforts and advances made by States in the region, the IACHR notes that sexual violence continues to be widespread in the region, with an irreparable impact on women, girls and adolescents. For example, in Peru, in the first half of 2018, every day 15 women on average are victims of sexual violence,³⁴³ while in Brazil, according to figures supplied by the Ministry of Health in 2017, a woman is gang raped somewhere in the country every two and a half hours.³⁴⁴ In Ecuador, 1 in 4 women has been the victim of some form of sexual violence;³⁴⁵ in Guatemala, during 2018, every day 21 reports of sexual assault were investigated.³⁴⁶ Also, during 2018, according to figures presented by Corporación “Sisma Mujer,” there were 7,055 cases of sexual violence in Colombia.³⁴⁷ In addition, the Commission highlights the invisibility of the risk of sexual violence to which women are vulnerable, the more so in the case of indigenous women,³⁴⁸ domestic workers, patients at psychiatric facilities, at universities, or girls and adolescents in rural areas, migrant women, or those with a non-heteronormative sexual orientation or gender identity.³⁴⁹
176. The IACHR has received information indicating certain weaknesses in criminal and procedural regulatory frameworks relating to sexual violence that adversely affect the rights of victims. For example, there continue to be rules with legislative loopholes or abstract or ambiguous terms regarding what would constitute acts of sexual violence or rape. The Commission notes that the consent component and the required evidence continue to be the subject of discussion, while proceedings rely

³⁴² See *supra*, Chapter 2.

³⁴³ El Comercio, [Violencia sexual no se detiene en el país: reportan aumento de violaciones y delitos](#), June 21, 2018.

³⁴⁴ El Desconcierto, [Casos se duplicaron en los últimos años: Diez mujeres sufren violaciones sexuales colectivas al día en Brasil](#), August 29, 2017; Playground, [En Brasil se perpetran 10 violaciones colectivas al día](#), August 24, 2017.

³⁴⁵ DW, Ecuador: “La violencia sexual es algo cotidiano en la vida de la mujer”, February 1, 2019.

³⁴⁶ PubliNews. [Así ha sido la violencia contra las mujeres en 2018](#), November 23, 2018.

³⁴⁷ RCN Radio, [Violencia sexual contra la mujer aumentó 21,4% en lo corrido de 2018](#), May 25, 2018. It is important to highlight reported information that projects 24,532 forensic examinations for the alleged commission of this crime as of November 2018, making 2018 “the worst year for sexual violence in Colombia for the last two decades.” See INFOABE, [Violencia sexual en Colombia: 2018 fue el peor año en dos décadas con más de 24 mil casos](#), January 4, 2019.

³⁴⁸ Report “Mujeres indígenas, víctimas invisibles del conflicto armado en Colombia.” La violencia sexual, una estrategia de guerra, 2012. Presented to the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict by the ONIC Office of the Counsel for Women, Family and Generation.

³⁴⁹ CLADEM Honduras; [Public hearings held during the 171st Period of Sessions, Annex to Press Release 38/19](#).

on proving their absence, resulting in trials where the focus is on the conduct of the victim, even prior to acts of sexual violence and on their credibility, exposing them to situations of revictimization and casting doubt on the credibility of their testimony. The IACHR reiterates the principle established by the European Court of Human Rights that to effectively investigate and punish cases of sexual assault, States must consider both the body of evidence and the context in which the sexual assault occurred, and not confine themselves to direct evidence of physical resistance on the part of the victim.³⁵⁰

177. In this regard, the Inter-American Court has found evident that rape is a particular type of aggression that, in general, is characterized by the absence of other persons beyond the victim and the aggressor or the aggressors. Given the nature of this form of violence, the existence of graphic or documentary evidence cannot be expected and, therefore, the victim's statement constitutes a fundamental proof of the fact. For these reasons, in such cases, the victim's statement must be given special weight and assessed in its context. Also, given the traumatic nature of the experience, it is reasonable that there may be variations and inconsistencies in the account of the victim's statements, which does not invalidate them³⁵¹.
178. Another obstacle identified are the failures in the provision of health care services with a gender perspective and a differential approach to victims of sexual violence. Despite the necessity to respond to the needs of victims, including the physical and psychological consequences of sexual violence, in many cases responses are still limited, partial and inadequate. In addition, the Commission stresses the importance of providing comprehensive care to victims, including, in particular, providing health services.³⁵²
179. With regard to the previous item, the Commission has been aware of the restrictions on access to emergency oral contraceptives (EOC) in some countries. In Costa Rica, for example, despite being included as part of the protocol of care for victims of sexual assault within 72 hours, emergency contraceptives are reportedly only available to women over the age of 15.³⁵³ In Peru, the Commission has received information about barriers to free, public access to EOCs, while its sale and legal distribution in the private health system are unimpeded, a situation that clearly

³⁵⁰ MC vs. Bulgaria, European Court of Human Rights, Application 39272/98, Judgment of 4 March 2004.

³⁵¹ I/A Court, Valentina Rosendo Cantú y otra c. México. Application to the IA Court of HR. Case of Valentina Rosendo Cantu et al v. Mexico. Case 12.579. 2009, pars. 89 and 91.

³⁵² The Commission has underscored that acts of sexual assault have a direct negative impact on women's mental health and has highlighted the importance of taking into account the differentiated impact of victims according to their status and context. See, in particular, the case of Guzmán Albarracín and U.V.O. indigenous girl and her family regarding Mexico (PM-1014-17). In the latter matter the Commission considered the impact of sexual assault on the personal development of a girl, given that she was still growing. In addition, the Commission noted that not only had the beneficiary not received comprehensive medical care, but that the alleged assailant remained at large and that people close to him continued to intimidate the family through the use of weapons, taunts, and denigrating comments; WHO, Understanding and addressing violence against women, 2003.

³⁵³ Response submitted by ACCEDER regarding Costa Rica for this report, IACHR Archive.

generates inequality and discrimination against low-income women, who are also particularly vulnerable to sexual violence and unwanted pregnancies.³⁵⁴ In Honduras, since 2009 the State has maintained a “ban on the promotion, use, sale and purchase of the emergency contraceptive pill, as well as the paid or free distribution and marketing of emergency contraceptives at pharmacies, drugstores, or any other means of purchase,” under Ministry of Health Decision No. 2744.³⁵⁵

180. In this regard, the IACHR is concerned about barriers to access to emergency oral contraceptives, legally and free of charge, for women victims of sexual violence. Forcing women and adolescents to move forward with a pregnancy resulting from a sexual assault can result in imminent physical and emotional harm to them. Therefore, the Commission has urged states in the region to take all necessary measures to ensure respect and protection, without discrimination, for the sexual and reproductive rights of all women in accordance with inter-American standards on this matter.³⁵⁶

4. Obstetric Violence

181. Within its mandate, the Commission has received information that many women are subjected to disrespectful and offensive treatment during childbirth, which violates the right of women to respectful care and threatens their rights to life, health, physical integrity, and non-discrimination.³⁵⁷ While there is no legal definition of the concept of obstetric violence in international public law, the IACHR has considered that “[o]bstetric violence encompasses all situations of disrespectful, abusive, neglectful treatment or denial thereof that take place during the pregnancy, childbirth or postpartum period, in private or public health facilities.”³⁵⁸ Thus,

³⁵⁴ Although the State guaranteed access to contraceptives, since 2009 there has been a ban on the free distribution of emergency oral contraceptives in the public sector under a Constitutional Court ruling based on doubts about its abortive nature and the absolute protection of the right to life following fertilization. It is worth noting that, despite a precautionary measure issued by the First Constitutional Lower Court of Lima in 2016 ordering their distribution, the Commission has received consistent information that the EOCs continue not to be distributed in the country's public health system. 2017 Annual Report, Ch. 4A, p. 85; IACHR, Press Release No. 243/18, [IACHR Completes Working Visit to Peru](#), November 16, 2018.

PROMSEX, Demus, Paz y Esperanza, Center for Reproductive Rights. Information provided to the IACHR on the state of access afforded by the Peruvian State to an emergency oral contraceptive (Levonorgestrel) for teen and pre-teen victims of sexual assault. IACHR, Press Release No. 243/18. [IACHR Completes Working Visit to Peru](#), November 16, 2018.

³⁵⁵ IACHR, [Public hearings held during the 171st Period of Sessions, Annex to Press Release 38/19](#); and IACHR, Press Release No. 165/17, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights](#), October 23, 2017; IACHR, Press Release No. 171/18, [IACHR Has Concluded its Visit to Honduras and Presents its Preliminary Observations](#), August 3, 2018.

³⁵⁶ IACHR, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights](#), October 23, 2017.

³⁵⁷ World Health Organization, [The prevention and elimination of disrespect and abuse during facility-based childbirth](#), June 20, 2014.

³⁵⁸ IACHR, [Indigenous women and their human rights in the Americas](#), OEA/Ser.L/V/II. Doc. 44/17, 2017, para. 80; World Health Organization, [The prevention and elimination of disrespect and abuse during facility-based](#)

obstetric violence occurs in the actions or omissions of doctors and auxiliary staff in health care services—both public and private—during antenatal care, childbirth, and the postpartum process, which are characterized by treatment that is dehumanizing or that causes physical, psychological, or emotional harm to women.³⁵⁹

182. The IACHR recognizes obstetric violence as a form of violence against women that is prohibited by inter-American human rights treaties, including the Belém do Pará Convention, given that it is an assault on women's rights to humane treatment, equality, and non-discrimination, health, private life and respect for their autonomy and, in many cases, involves a breach of the duty to obtain free, full and informed prior consent.³⁶⁰ The IACHR finds that violence of this type encloses sexist and stereotypical conceptions of the role of women, their experience of motherhood, and control over their bodies, and therefore represents a form of discrimination against them, based on the assumption that the suffering is part of the pregnancy experience, on that supposed fact that women are somehow inferior, on their alleged inability to make appropriate decisions about their reproductive processes, and on sexist notions concerning women's bodies as objects of sexual pleasure for men.³⁶¹

childbirth, 2015; UNHCR, Report of the Office of the United Nations High Commissioner for Human Rights on preventable maternal mortality and morbidity and human rights, A/HRC/14/39, 16 April 16 2010; United Nations, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/61/338, 13 September 2006; CEDAW. General Comment No. 14 (2000) The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2000/4, 2000, paras. 8, 44(a). Such violence can manifest itself at any point during the provision of maternal health services to women, through such actions as refusal to provide complete information about their health and applicable treatments, indifference to pain, verbal humiliation, forced and coerced medical interventions, such as the use of acceleration techniques without the woman's prior consent and the practice of cesarean sections, despite the conditions for a natural birth being in place, and without the woman's prior consent; forms of physical, psychological, and sexual violence; invasive procedures; failure to respect patient confidentiality, and unnecessary use of medications, among others. IACHR, Press Release No. 024/15, On International Women's Day, IACHR Urges States to Guarantee Women's Sexual and Reproductive Rights, March 6, 2015.

³⁵⁹ IACHR, hearing on "Reports of Obstetric Violence in Costa Rica," 156th session, October 23, 2015; IACHR, Report on the 153rd Session of the IACHR, 2015; Hearing on "Maternal Health and Reports of Obstetric Violence in Mexico," 150th session, March 27, 2014; ECLAC, Otras formas de violencia contra las mujeres que reconocer, nombrar y visibilizar, Natalia Gherardi, Gender Affairs series, No. 141. LC/L.4262, 2016, p. 17.

³⁶⁰ I/A Court H.R., Case of I.V. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, Judgment of November 30, 2016, Series C. No. 329.

³⁶¹ International Planned Parenthood Federation, Con el dolor de tu vientre: la violencia obstétrica en américa latina, March 7, 2019; Pikara Online, Violencia obstétrica: partos robados, cuerpos sometidos, November 21, 2018; Revista Latino Americana de Enfermagem, La violencia obstétrica en el cotidiano asistencial y sus características, 2018; ECLAC, Otras formas de violencia contra las mujeres que reconocer, nombrar y visibilizar, Natalia Gherardi, Gender Affairs series, No. 141, LC/L.4262, November 2015, p. 17. Obstetric violence has been associated with the disproportionately and inexorably medicalized intervention of the natural process of pregnancy and childbirth, which sends a powerful message of women's subordination because of their motherhood. [ECLAC, Otras formas de violencia contra las mujeres que reconocer, nombrar y visibilizar, Natalia Gherardi, Gender Affairs series, No. 141. LC/L.4262, November 2016, p. 30.]

183. Obstetric violence includes dehumanized treatment (leaving women in labor waiting for long hours, immobilization of the body, births without anesthesia); abuse through medicalization and pathologization of physiological processes (invasive practices, unjustified medicalization); psychological abuse (mockery, humiliation, omission of information, infantilization); and non-urgent procedures performed without the woman's consent (sterilizations, the so-called "husband's point"), among others.³⁶²
184. The Commission warns that obstetric violence is a normalized and common practice that has been rendered invisible in a large part of the countries of the region as a result of the context in which it is perpetuated,³⁶³ the asymmetrical relationship between health care staff and women, and the heightened vulnerability in which they find themselves.³⁶⁴ Faced with this type of violence, data are scarce and difficult to measure, women do not know where to report it and, in many cases, they fear that if they question decisions or make complaints they will be denied care.³⁶⁵ Thus, for example, the Commission has been informed that about 25 percent of women reported facing acts of obstetric violence during pregnancy, childbirth, or postpartum in Mexico in 2016;³⁶⁶ 1 in 4 women in Brazil have reputedly experienced some form of obstetric violence;³⁶⁷ while there were 89 complaints of such acts in Argentina in 2017.³⁶⁸

³⁶² O Globo, [Constrangimento verbal. Toques não consentidos. Abuso sexual. A dura realidade das mulheres que sofrem violência obstétrica](#), June 20, 2019; Pikara Online, [Violencia obstétrica: partos robados, cuerpos sometidos](#), November 21, 2018; Brasil de Fato, ["Sociedade patriarcal reflete uma medicina obstétrica mais machista", diz médica](#), April 12, 2019; Observatorio de Violencia Obstetrica, [Observatorio de violencia obstétrica presenta resultados de la primera encuesta de nacimiento en Chile](#), El desconcierto. [Aislamiento, parir acostada y "un punto más para el marido": 10 expresiones de violencia obstétrica en Chile](#), March 24, 2018; El Heraldó, [El punto para el marido, la práctica médica que sufren las mujeres tras el parto sin saberlo](#), December 6, 2018.

³⁶³ IACHR, Hearing on "Reports of Obstetric Violence in Costa Rica," 156th session, October 23, 2015, [Report on the 156th session of the IACHR](#), 2015; Hearing on "Maternal Health and Reports of Obstetric Access to Information, Violence against Women and the Administration of Justice in the Americas, Violence in Mexico," 150th session, March 27, 2014; IACHR, Press Release No. 214/18, [The compliance of State obligations regarding ""](#), September 28, 2018; IACHR, [Report Access to Public Information on Violence and Discrimination against Women: Progress and Challenges in the Americas](#), 2018. para. 39.

³⁶⁴ El Mercurio, [Violencia obstétrica y derechos de parto](#), January 7, 2019; Milenio. ["¡Cállate y puja...": ¿Qué es la violencia obstétrica?](#), February 27, 2019. Amnesty International, [Violencia obstétrica en contextos de crisis de salud](#), August 2, 2017.

³⁶⁵ Chequeado. [#NiUnaMenos: el 77% de las mujeres aseguraron haber sufrido violencia obstétrica](#), November 25, 2016.

³⁶⁶ Bureau of Social Communication, [Una De Cada Cuatro Mexicanas Sufre Violencia Obstétrica En Instituciones De Salud](#), June 22, 2016.

³⁶⁷ Fundação Perseu Abramo, ["Mulheres brasileiras e gênero nos espaços público e privado"](#), Investigación de opinión pública, 2010.

³⁶⁸ Since 2013 the National Coordinating Committee for Measures to Punish Gender Violence (CONSAVIG) has been leading an interagency working group that addresses obstetric violence and which has been receiving complaints of obstetric violence since 2017. See Ministry of Justice and Human Rights of Argentina, [Violencia de Género: Datos sobre violencia obstétrica](#), Undated.

185. Representatives of the countries participating in the first session of the Regional Conference on Population and Development in Latin America and the Caribbean in 2013 adopted the Montevideo Consensus, which included the priority action 45 to "enhance compassionate care during delivery and birth and comprehensive perinatal care, bearing in mind the needs of women, boys, girls and families." To that end, they adopted recommendations aimed at creating or strengthening systems for reporting and sanctioning health care providers to ensure effective implementation of quality practices that respect human rights; to ensure training plans for all health personnel, including compassionate delivery care; to criminalize obstetric violence as a serious expression of gender-based violence, so that it can be prevented and addressed.³⁶⁹
186. However, information gathered by the IACHR gives an indication of the challenges that persist in the region for dealing with this issue, not only in terms of its definition and criminalization, but also of its prevention and punishment. In this regard, according to the monitoring of the Montevideo Consensus by civil society organizations, "an analysis of compassionate delivery collected information on the frameworks and content of protocols for assisted deliveries, as well as on training and mechanisms for reporting and punishment to health care providers that break the rules. The analysis found that the content of protocols in 8 of the 23 countries promote negative practices, such as shaving of pubic hair or routine use of painkillers during childbirth and postpartum In addition, the region lags behind others in terms of reporting systems for obstetric violence, with more than half of countries lacking adequate punishment mechanisms. In the area of training, half of the countries lack it altogether, despite it being essential for providing humanized childbirth services."³⁷⁰
187. Thus, while the Commission acknowledges that Argentina,³⁷¹ Bolivia,³⁷² Mexico,³⁷³ Panama,³⁷⁴ Peru,³⁷⁵ and Venezuela³⁷⁶ have expressly acknowledged obstetric violence as a form of gender-based violence, it also notes that there is a gap between regulatory provisions and their effective implementation. Venezuela, for example,

³⁶⁹ ECLAC, Montevideo Consensus on Population and Development, August 12 to 15, 2013.

³⁷⁰ Mira que te miro, Informe del monitoreo social de los compromisos en derechos sexuales y derechos reproductivos del consenso de Montevideo, 2018. p. 18.

³⁷¹ Republic of Argentina, Law on Comprehensive Protection for Preventing, Punishing, and Eradicating Violence against Women in Interpersonal Relations, March 11, 2009.

³⁷² Plurinational Legislative Assembly, Law No. 348, Comprehensive Law for Ensuring a Life Free from Violence for Women, Violence against reproductive rights and violence and health care services. March 9, 2013.

³⁷³ House of Mexican Deputies, General Law on Women's Access to a Life Free from Violence. Last reformed on April 13, 2018.

³⁷⁴ Republic of Panama, Law 82, which adopts measures for prevention of violence against women and amends the Criminal Code in order to criminalize the offense of femicide and punish acts of violence against women. October 24, 2013.

³⁷⁵ Republic of Peru, Law No. 30364, to prevent, punish, and eradicate violence against women and family members, including obstetric violence in hospitals and other health care facilities.

³⁷⁶ Bolivarian Republic of Venezuela, Organic Law No. 38.668 on the Right of Women to a Life Free from Violence, April 23, 2017.

was the first State in the Americas to specifically address obstetric violence, including its definition, constituent acts, and punishment in the Organic Law on the Right of Women to a Life Free from Violence of 2007.³⁷⁷ In addition, the Commission was informed of the approval on March 21, 2018, of the Constituent Decree for the Promotion and Protection of Compassionate Delivery and Birth, which contains provisions aimed at improving the process of pregnancy, delivery, and birth.³⁷⁸ However, the mere incorporation of this type of violence in a legal instrument is not a guarantee of protection.³⁷⁹ As the MESECVI experts pointed out, “[a]s regards the application of the law punishing obstetric violence, the Committee did not receive any information on the number of judgments or rulings on obstetric violence, suggesting [a] gap between legislative provisions and their effective application.”³⁸⁰

188. In the context of the above, the Commission recommends that States take the necessary measures to recognize obstetric violence as a form of violence against women, adopt regulations on its punishment, establish reporting mechanisms, and engage in awareness campaigns so that women can know their rights, identify this form of violence, and access justice. The Commission also recommends adopting the necessary measures to ensure the participation for women by giving them access to appropriate, multidisciplinary information on their bodies and condition in order to promote a free choice on how to treat their pregnancies while respecting their consent and autonomy. In addition, the IACHR recommends the establishment of mechanisms to provide regular training for health professionals on protection of women's rights in their reproductive processes.³⁸¹

C. Shortcomings in Approaches to Certain forms of Violence and Discrimination against Women and Girls

189. Within the framework of this report, the IACHR has found it crucial to analyze forms of gender-based violence that remain unseen or inadequately addressed and have a differentiated impact on women, pre-teen, and teenage girls.³⁸² The lower level of advancement of standards and public policy initiatives in this regard, the absence of specialized standards, studies, and understanding of certain topics, as well as the

³⁷⁷ Bolivarian Republic of Venezuela, Organic Law No. 38.668 on the Right of Women to a Life Free from Violence, April 23, 2017.

³⁷⁸ Bolivarian Republic of Venezuela, Note to the IACHR AGEV/2018-0069, April 18, 2018.

³⁷⁹ Amnesty International, Violencia obstétrica en contextos de crisis de salud, August 2, 2017.

³⁸⁰ OAS, MESECVI, Second Follow-up Report on the Recommendations of the Committee of Experts of the MESECVI, October 23 and 24, 2014, para. 122.

³⁸¹ IACHR, Access to Maternal Health Services from a Human Rights Perspective, OEA/Ser.L/V/II. Doc. 69, June 7, 2010, para. 13.

³⁸² ECLAC, Otras formas de violencia contra las mujeres que reconocer, nombrar y visibilizar, November 2016, p. 9.

lack of training and awareness in the use of the gender approach give rise to widespread challenges for eradicating violence and discrimination against them.

1. Absence of Efficient, Gender-Based Measures to Address the Differentiated Impact of Violence on Women's Rights in Organized Crime Contexts

190. The Commission notes that exceptional and disproportionately high levels of crime and violence have been reported in the Latin America and Caribbean region over the past decade,³⁸³ very often—though not exclusively—as a result of the rise of groups that act outside institutional and legal frameworks, operating clandestinely and controlling large areas of territory.³⁸⁴ The activities of these organized groups with links to illegal or criminal activities from which they derive income,³⁸⁵ influence in the public space, and the ability to permeate and co-opt the institutions of the State, serious impact human rights³⁸⁶ in a multidimensional way with economic and social repercussions.³⁸⁷
191. The Commission repeatedly mentioned the negative impact that the actions of organized crime groups have on the protection and guarantees of the rights of women and girls and has warned of their heightened risk to being victims of gender-based violence by organized crime or as a result of anti-crime policies.³⁸⁸ Operations associated with, among other activities, drug trafficking, killings, extortion, kidnapping, robbery, control of migrant routes, arms trafficking, and smuggling of migrants and trafficking in persons, in which girls are particularly at risk of being ensnared, are carried out by male-dominated criminal structures, with sexist hierarchies and practices of extreme violence.³⁸⁹ Female teenagers and young women are at particular risk for various forms of sexual violence, exploitation, cruel,

³⁸³ IDB, [IDB studies reveal the social costs of crime, gaps in knowledge about insecurity](#), October 21, 2015.

³⁸⁴ Sampó, Carolina, [El rol de las mujeres en las maras: una aproximación a la violencia que sufren e infringen](#), Si Somos Americanos, vol. 16, No. 2, 2016, pp. 127-142; Carlsen, Laura E., *A Feminist Analysis of Shadow Powers, the State, and Citizen Responses: The Case of Contemporary Mexico*, Latin American Policy, vol. 6, No. 1, 2015, pp. 55-67.

³⁸⁵ In this vein, the Inter-American Court has indicated how organized crime in its various forms constitutes a serious threat to the international community, since it undermines the security, stability and democratic governance of States, impedes their development, and prevents observance of the human rights of persons subject to their jurisdiction. On this, see I/A Court H.R., [Case of Alvarado Espinoza et al. v. Mexico](#), Merits, Reparations, and Costs, Judgment of November 28, 2018, Series C. No. 370, para. 176; IACHR, [Annual Report, Guatemala](#), Chapter 5, para. 13.

³⁸⁶ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15, November 11, 2015, para. 72.

³⁸⁷ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15, 11 November 2015, para. 78.

³⁸⁸ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15, 11 November 2015; [Annual Report, Chapter V. Mexico](#), p. 268; IACHR, [Annual Report, Guatemala, Chapter 5](#), pp. 362 and 364.

³⁸⁹ [Annual Report 2018, Chapter V](#), para. 44.

humiliating and degrading treatment, and murder by members of criminal groups who use their position of power to inflict violence on them.³⁹⁰

192. In the particular case of the countries of the Northern Triangle (El Salvador, Honduras and Guatemala), they have some of the highest figures of violence against women in the world, as well as large areas of their territories blighted by the presence of criminal gangs, or *maras*, as they are commonly known in Spanish.³⁹¹ Thus, the violence and structural discrimination already faced by women in those countries are compounded by that exercised by gangs.³⁹² In the case of El Salvador, for example, the UN Special Rapporteur on the human rights of internally displaced persons stated that “[g]angs may control or dominate territories and populations through threats, intimidation and violence and a culture of violence that infects whole communities and peoples’ everyday activities, movements, interactions and relationships. [...] Young women and girls are particularly vulnerable to threats, intimidation and violence, including rape, and high levels of femicide have been recorded. Women whom I met, some in secret ‘safe-houses’ or shelters described to me their experiences of threats and violence by gang members leading them to have to flee their homes with their children in fear of their lives or to protect their children.”³⁹³
193. According to the information gathered for this report, the link between gangs and violence against women is based on the fact that women are considered inferior,³⁹⁴ while the gang culture rests on the hyper-masculinity of its male members.³⁹⁵ Violence is one of the main vehicles by which male power is legitimized and hierarchical relationships are established, territorial domination exercised, punishments meted out; it is also used as a means to impose integration, respect and control over the male and female members of the group.³⁹⁶ In particular, the Commission notes that gender-based violence against women in these contexts is a critical and fundamental element of the strategy of fear and domination of territories, of commercial transactions, of control over information and, ultimately,

³⁹⁰ IACHR, Press Release No. 11A/18, Conclusions and Observations on the IACHR’s Working Visit to El Salvador, January 29, 2018.

³⁹¹ Boerman, Thomas and Knapp, Jennifer, Gang Culture and Violence against Women in El Salvador, Honduras and Guatemala (March 6, 2019). Immigration Briefings, 17-03, March 2017.

³⁹² El País. Ellas ven, oven y callan, August 26, 2015.

³⁹³ OHCHR, Statement on the Conclusion of the visit of the United Nations Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary to El Salvador, August 18, 2017.

³⁹⁴ “Youth gangs, being traditionally organizations consisting of, configured by, conceived by, and designed by men, in which women are a minority, have all the male-female stereotypes, biases, imbalances and inequalities that prevail in a patriarchal society, but reinforced by the violence and exclusion that predominate in gangs. [...] The machismo of the gang is a (reinforced) replica of the broader patriarchy found in society.” See Óscar Estrada, Cambios en la sombra: Mujeres, maras y pandillas ante la represión, July 2017, p. 4.

³⁹⁵ Boerman, Thomas and Knapp, Jennifer, Gang Culture and Violence against Women in El Salvador, Honduras and Guatemala, Immigration Briefings, 17-03, March 2017.

³⁹⁶ INTERPEACE, Violent Women and violence against women. Gender Relations in the Maras and other street gangs of Central America’s Northern Triangle Region, April 2012.

of the population.³⁹⁷ Women, their families, and their bodies are thus seen as a fundamental part of the criminal strategy and, therefore, instrumentalized, in most cases through coercion and threats.³⁹⁸

194. The Commission notes the complex situation of women and girls in organized crime contexts, given that, on the one hand, some of them join gangs voluntarily, while others live with gang members in their communities as mothers, sisters, daughters, or partners.³⁹⁹ Given the extreme violence practiced by these criminal groups and, in particular, the contempt for women and the postulate of their supposed inferiority and subordination, they are all at serious risk of facing disturbing acts of violence. Thus, the Commission has learned that the factors that lead women to join gangs are diverse and include seeking protection, access to weapons, drugs and money, and reintegration with a group after abandoning homes marred by abusive parents or relatives.⁴⁰⁰ To do so, women must undergo admission tests that may include beatings, group sexual assaults, or the obligation to have sex with all gang members.⁴⁰¹
195. The Commission has also been made aware of the pressures, threats and harassment of women, girls and adolescents for the purpose of their forcible recruitment into criminal organizations, while others are caught up after being trafficked or abducted.⁴⁰² All of them are subjected to different forms of violence: as well as having to fulfill traditional roles associated with their gender, such as performing domestic and care tasks,⁴⁰³ they are at risk of having their rights violated or have been victims of multiple forms of violence that may include psychological violence, including harassment and threats; domestic violence; violence, including gang rape, sexual slavery and forced prostitution; forced unions, courtship or marriages; control of their reproductive processes such as forced pregnancies or abortions; human trafficking; disappearances, and homicides based on their gender.⁴⁰⁴

³⁹⁷ Sampó, Carolina, [El rol de las mujeres en las maras: una aproximación a la violencia que sufren e infringen](#), Si Somos Americanos, vol. 16, No. 2, 2016, pp. 127-142.

³⁹⁸ Boerman, Thomas and Knapp, Jennifer, [Gang Culture and Violence against Women in El Salvador, Honduras and Guatemala](#), Immigration Briefings, 17-03, March 2017; Óscar Estrada, [Cambios en la sombra: Mujeres, maras y pandillas ante la represión](#), July 2017.

³⁹⁹ UNHCR, [Mafia of the Poor: Gang Violence and Extortion in Central America](#), April 6, 2017.

⁴⁰⁰ Sampó, Carolina, [El rol de las mujeres en las maras: una aproximación a la violencia que sufren e infringen](#), Si Somos Americanos, vol. 16, No. 2, 2016, pp. 127-142.

⁴⁰¹ INTERPEACE, [Violent Women and violence against women. Gender Relations in the Maras and other street gangs of Central America's Northern Triangle Region](#), April 2012; UNHCR, [Mafia of the Poor: Gang Violence and Extortion in Central America](#), April 6, 2017.

⁴⁰² IACHR, Press Release No. 11A/18, [Conclusions and Observations on the IACHR's Working Visit to El Salvador](#), January 29, 2018.

⁴⁰³ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15. 2015, pars. 239 and 243.

⁴⁰⁴ UNHCR, [Mafia of the Poor: Gang Violence and Extortion in Central America](#), April 6, 2017; CNN en Español, [Pandillas usan cuerpos de mujeres para venganza y control en El Salvador](#), June 15, 2018; Time, [Violence Against Women in El Salvador Is Driving Them to Suicide, or to the U.S. Border](#), May 14, 2019; Reuters, [El Salvador gang violence stifles progress on gender killings: top prosecutor](#), May 8, 2019; Zedginidze, Tina,

196. In addition, the Commission has learned that many women, girls and adolescents are forced to engage in illicit activities.⁴⁰⁵ Thus, women and girls engage in some some of the same activities as their male counterparts, such as stealing; collecting "rents"; transporting, hiding and selling drugs and weapons; and organizing kidnappings and murders. At the same time, they perform activities especially entrusted to women, such as visiting inmates; maintaining communications between incarcerated gang leaders and members in their neighborhood; or as partners or "companions."⁴⁰⁶ In this regard, the Commission notes that, while men and women are subjected to threats or punishment for wanting to leave the gang or disobedience, in the case of women, such threats or punishments include gender-specific violence,⁴⁰⁷ such as using sexual violence as an additional form of punishment or murders perpetrated with particular viciousness and misogynistic cruelty.⁴⁰⁸
197. In relation to the above, the Commission notes that the growing role of women in gangs has also resulted in an increase in the number of incarcerated women.⁴⁰⁹ The information collected by the IACHR suggests that, in many cases, criminalized women engage in criminal activities under threats against them and their families, which serves to further complicate understanding and addressing the situation of women and teenagers in gangs both as operators in criminal activities and as victims thereof.⁴¹⁰ The Commission also reiterates that the prevailing repressive approach of State policies to combat organized crime, through the criminal justice system and police activity, has proved inappropriate and ineffective; on the contrary, it has been linked to the increase and persistence of cycles of violence and criminality.⁴¹¹ Furthermore, such measures have a direct impact on the lives of the population, especially in the poorest communities, and in particular on teenage girls and

Domestic Abuse and Gang Violence against women: Expanding the particular social group finding in matter of A-R-C-G- to grant asylum to women persecuted by gangs, Vol. 34, no.1. 2016; Revista FACTum, Así viven y mueren las mujeres pandilleras en El Salvador, March 11, 2016.

⁴⁰⁵ IACHR, Press Release No.011A/18, Annex: Conclusions and Observations on the IACHR's Working Visit to El Salvador, January 29, 2018; IACHR, Press Release No.114/17 IACHR Wraps Up On-Site Visit to Guatemala, August 4, 2017.

⁴⁰⁶ Sampó, Carolina, El rol de las mujeres en las maras: una aproximación a la violencia que sufren e infringen, Si Somos Americanos, vol. 16, No. 2, 2016, pp. 127-142.

⁴⁰⁷ Zedginidze, Tina, Domestic Abuse and Gang Violence against women: Expanding the particular social group finding in matter of A-R-C-G- to grant asylum to women persecuted by gangs, Vol. 34, No. 1, 2016, p. 231.

⁴⁰⁸ Revista FACTum, Así viven y mueren las mujeres pandilleras en El Salvador, March 11, 2009; Boerman, Thomas and Knapp, Jennifer, Gang Culture and Violence against Women in El Salvador, Honduras and Guatemala, Immigration Briefings, 17-03, March 2017.

⁴⁰⁹ InSight Crime, The Mara Women: Gender Roles in CentAm Street Gangs, September 6, 2013.

⁴¹⁰ Boerman, Thomas and Knapp, Jennifer, Gang Culture and Violence against Women in El Salvador, Honduras and Guatemala, Immigration Briefings, 17-03, March 2017.

⁴¹¹ IACHR, Human Rights Developments in the Region, in 2017 Annual Report, Chapter IV, p. 40; IACHR, Country Report 2018, Mexico, 40-93; IACHR, Preliminary Observations of IACHR's In Loco Visit to Brazil, November 10, 2018; I/A Court H.R., Case of Alvarado Espinoza et al. v. Mexico, Merits, Reparations, and Costs, Judgment of November 28, 2018, Series C. No. 370.

women, who are also exposed to different forms of gender-based violence from State institutions, especially law enforcement agencies.⁴¹²

198. The IACHR notes that in countries plagued with structural violence and high crime rates, violence against women inflicted within and as a result of this context goes unnoticed: although the authorities are aware of the violence against them, weaknesses remain in terms of specifically targeting it.⁴¹³ For example, women associated with gang activity face numerous obstacles to accessing social services, shelters for victims of domestic violence, protection measures, or asylum.⁴¹⁴ Similarly, in most cases they do not report the violence against them for fear of reprisals from gangs, fear of being criminalized as gang collaborators, or because of the refusal of the authorities to accept complaints for fear of retaliation against the agents involved in investigating their cases.⁴¹⁵ In that regard, it should be noted that the Commission has indicated that States could be held responsible for failing to provide an effective response in contexts where such a lack of protection exists.⁴¹⁶ The Commission urges States to adopt different tools and techniques to measure and monitor the impact of crime, to assess the results of policies and programs, and to design better targeted and more effective interventions while ensuring observance of human rights.⁴¹⁷
199. In view of the above considerations, the IACHR notes the need to include the gender perspective in the formulation, implementation, monitoring and evaluation of measures and policies to combat violence and crime in States,⁴¹⁸ taking into account the differentiated impact on women of high levels of social violence and criminality in terms of their enjoyment and exercise of their rights. Also crucial is an effective response to gender violence situations in the context described, as part of the duty of States to act with due diligence, which includes establishing specific prevention measures and protections, as well as investigating and punishing all acts of violence against women.⁴¹⁹

⁴¹² IACHR, Violence, Children and Organized Crime, OEA/Ser.L/V/II. Doc. 40/15, November 11, 2015, para. 245.

⁴¹³ Boerman, Thomas and Knapp, Jennifer, Gang Culture and Violence against Women in El Salvador, Honduras and Guatemala, Immigration Briefings, 17-03, March 2017.

⁴¹⁴ INTERPEACE, Violent Women and violence against women, Gender Relations in the Maras and other street gangs of Central America's Northern Triangle Region, April 2012; Zedginidze, Tina, Domestic Abuse and Gang Violence against women: Expanding the particular social group finding in matter of A-R-C-G- to grant asylum to women persecuted by gangs, Vol. 34, No. 1, 2016.

⁴¹⁵ Time, Violence Against Women in El Salvador Is Driving Them to Suicide, or to the U.S. Border, May 14, 2017; Boerman, Thomas and Knapp, Jennifer, Gang Culture and Violence against Women in El Salvador, Honduras and Guatemala, Immigration Briefings, 17-03, March 2017; Reuters, El Salvador gang violence stifles progress on gender killings: top prosecutor, May 8, 2019; UNHCHR, Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at the end of his mission to El Salvador, November 17, 2017.

⁴¹⁶ IACHR, 2018 Annual Report, Chapter V, Mexico, para. 44.

⁴¹⁷ The Dialogue, Desafíos e innovación en gestión y políticas públicas en los últimos 10 años, November 2018.

⁴¹⁸ IACHR, Country report, Situation of Human Rights in Venezuela, OEA/Ser.L/V/II.337. 2017. pars. 343 and 344.

⁴¹⁹ IACHR, Press Release No. 083A/13. Annex to the Press Release Issued at the Close of the 149th Session, November 8, 2013.

2. Impacts of Total Criminalization of Abortion on the Rights of Women and Girls

200. The Commission has deemed sexual and reproductive rights to include the right to equality and non-discrimination, life, humane treatment, health, dignity, and access to information, among others.⁴²⁰ In the face of those rights, the fundamental obligation of States includes ensuring prompt and adequate access to health services that women and girls alone need by reason of their gender and reproductive function, free from any discrimination and violence, in accordance with international commitments in effect on gender inequality.⁴²¹ In the context of the above, both the universal and inter-American human rights systems have progressively and consistently addressed the impacts of the denial of such services on women's rights, and in particular the impacts of total criminalization of abortion in the countries of Latin America and the Caribbean.
201. In this regard, the Committee recalls that the Convention on the Elimination of All Forms of Discrimination against Women provides that States Parties “shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning,” and that they “shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women ... [t]he same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.”⁴²²
202. Similarly, The Commission reiterates the negative impact of laws that absolutely criminalize abortion on the rights to life, personal integrity, health, and the rights of women to live free from violence and discrimination in cases of health risk, unfeasibility of the fetus and in pregnancies resulting from sexual violence or incest⁴²³. These norms impose a disproportionate burden on the exercise of the rights of women and girls and creates a facilitating context for unsafe abortions⁴²⁴. In this regard, the Commission warns that the absolute criminalization of abortion,

⁴²⁰ I/A Court H.R., Case of Artavia Murillo et al. (“In Vitro Fertilization”) v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Judgment of November 28, 2012, Series C. No. 264; I/A Court H.R., Case of Gelman v. Uruguay, Merits and Reparations, Judgment of February 24, 2011, Series C. No. 221, para. 97; I/A Court H.R., Case of the Xákmok Kásek Indigenous Community v. Paraguay, Merits and Reparations, Judgment of August 24, 2010, Series C No. 214.

⁴²¹ IACHR, Press Release No. 165/17, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women’s Sexual and Reproductive Rights](#), October 23, 2017.

⁴²² OHCHR, [Convention on the Elimination of All Forms of Discrimination against Women](#). Articles 12 and 16.

⁴²³ IACHR, [Human Rights Situation in Honduras](#). OEA/Ser.L/V/II. Doc.146/19. 2019. Pár. 267; IACHR. Press Release No.165/17, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women’s Sexual and Reproductive Rights](#), October 23, 2017.

⁴²⁴ IACHR. Press Release No.042/18. [IACHR Urges El Salvador to End the Total Criminalization of Abortion](#). March 7, 2018; IACHR, Annual Report, [Nicaragua](#). Chapter IV.B. Pár.219.

by imposing a disproportionate burden on the exercise of women's rights, is contrary to the international obligations of the State to respect, protect and guarantee the rights of women to life, health and integrity⁴²⁵. Furthermore, the IACHR has received constant information on the direct consequences of the criminalization of abortion in all circumstances and its link to maternal morbidity⁴²⁶ and mortality figures, due to the absence of legal, safe and timely options, many women must undergo dangerous and even fatal practices; they refrain or are discouraged from seeking medical services or have obstetric emergencies without the necessary medical attention; or they are subjected, in case of being forced to proceed with the pregnancy, to a prolonged and excessive physical and psychological.

203. The IACHR also recalls that the various United Nations conferences on development and population progressively moved towards a definition of sexual and reproductive rights,⁴²⁷ underscoring the right to enjoyment of the highest attainable standard of physical and mental health, including family planning and sexual health.⁴²⁸ In the same vein, the Beijing Declaration and Platform for Action stated: "Complications related to pregnancy and childbirth are among the leading causes of mortality and morbidity of women of reproductive age in many parts of the developing world. Unsafe abortions threaten the lives of a large number of women, representing a grave public health problem as it is primarily the poorest and youngest who take the highest risk. [...] In most countries, the neglect of women's reproductive rights severely limits their opportunities in public and private life, including opportunities for education and economic and political empowerment. The ability of women to control their own fertility forms an important basis for the enjoyment of other rights."⁴²⁹ In addition, the conferences agree that "[i]n circumstances where abortion is not against the law, such abortion should be safe. In all cases, women should have access to quality services for the management of complications arising from abortion, ... [and consideration should be given to]

⁴²⁵ IACHR. [Human Rights Situation in Honduras](#). OEA/Ser.L/V/II. Doc.146/19. 2019; IACHR. [Annual Report, 2018. Nicaragua](#). Chapter IV.B. Par.219.

⁴²⁶ IACHR. [Annual Report, Chapter III](#). Pars.200 and 293. For example, the Uruguayan State Presidency reported how the application of the law of voluntary termination of pregnancy, together with the best resources for maternity, allowed the reduction of maternal mortality. Likewise, in terms of voluntary interruptions of pregnancy, he highlighted the performance of 9,719 procedures in 2016 and 9,830 in 2017, an increase of 1.1%, and the figure of 0 cases of maternal mortality for this reason. See Presidencia Uruguay. [Uruguay no registra casos de mortalidad materna por interrupción voluntaria del embarazo](#). May 29, 2018.

⁴²⁷ International Conference on Population (Mexico, 1984); World Conference on Women (Kenya, 1985) and the Nairobi strategies; World Conference on Human Rights, Vienna (1993).

⁴²⁸ In particular, the Final Report of the International Conference on Population and Development held in Cairo recognized that "[e]veryone has the right to the enjoyment of the highest attainable standard of physical and mental health. States should take all appropriate measures to ensure, on a basis of equality of men and women, universal access to health-care services, including those related to reproductive health care, which includes family planning and sexual health. [...] All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so." See [Report of the International Conference on Population and Development](#), p. 12.

⁴²⁹ UN Women, [Beijing Declaration and Platform for Action](#), 2014, para. 97.

reviewing laws containing punitive measures against women who have undergone illegal abortions.”⁴³⁰

204. In addition to the above, the Commission has taken note of General Comment No. 36 of the Human Rights Committee on Article 6 of the ICCPR.⁴³¹ In it, the Committee states that, although States may take measures designed to regulate voluntary terminations of pregnancy, such measures must not result in violation of the right to life of a pregnant woman or girl, such as prohibition against cruel, inhuman or degrading treatment or punishment. Therefore, legal restrictions on the ability of women or girls to seek abortion must not, *inter alia*, jeopardize their lives or subject them to physical or mental pain or suffering. Accordingly, the Committee states that “States parties must provide safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or is not viable.”⁴³² The Human Rights Committee has established that imposing “a legal duty upon doctors and other health personnel to report cases of women who have undergone abortion,” fails to respect women’s right to privacy.⁴³³ In its recommendation, the Committee says that States may not regulate pregnancy or abortion in a manner that runs contrary to their duty to ensure that women and girls do not have to undertake unsafe abortions: “For example, they should not take measures such as criminalizing pregnancies by unmarried women or apply criminal sanctions against women and girls undergoing abortion or against medical service providers assisting them in doing so, since taking such measures compel[s] women and girls to resort to unsafe abortion.”⁴³⁴
205. Without prejudice to the foregoing, the Commission notes that, with the exception of the Maputo Protocol,⁴³⁵ international and regional human rights instruments have not explicitly addressed the issue of decriminalization or total criminalization of abortion. However, universal and regional human rights bodies have addressed the relationship between abortion and women’s rights in sentences, decisions and

⁴³⁰ UN Women, Beijing Declaration and Platform for Action, 2014, para. 97. Actions to be taken, 106.

⁴³¹ OHCHR, [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), October 30, 2018.

⁴³² OHCHR, [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), 30 October 2018, para. 8.

⁴³³ OHCHR, [General Comment No. 28: Article 3 \(The Equality of Rights Between Men and Women\)](#), 29 March 2000, para. 20.

⁴³⁴ OHCHR, [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), 30 October 2018 para. 8.

⁴³⁵ The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, also known as the Maputo Protocol, establishes the obligation for States Parties to “protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.” See Article 15, African Commission on Human and Peoples' Rights, [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#), Signed July 11, 2003.

other relevant pronouncements.⁴³⁶ For example, in the case of K.L. concerning Peru, the UN Human Rights Committee found that the Peruvian state had violated the rights of a teenage girl by denying her right to a therapeutic abortion, with the result that she was forced at age 17 to continue the pregnancy with an anencephalic fetus, putting their physical and mental health at risk. The Committee found the State responsible for violations of articles 17 (right to privacy) and 7 (right not to suffer cruel, inhuman or degrading treatment) of the International Covenant on Civil and Political Rights (ICCPR), as well as noting her special vulnerability as a minor girl.⁴³⁷ Similarly, in the case of L.M.R case concerning Argentina, the same Committee found the State responsible for violations of Articles 2, 3, 7 and 17 of the ICCPR (right to equality and non-discrimination, equality in the enjoyment of rights between men and women, right not to be subjected to torture or to cruel inhuman or degrading treatment, and right to privacy, respectively) when a woman with a disability and a mental age of between 8 and 10 years became pregnant as a result of rape. Despite having requested the termination of pregnancy under the legal provisions legally authorizing abortion in her situation, the procedure was prevented by a court order against the hospital. As a result of the numerous obstacles she encountered, LMR had to resort to an illegal, unsafe abortion.⁴³⁸

206. Within the scope of the inter-American human rights system, the Commission has been vocal on the situation of women's rights in states where the total criminalization of abortion prevails, as in the cases of El Salvador⁴³⁹, Honduras⁴⁴⁰, the Dominican Republic⁴⁴¹ and Nicaragua⁴⁴². For example, the IACHR granted precautionary measures to protect the life and personal integrity of "Amelia" in Nicaragua, a country where termination of pregnancy is prohibited in all circumstances. According to the request, Amelia, mother of a 10-year-old girl, was

In addition, the ECtHR has also stated that denying access to abortion where necessary to secure other human rights, such as the right to life and the well-being of the mother, could be in contravention of States' international human rights obligations. See European Court of Human Rights, Case of A, B, and C v. Ireland, No. 25579/05, Judgment of 16 December 2010, para. 249; European Court of Human Rights, R.R. v. Poland, No. 2761/04, Judgment of 26 May 2011; European Court of Human Rights, Tysi c v. Poland, No. 5410/03, Judgment of 20 March 20 2007.

⁴³⁷ UN Human Rights Committee, Karen Noelia Llantoy Huam n v. Peru, Communication No. 1153/2003, 24 October 2005.

⁴³⁸ United Nations, Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political rights, 28 April 2011.

⁴³⁹ IACHR. Thematic Hearing delating with women deprived of liberty in situations relating to obstetrical emergencies in El Salvador and Reports of Obstetric Violence in Costa Rica. October 28, 2015; IACHR, Annex to the Press Release No. 011/18. IACHR Wraps Up Working Visit to El Salvador. March 29, 2018; CIDH. IACHR. Press Release No.042/18. IACHR Urges El Salvador to End the Total Criminalization of Abortion. March 7, 2018; IACHR, Thematic Hearings on 156th Period of Sessions.

⁴⁴⁰ IACHR. Press Release No.171/18: CIDH concluye su visita a Honduras y presenta sus Observaciones Preliminares. August 3, 2018. IACHR. Situaci n de derechos humanos en Honduras. OEA/Ser.L/V/II.Doc. 146. Agustu 27, 2019. IACHR. Press Release NO.174/19. IACHR and OHCHR Express Concern over the Provisions of the Criminal Code in Honduras and Call for a Review in Accordance with International and Inter-American Human Rights Standards. July 12, 2019.

⁴⁴¹ IACHR. Annual Report 2018 – Chpater IV-B. Dominican Republic. 2018

⁴⁴² IACHR. Annual Report 2018 – Chapter V – Nicaragua. 2018

not receiving the necessary medical care to treat the cancer she suffered, because she was pregnant. The doctors had urgently recommended starting a chemotherapy or radiotherapy treatment, but the hospital informed the mother and Amelia's representatives that the treatment would not be carried out given the high possibility that it would cause an abortion. The Inter-American Commission requested that the State of Nicaragua, among other aspects, take the necessary measures to ensure that the beneficiary has access to the medical treatment she needs to treat her metastatic cancer.⁴⁴³

207. In addition, in the case of B. related to El Salvador, after the State failed to comply with the precautionary measures granted by the IACHR⁴⁴⁴, the Commission requested the Inter-American Court provisional measures to a woman with systemic lupus erythematosus and pregnant of an anencephalic fetus diagnosed incompatible with extrauterine life, for whom the continuity of pregnancy represented a serious risk to her life. The Court, when granting provisional measures to B., requested to the State of El Salvador to adopt and guarantee, urgently, all the measures that were necessary and effective so that the treating medical group of Mrs. B. could adopt, without any interference, the medical measures deemed appropriate and convenient to ensure proper protection of the rights to life and personal integrity, and, thus, avoid damage that could become irreparable⁴⁴⁵. The Court subsequently lifted the provisional measures taking into account that the medical procedure that interrupted the pregnancy of Mrs. B's was carried out.⁴⁴⁶
208. In the case of Manuela and family of El Salvador, the Commission referred to a series of violations in the criminal process that culminated in her conviction for the crime of aggravated homicide. In 2008, Manuela, a 33-year-old Salvadoran woman with two young children, suffered an obstetric complication when giving birth during her third trimester of pregnancy. From the moment she arrived at the hospital she was treated assuming that she had induced an abortion and based on that, the police were alerted. She was subsequently sentenced to 30 years in prison on charges of aggravated homicide, without having had the opportunity to meet with her lawyer and not speak in her own defense. After several months in prison, Manuela was diagnosed with advanced Hodgkin lymphoma, for which Manuela found several obstacles to access the appropriate treatment. Manuela died in jail in 2010. In its merits analysis, the Commission determined that the State violated the right to personal liberty for the illegal detention of the Manuela, taking into account that she was detained under the figure of flagrancy without the requirements being met; the right to privacy and the right to health; as well as the international responsibility of the State for the violation of the duty of motivation, presumption of innocence and the principle of equality and non-discrimination taking into account the application

⁴⁴³ IACHR. [Medidas Cautelares 43-10 "Amelia"](#). Nicaragua. February 26, 2010.

⁴⁴⁴ IACHR. [Medidas Cautelares 114-13 "B."](#) El Salvador, May 29, 2013.

⁴⁴⁵ I/A Court. [Medidas provisionales respecto de El Salvador](#). Matter B. May 29, 2013.

⁴⁴⁶ I/A Court.. [Medidas provisionales respecto de El Salvador](#). Matter B. May 29, 2013. .

of a series of stereotypes throughout the criminal process, which had the impact of closing certain research lines and prevent the thorough analysis of the evidences⁴⁴⁷.

209. Based on the foregoing considerations, the Commission notes that El Salvador,⁴⁴⁸ Nicaragua,⁴⁴⁹ Dominican Republic,⁴⁵⁰ Honduras,⁴⁵¹ Haiti,⁴⁵² and Suriname⁴⁵³ have provisions that criminalize abortion in all circumstances, including in cases where the woman's life is at risk, when the pregnancy is the result of rape, and in cases of incompatibility with life outside the womb.⁴⁵⁴ In this regard, the Commission reiterates to the States of the region their obligations as regards the right to life; respect for well-being; health; not to be subjected to cruel, inhuman and degrading treatment; privacy; equality and non-discrimination; and women's right to a life free from violence.
210. The Commission also reiterates that States have a duty to remove all *de jure* and *de facto* obstacles that prevent women's access to maternal health, sexual health and reproductive health services that they require, including information and education in the area of sexual and reproductive health. These measures must take into account the special situation of risk, lack of protection, and vulnerability of girls and adolescents, as well as of women who are particularly excluded and be in line with inter-American standards in that regard.⁴⁵⁵ In addition, the Commission has

⁴⁴⁷ IACHR. Press Release No.255/19:[IACHR Brings El Salvador Case Before Inter-American Court](#), October 10, 2019. Center for Reproductive Rights. [Comisión Interamericana de Derechos Humanos Admite Caso Sobre Mujer Salvadoreña Injustamente Encarcelada](#). April 19, 2017.

⁴⁴⁸ Republic of El Salvador, Criminal Code, Decree No. 1030,[Chapter II. Crimes against life of the developing human being](#), Art. 133; IACHR, Press Release No.042/18, [IACHR Urges El Salvador to End the Total Criminalization of Abortion](#), March 7, 2018.

⁴⁴⁹ Republic of Nicaragua, Law No. 641, Criminal Code, [Chapter II. Abortion, genetic manipulation and injuries to the unborn](#), Articles 143-145, 2006.

⁴⁵⁰ Dominican Republic, Criminal Code, [Section 2. Non-classified intentional injuries and blows, homicides. Violence and other intentional crimes and offenses](#). Article 317; IACHR, [Follow-up on recommendations made by the IACHR based on the working group on implementation of human rights policies in the Dominican Republic](#), 2018 Annual Report, Chapter V. para. 93; Human Rights Watch, ["It's Your Decision, It's Your Life." The Total Criminalization of Abortion in the Dominican Republic](#), November 19, 2018.

⁴⁵¹ Republic of Honduras, Criminal Code, Decree 144-83, [Chapter II. Abortion](#), Article 126; Amnesty International, [Honduras: Oportunidad histórica de despenalizar el aborto](#), April 25, 2017; La Prensa, [Use the icons on the web site to share this article](#), August 6, 2016; El Diario. [La legalización del aborto, excluida del nuevo Código Penal de Honduras, que recibe fondos españoles](#), October 6, 2017; IACHR, Press Release No. 174/2019, [IACHR and OHCHR Express Concern over the Provisions of the Criminal Code in Honduras and Call for a Review in Accordance with International and Inter-American Human Rights Standards](#), July 29, 2016.

⁴⁵² Republic of Haiti, Criminal Code, [Section 2. Non-classified intentional injuries and blows, homicides and other intentional crimes or offenses](#). Article 262; Le Nouvelliste, [Enjeu juridique autour de la problématique de l'avortement en Haïti](#), March 13, 2018.

⁴⁵³ Republic of Suriname, Criminal Code,[Title XIV. Misdriften tegen de zeden](#), Article 319, pars. 355-358. 1910; ECLAC, [National Review Suriname](#), May 2014, p. 21; CEDAW, [Third periodic report of States Parties, Suriname](#),9 June 2005, p. 48.

⁴⁵⁴ Guillaume, Agnès and Clémentine Rossier, [Abortion around the World. An Overview of Legislation, Measures, Trends, and Consequences](#), Vol. 73, No. 2, 2018, pp. 217-306.

⁴⁵⁵ IACHR, Press Release No.165/ 2017. [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights](#), October 23, 2017.

recommended moratoriums on the enforcement of the provisions that totally criminalize abortion, as well as a careful review of the convictions of women under those provisions, in order to ensure a fair and stereotype-free trial for each and, if the opposite is proved, their release.⁴⁵⁶ Finally, the IACHR reiterates to States that do not yet have an adequate regulatory framework, their obligation to adopt legislation designed to safeguard the effective exercise of women's sexual and reproductive rights, cognizant that the denial of the right to voluntarily terminate a pregnancy in certain circumstances can constitute a violation of the fundamental rights of women and girls.⁴⁵⁷

D. Specific Challenges Related to the Rights of Girls

211. International human rights law recognizes the right of girls to special protection specifically adapted and strengthened because of their condition as persons who are still developing and growing.⁴⁵⁸ That special protection is justified on the basis of differences relative to adults in terms of possibilities and challenges for the effective exercise and full observance, defense and enforceability of their rights,⁴⁵⁹ which implies "specific duties of the family, society and the State."⁴⁶⁰ States assume a heightened guarantor role, which entails the adoption of a series of measures of diverse types and content targeting children.⁴⁶¹ Therefore, the State should adopt special measures to protect children and adolescents, in particular, with increased

⁴⁵⁶ IACHR, Annex to Press Release No. 011/18, [Conclusions and Observations on the IACHR's Working Visit to El Salvador](#), January 29, 2018; IACHR, Press Release No.042/18, [IACHR Urges El Salvador to End the Total Criminalization of Abortion](#), March 7, 2018; OHCHR, [Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at the end of his mission to El Salvador](#), November 17, 2017; UN, Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, 13 February 2019.

⁴⁵⁷ IACHR, Press Release No.133/17, [IACHR Welcomes Approval of Chilean Law Decriminalizing Abortion on Three Grounds](#), September 5, 2017; IACHR, Press Release No. 165/17, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights](#), October 23, 2017; IACHR, Press Release No. 042/18, [IACHR Urges El Salvador to End the Total Criminalization of Abortion](#), March 7, 2018.

⁴⁵⁸ The Inter-American Commission and Court have articulated that recognition based on Article 19 of the American Convention and Article VII of the American Declaration. IACHR, [Report No. 83/10, Case 12.584, Merits, Milagros Fornerón and Leonardo Aníbal Javier Fornerón](#), 2010, para. 72; I/A Court H.R., [Juridical Condition and Human Rights of the Child, Advisory Opinion OC-17/02 of August 28, 2002](#), Series A No. 17, pars. 54, 55 and 60; and, especially, I/A Court H.R., [Case of the "Juvenile Reeducation Institute" v. Paraguay](#), Judgment of September 2, 2004, Series C. No. 112, para. 147.

⁴⁵⁹ IACHR, [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#), OEA/Ser.L/V/II.166.Doc.205/17 2017, para. 44.

⁴⁶⁰ I/A Court H.R., [Juridical Condition and Human Rights of the Child, Advisory Opinion OC-17/02 of August 28, 2002](#), Series A No. 17, par .54.

⁴⁶¹ I/A Court H.R., [Juridical Condition and Human Rights of the Child, Advisory Opinion OC-17/02 of August 28, 2002](#), Series A No. 17, para. 56 and 17; I/A Court H.R., [Case of Bulacio v. Argentina, Judgment of September 18, 2003](#), Series C No. 100, pars. 126 and 134; I/A Court H.R., [Case of the Sawhoyamaya Indigenous Community v. Paraguay](#), Judgment of March 29, 2006, Series C. No. 146, para.177; I/A Court H.R., [Case of Servellón García et al. v. Honduras](#), Judgment of September 21, 2006, Series C. No. 152, para. 116.

care and responsibility in accordance with the principle of the best interests of the child and applying great diligence in all its actions.⁴⁶²

212. Furthermore, the Commission and the Court have noted that girls and adolescents specifically are more vulnerable to forms of violence and discrimination arising from the structural violence and discrimination faced by women in the region. The particular risks faced by girls, as well as their special protection needs due to the combined factors of their age and condition as women, should be given appropriate consideration by the State, giving rise to a heightened duty of diligence.

1. Child Marriage and de Facto Unions

213. The Inter-American Court has pointed out that the full autonomy of the person to choose with whom he or she wants to sustain a permanent marital bond, whether natural (de facto union) or solemn (marriage), derives directly from the principle of human dignity.⁴⁶³ According to the organs of the universal human rights system, a forced marriage occurs without the full and free consent of at least one of the parties or where at least one party is unable to end or leave the marriage, including as a result of duress or intense social or family pressure.⁴⁶⁴ The IACHR also notes that it is understood that consent cannot be 'free and full' when one of the parties involved "is not sufficiently mature to make an informed decision about a life partner."⁴⁶⁵
214. The Commission highlights Article 17 of the American Convention, which provides for the right of all persons to marry and to raise a family. In that provision, States identify the free and full consent of the intending spouses as a requirement for marriage. In addition, Article 16 of CEDAW similarly recognizes the equal right of women and men freely to choose a spouse and to enter into marriage only with their free and full consent. The essential nature of the free and full consent of the contracting parties to a marriage is thus recognized.
215. In keeping with the above framework, the Commission holds that child marriages or de facto unions are an expression of forced marriage insofar as there is not only an absence of sufficient maturity of at least one of the contracting parties to choose their spouse on the basis of full, free and informed consent, but also a clearly unequal relationship of power between spouses. Child marriage has been defined by the CEDAW Committee and the Committee on the Rights of the Child as "any marriage

⁴⁶² IACHR, Report No. 170/11, Case 12.578, Merits, María Isabel Véliz Franco et al. v. Guatemala, 2011, para. 153; I/A Court H.R., Juridical Condition and Human Rights of the Child, Advisory Opinion OC-17/02 of August 28, 2002, Series A No. 17, pars. 56 and 60; I/A Court H.R. The "Street Children" Case (Villagrán Morales et al.), Judgment of November 19, 1999, Series C. No. 63, pars. 146 and 191.

⁴⁶³ I/A Court H.R., Gender identity, and equality and non-discrimination with regard to same-sex couples, Advisory Opinion OC-24/17, November 24, 2017, Series A No. 24, para. 225.

⁴⁶⁴ Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57, 5 January 2016, para. 63.

⁴⁶⁵ UNICEF, Child Protection Information Sheet: Child Marriage, 2006, p. 18.

where at least one of the parties is under 18 years of age.”⁴⁶⁶ Alongside that concept, the IACHR notes that early or premature de facto unions have been regarded as an informal form of child marriage in that they follow informal patterns of family ties.⁴⁶⁷

216. For its part, UNICEF has emphasized that when children are victims of this practice, it is a form of sexual abuse and exploitation of girls and adolescents.⁴⁶⁸ On this point, the IACHR agrees that child marriages or de facto unions are founded on discrimination by reason of sex, gender and age, and constitute a violation of the human rights of women and girls.⁴⁶⁹ This practice has a significant impact on the lives of girls—by reducing and affecting their opportunities for personal, educational, professional development—and on their ability to make important decisions about their lives, including their economic independence. It puts them at greater risk for gender-based exploitation, abuse and violence, especially sexual violence. Thus, in its most extreme form, it has been stated that forced marriage can involve threatening behavior, abduction, imprisonment, physical violence, rape, and, in some cases, homicide.⁴⁷⁰
217. It is cause for concern to the IACHR that there is no evidence of progress in the Latin American and Caribbean region towards eradicating this practice and that the figures show that the indices remain as high as they were 25 years ago. According to UNICEF, this hemisphere is the only region in the world where the prevalence of child marriage and early unions has not decreased in the decade; on the contrary, it has remained at around 25 percent, while other areas of the world have seen significant declines, most notably South Asia.⁴⁷¹ The UNFPA estimates that 2 percent of women of childbearing age in Latin America and the Caribbean had their first birth before the age of 15.⁴⁷²

⁴⁶⁶ CEDAW and Committee on the Rights of the Child, [Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices](#), CEDAW/C/GC/31/CRC/C/GC/18, 14 November 2014, para. 20.

⁴⁶⁷ Girls Not Brides, [The global partnership to end child marriage](#), [Child Marriage in Latin America and the Caribbean](#), 2017.

⁴⁶⁸ UNICEF, [Child Protection Information Sheet: Child Marriage](#), 2006, p. 18.

⁴⁶⁹ CEDAW and Committee on the Rights of the Child, [Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices](#), CEDAW/C/GC/31/CRC/C/GC/18, November 14, 2014, para. 20.

⁴⁷⁰ United Nations General Assembly, Report of the Secretary-General, [In-depth study on all forms of violence against women](#), A/61/122/Add. 1, 1 July 2006, para. 122.

⁴⁷¹ UNICEF, [Press Release, Latin America and the Caribbean: a decade lost in reducing child marriage](#), April 6, 2018. The Commission also considers it essential to note that "one of the main reasons that child marriage and early unions in LAC have not reduced is related to the equally high (second in the world) adolescent pregnancy rates and risk of sexual violence for girls (1.1 million adolescent girls report having experienced sexual abuse). See UNICEF, [Press Release, Latin America and the Caribbean: a decade lost in reducing child marriage](#), April 6, 2018.

⁴⁷² Pan American Health Organization, United Nations Population Fund and United Nations Children's Fund, [Accelerating progress toward the reduction of adolescent pregnancy in Latin America and the Caribbean](#), Washington, D.C., 2018.

218. In some countries in the region, child marriage remains a common practice. In that sense, according to public information, 13 territories in Latin America and the Caribbean still allow marriage for persons under the age of 16 through legislative exceptions (Anguilla, Antigua and Barbuda, Argentina, Bahamas, Belize, Brazil, Guyana, Haiti, Puerto Rico, Dominican Republic, Saint Kitts and Nevis, Saint Vincent and the Grenadines, United States and Suriname), while 6 countries still maintain different minimum ages for marriage for men and women, which represents a persistent disparity between girls and boys in terms of the legal minimum age for marriage.⁴⁷³
219. The IACHR has learned that the age difference between minor wives and the men with whom they would be married varies throughout the region, with significant differences in some contexts. In Central America, for example, the average difference is estimated to be 5 to 7 years, which has been assessed as a considerable difference, given the young age of the girls and the difference in power between teenagers and people aged 20 to 30.⁴⁷⁴ The Commission highlights that a marked difference in the ages of the spouses in a child marriage can mean different levels of maturity, education and skills to function independently in a community. In that sense, a notable difference in age further deepens the inequalities in historically unequal power relations between women and men, and makes victims more helpless against different forms of violence based on the intersectionality of their gender and age.
220. It is important to note that States have expressly recognized poverty, insecurity and lack of education as root causes of child marriage or unions.⁴⁷⁵ In the same vein, the Commission submits that the causal factors of early marriages or unions could include deeply rooted, prevailing gender stereotypes and roles in the region; poverty and the fact that many families lack the means to provide an adequate standard of living for their children, particularly their daughters; domestic violence; lack of information and access to sexual and reproductive health services; and pregnancies arising from early initiation of sexual activity, without adequate information about their sexual and reproductive health. In cases of pregnancies, the IACHR has indicated that family and social pressures often push teenage girls into marriages or early unions, impacting their opportunities for personal, educational, and professional development, as well as important decisions about their lives, making them more vulnerable.⁴⁷⁶
221. It should be noted that in the context of child marriage or unions girls and adolescents are subjected from a very young age to behaviors defined by sociocultural patterns of discrimination and stereotypical roles of women based on their reproductive, caregiver, and household work roles. The Commission finds that

⁴⁷³ Latin American and Caribbean Initiative to Prevent and Address the Early Unions in Girls and Young Women, Legislative mapping of formal early unions in Latin America and the Caribbean, 2018.

⁴⁷⁴ Plan and UNICEF, Experiences and account of pregnancy amongst adolescents, 2014; Girls Not Brides, The global partnership to end child marriage, Child Marriage in Latin America and the Caribbean, 2017.

⁴⁷⁵ UN General Assembly, Resolution No. 71/175, Child, Early and Forced Marriage, A/RES/71/175, 23 January 2017.

⁴⁷⁶ IACHR, Press Release No. 147/16, IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region, October 12, 2016.

this, together with other factors, could lead to an abandonment of their life plans and, as a result of pressure in the home, from their community or family, and even for fear of retaliation from the latter, limiting themselves to the expectations and desires of their spouse. As a result, girl and teenage wives grow up in an environment where their ability even to make decisions about intimate aspects of their personality is greatly diminished, which could have a powerful impact on their emotional and psychological development.

222. In that regard, the Commission considers that child marriage reproduces cycles of poverty and exclusion of women; can cause physical and psychological harm; and prevents girls from achieving gender parity, equal protection before the law, the free exercise of their human rights, and the ability to realize their full potential and develop skills. The IACHR considers it crucial for States to recognize that, while child marriage occurs across the Hemisphere, child marriage rates are higher among women and girls in rural areas, where they are almost twice as high as in urban areas. In this regard, according to a global UNFPA study on child marriage, “girls living in rural areas of developing countries are twice as likely to marry or enter into a free union as their urban counterparts (44 percent versus 22 percent, respectively).”⁴⁷⁷ The Commission considers that this coincides with the fact that girls from poor families, indigenous girls, and those living in rural areas are particularly vulnerable to this harmful practice.⁴⁷⁸
223. The IACHR notes the State obligation to adopt, progressively, specific measures, including programs “to modify the social and cultural patterns of conduct of men and women, ... to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women.”⁴⁷⁹ In particular, the Commission considers that the States in the hemisphere have an obligation to prevent and eradicate child marriage or de facto unions as practices in which girls and teenagers are subject to multiple different forms of violence and discrimination based on their age and gender.
224. As a first step, States should strengthen national laws, policy frameworks, and mechanisms to protect and promote the rights of girls, and bring them into line with international and inter-American standards. This includes, in particular, repealing in laws—in particular, customary, religious and indigenous laws—all legal provisions that discriminate against women and thereby permit, tolerate or condone child marriage. In this regard, the IACHR considers that, in order to protect

⁴⁷⁷ UNICEF, UN Women, et al., [Reforming the legislation on the age of marriage: Successful experiences and lessons learned from Latin America and the Caribbean](#), 2016, p. 8.

⁴⁷⁸ UNICEF, UN Women, et al., [Reforming the legislation on the age of marriage: Successful experiences and lessons learned from Latin America and the Caribbean](#), 2016.

⁴⁷⁹ Article 8.b of the Convention of Belém do Pará.

girls, States should generally set the age of majority as the legal minimum age for marriage.⁴⁸⁰

225. In this context, the IACHR notes that both the CEDAW and the Committee on the Rights of the Child took the view that “as a matter of respecting the child’s evolving capacities and autonomy in making decisions that affect her or his life, a marriage of a mature, capable child below 18 years of age may be allowed in exceptional circumstances, provided that the child is at least 16 years of age and that such decisions are made by a judge based on legitimate exceptional grounds defined by law and on the evidence of maturity, without deference to culture and tradition.”⁴⁸¹ Specifically, the IACHR considers that the adjudicator should assess the circumstances of the particular case and take a reasoned decision in accordance with international and inter-American principles and standards for the protection of minors and women, in particular as regards States’ obligations to protect against discrimination and violence.
226. The Commission recalls that the existence of laws is not a sufficient measure, given that other challenges remain in that same regard, including loopholes, failure to enforce laws, and the difficulty of regulating informal de facto unions, which are often not included in legal definitions. In that respect, the Commission agrees that, given that early de facto unions are understood as an informal expression of marriage, some States do not classify them as marriage, which probably leads to an underestimation of the extent of child marriage in the region.⁴⁸²
227. In tandem with the foregoing, States should develop and implement prevention and eradication measures and policies based on in-depth studies to identify the root causes that lead to the practice of child marriage in the country’s particular contexts, and the groups of pre-teen and teenage that are most vulnerable.⁴⁸³ States parties should ensure that their policies and measures take into account the different risk factors faced by girls as regards different forms of violence in different settings, and should include measures starting at the local level in communities.⁴⁸⁴ Appropriate resources should be earmarked for steps to reduce child marriage, and inter-agency cooperation in the implementation of clearly defined policies and plans should be ensured.
228. The IACHR reiterates once more that it is essential for women and girls to participate in a direct and organized manner, in order to have in-depth knowledge

⁴⁸⁰ CEDAW, General recommendation No. 21: Equality in marriage and family relations Thirteenth session, 1994, para. 36.

⁴⁸¹ CEDAW and Committee on the Rights of the Child, Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31/CRC/C/GC/18. 14 November 2014, para. 20.

⁴⁸² Girls Not Brides, The global partnership to end child marriage, Child Marriage in Latin America and the Caribbean, 2017.

⁴⁸³ UNICEF, UN Women, et al., Reforming the legislation on the age of marriage: Successful experiences and lessons learned from Latin America and the Caribbean, 2016, p. 24.

⁴⁸⁴ Committee on the Rights of the Child, General Comment No. 13, Right of the child to freedom from all forms of violence, CRC/C/ GC/13, April 18 2011.

of their experiences and opinions. The State should encourage and ensure that they participate and that their input is reflected in the measures and policies adopted. Among other things, States should seek and pursue different avenues for participatory, structured and sustained community-based dialogue. These could include meetings in homes, churches or religious centers, and schools, with the direct and constant participation of women and girls ensured.

229. The IACHR considers it crucial that States include measures to protect women and girls who are already married. In that regard, States should make available their state apparatus to support and protect them from acts of violence, especially sexual violence, forced labor, slavery, and abuse, among others, as well as to remove obstacles to the exercise of their rights, specifically in terms of access to justice. The Commission notes that this includes the creation and maintenance of shelters or homes, as well as protection measures. States should consider the populations where the highest rates of this practice are observed and ensure that access to these measures is not hindered by attitudes or actions of State officials. The Commission stresses that married girls and adolescents also need reproductive health services to help them avoid early pregnancy, as well as access to adequate care during pregnancy, childbirth, and postpartum.⁴⁸⁵
230. As a critical part of eradicating child marriage, the Commission believes that girls should be empowered in the exercise of their rights. In that sense, programs should be implemented to develop life skills, health information, economic empowerment, and social protection, free from all forms of discrimination and on an equal footing. Such policies and practices should focus in particular on breaking cycles of poverty and violence in rural areas, deprived populations, and indigenous communities. Programs could include courses for women and girls to develop skills applicable in different fields of employment and measures to facilitate and promote access to education,⁴⁸⁶ as well as to ensure access to accessible, confidential, and free sexual and reproductive health services for teenage girls. Through empowerment, girls at risk of, and affected by, child marriage could better express and exercise their choices and, at the same time, receive greater support and protection from their community and the State.⁴⁸⁷

2. Sexual Violence against Girls

231. The IACHR observes that sexual violence against women and girls is a form of discrimination that seriously impairs the enjoyment of rights and freedoms on an equal footing with men. The Commission has understood that this form of violence can completely disrupt the life project of a pre-teen or teenage girl; for example,

⁴⁸⁵ UNFPA, *Motherhood in Childhood. Facing the challenge of adolescent pregnancy*, 2013, p. 88.

⁴⁸⁶ OAS, Press Release C-031/17, *Let Them Be Children. Combating Child and Early Marriage and Union in the Americas*, April 13, 2017.

⁴⁸⁷ UNICEF, *2017 Annual Report, UNFPA-UNICEF Global Program to accelerate action to end child marriage*, 2017.

when they become mothers as a result of rape; by being excluded because of the stigma and discrimination they face at school when they become pregnant; and when they are forced by family pressure to marry their assailant. The IACHR has also learned that a large number of girls who are victims of sexual violence are separated from their families, institutionalized, or drop out of school due to lack of support.⁴⁸⁸

232. The IACHR is deeply concerned that, despite the alarming figures and severity of this form of violence, the data do not reflect the actual magnitude of the problem due to the significant under-registration that exists as a result of the failure of victims to report it. According to figures reported to the IACHR, in Peru, 1 in 5 girls under the age of 15 have suffered rape, and only 15% of such cases are taken up by government prosecutors;⁴⁸⁹ in Ecuador over the last decade, pregnancies in children under 14 years old as a result of rape have increased by 74%;⁴⁹⁰ in Guatemala, 5,600 children suffered physical and sexual violence in 2018;⁴⁹¹ and in Colombia, a girl is abused every hour “far exceeding sexual violence against adult women.”⁴⁹²
233. According to the information received, in Latin America in 80 percent of rapes of girls the victims are between the 10 and 14 years old, and 90 percent of those cases involve repeated rape.⁴⁹³ In the case of Bolivia, for example, one in three girls suffers some form of sexual violence before the age of 18.⁴⁹⁴ In Argentina, 3,000 cases of sexual violence against girls are reported each year and according to the latest report of the Program for Victims against Violence (PVCV), in the period between November 2016 and July 2017, there were at least 1,024 victims of child sexual abuse in the country. In the first half of 2017, the number of complaints of sexual abuse and violence against minors in the city of Buenos Aires increased by 40 percent compared to the first six months of the previous year, and in 70 percent of cases the culprit was a close relative of the victim, according to the Directorate for Victim Guidance, Support and Protection (DOVIC).⁴⁹⁵
234. In Mexico, in 4 out of 10 cases of sexual assault the victims are under the age of 15, and in Peru, 2 in 5 victims of sexual violence are girls under the age of 14.⁴⁹⁶ In Paraguay, according to data from the Department of Command Statistics regarding

⁴⁸⁸ IACHR, Thematic hearing, [Human Rights of Girls in Latin America and the Caribbean](#), October 28, 2016, 149th regular session.

⁴⁸⁹ IACHR, [Hearing on “Sexual Violence against Girls in Latin America and the Caribbean,” 165th session, Montevideo](#), October 24, 2017.

⁴⁹⁰ IACHR, [Hearing on “Sexual Violence against Girls in Latin America and the Caribbean,” 165th session, Montevideo](#), October 24, 2017.

⁴⁹¹ EFE. [Más de 5.600 menores en Guatemala sufrieron violencia física y sexual en 2017](#) February 1, 2018.

⁴⁹² Redmas. [Aumentan casos de violencia sexual contra niñas en Colombia](#), October 11, 2018.

⁴⁹³ IACHR, Thematic hearing on [“Sexual Violence against Girls in Latin America and the Caribbean,”](#) October 25, 2017, 165th session.

⁴⁹⁴ IACHR, Thematic hearing [“Reports of Sexual Violence against Adolescents in Bolivia,”](#) March 18, 2017, 161st session; CIDH. Press Release, Report on the 161st Session of the IACHR, March 22, 2017.

⁴⁹⁵ La Nación, [Aumentaron 40% las denuncias de abusos sexuales contra menores](#), September 23, 2017.

⁴⁹⁶ PROMSEX. [Niñas no Madres](#), 2017.

intrafamily sexual violence, children are the most affected by this type of violence, 89.8 percent of the victims are children, and 69.5 percent are aged 13 or less.⁴⁹⁷

235. The Commission notes that the high prevalence of this form of violence, the associated stigma, and social stereotypes very often renders it invisible, and that instances in which victims fail to receive adequate care are extremely numerous. As mentioned, this happens because of a number of factors: the social stigma associated with sexual violence; ignorance of what constitutes an act of sexual violence as well as of rights and/or mechanisms for seeking justice; fear or deceit; lack of confidence in the State's response due to the high level of impunity in such cases; pressure from family members not to report; or the assailant is usually a relative of or a person close to the victim, or someone with a relationship of superiority over them.⁴⁹⁸
236. With regard to the last factor, the IACHR expresses its concern at the high percentage of cases in which this form of violence is inflicted by people who are close to girls and with whom they should feel safe and protected, such as family members, close family friends, neighbors, acquaintances, teachers, and friends. A high percentage of sexual violence occurs at home, at school and, very often, in settings familiar to the girls. In such circumstances, it is understood that many of them do not report it due to feelings of guilt and/or fear. In many cases, the mothers of the girls would appear to continuously cover up their partners, either because they blame the girls for what happened, for fear of stigma, out of affective or economic dependence on the aggressor, for fear of reprisals, or simply because they do not believe what the girls' accounts. In this regard, the Commission notes that this leaves the victim in a situation of particular vulnerability and increases the risk that girls will be subjected to repeated rape by the perpetrator(s).
237. The IACHR is mindful that, when they feel unprotected, adolescent girls who experience sexual violence in their homes often take the initiative to leave home as a way of ending the abuses as a last resort, because those to whom they might turn are either inaccessible or untrustworthy, or they do not dare to say anything.⁴⁹⁹ Crucially, such situations make them vulnerable to other forms of violence and violations of their rights; many girls and adolescent women victims of physical, psychological, or sexual violence in the home who decide to run away end up in the clutches of people traffickers.⁵⁰⁰
238. The IACHR has stated that given the many obstacles in terms of protection and access to justice for indigenous and Afro-descendent girls, cases of sexual violence in such contexts are likely to be heavily under-reported and enjoy high levels

⁴⁹⁷ Última Hora. [Siete cada diez víctimas abuso sexual en las casas son niños y niñas](#). September 13, 2017.

⁴⁹⁸ IACHR, Press Release No. 147/16, [IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region](#), October 12, 2016.

⁴⁹⁹ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15, November 11, 2015, para. 207.

⁵⁰⁰ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15, November 11, 2015, para. 250.

impunity.⁵⁰¹ Such obstacles include geographical, institutional, economic, socio-cultural, linguistic, and gender barriers, as well as stereotypes and strong social stigmatization.

239. On the basis of that framework, the Commission highlights the essential nature of the international instruments on violence against women and of the international body of law for protection of children in cases of sexual violence, including rape, in defining the content and scope of State obligations in relation to cases of girls as victims.⁵⁰² In this regard, without prejudice to the standards established in cases of violence and sexual assault against adult women, States have a heightened obligation to adopt specific and special measures taking into account the need to ensure special protections for girls.⁵⁰³
240. Although the Commission recognizes that it is a complex problem, it emphasizes that a holistic, multisectoral, and integrated approach is called for to address the structural and endemic causes of violence, in particular sexual violence against girls, based on their dual position as women and girls. Therefore, the IACHR considers it essential for States to take into account the full gamut of factors that contribute to it, as well as those factors that have an impact in terms of reducing risk. Through the national comprehensive protection systems, States should include the local level in the measures to be adopted, as well as empowering girls to exercise their rights and giving them a prominent role in designing, implementing, monitoring, and evaluating policies and programs to confront the sexual violence that affects them.⁵⁰⁴
241. The Commission recalls that reliable data and indicators are needed for the design and effective implementation of public policies for eradicating the problem. The absence, dearth, or incompleteness of such information can cause different challenges faced by girls and adolescents to go unnoticed to deepen obstacles to the exercise of their rights.⁵⁰⁵ Thus, it is crucial that States consider the intersectional element of gender, children, and factors such as socioeconomic status, race, ethnicity, and others in data collection. In this regard, the IACHR has recommended that the National Child Protection Systems create information systems that rely, not only on statistics from the police and courts, but also on self-perception surveys and

⁵⁰¹ IACHR, [Access to Justice for Women Victims of Sexual Violence: Education and Health](#), OEA/Ser.L/V/II. Doc. 65, December 28, 2011.

⁵⁰² I/A Court H.R., [Case of V.R.P., V.P.C., et al. v. Nicaragua](#), Preliminary Objections, Merits, Reparations, and Costs, Judgment of March 8, 2018, Series C. No. 250, pars. 155 and 157; The IACHR emphasizes in this regard Article 19 of the American Convention and the Convention of Belém do Pará itself, insofar as it establishes that state policies for preventing, punishing and eradicating violence against women must take into account the situation of vulnerability to violence that a pre-teen or teenage girl might suffer.

⁵⁰³ IACHR, [Report 4/16, Case 12.690, Merits, VRP and VCP, Nicaragua](#), August 25, 2016, pars. 84 and 85.

⁵⁰⁴ IACHR, [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#), OEA/Ser.L/V/II.166 Doc. 206/17, November 30, 2017, para. 76.

⁵⁰⁵ MESECVI, [Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention](#), OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.234/16 rev. 1, 2016, para. 72.

direct consultation with girls to better know their situations and adjust interventions accordingly, as well as including civil society and rights defenders.⁵⁰⁶

242. With regard to access to justice, the IACHR notes that structural barriers remain due to, among other reasons, the lack of free, appropriate and accessible legal advisory services that independently represent the rights of girls; the fact that in some countries legal or practical restrictions are established on who may file the complaint and how it should be filed; and the limitation periods for such offenses. In that regard, the Commission urges States to conduct a review and analysis of their legal frameworks, including regulations and protocols, in order to remove provisions that may, because of their wording or implementation, be used to obstruct access to justice for girls who are victims of sex crimes.
243. In addition, it is important to remember that, under the inter-American system, access to justice not only involves enabling the necessary reporting mechanisms for girls, but also envisages the possibility of their active participate in judicial processes, with their own voice and legal assistance, in defense of their rights, depending on age and level of maturity. A harmonious and comprehensive interpretation of the right to be heard of girls, together with the principle of progressive autonomy, entails ensuring legal assistance for the victims in criminal proceedings. Accordingly, legal assistance must be ensured by a lawyer who specializes in gender and juvenile matters, has standing to appear as a party in proceedings, object to judicial measures, file motions, and undertake any other procedural acts to defend their rights in the process; that assistance should also be free and provided by the State, irrespective of the economic resources of their parents or the opinions of the latter.⁵⁰⁷
244. At the same time, the Commission notes that processes of investigation and prosecution of acts of sexual violence, in particular sexual assault of girls, generally continue to be re-victimizing and marked by gender stereotypes. This is compounded by the often too few specialized units in place to investigate such crimes and, at the same time, investigative protocols that are non-existent or suffer from weaknesses. This often results in there being no clear and adequate "path" or protocol to guide officials and authorities, from the receipt of the complaint, during the judicial process, or as regards the necessary medical, psychological, social and other assistance and treatment.
245. In that regard, the Commission notes that it is necessary first of all to establish and implement special investigation and judicial protocols for sexual offenses, as well as protocols for the necessary comprehensive medical care, adapted to the police, judicial and forensic contexts with a gender-aware approach and the best interests of the girl as a primary element taken into account. They must be adapted to respect and guarantee the rights of the girl and take into account the risk and vulnerability

⁵⁰⁶ IACHR, Press Release No. 147/16, [IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region](#), October 12, 2016.

⁵⁰⁷ I/A Court H.R., [Case of V.R.P., V.P.C. et al. v. Nicaragua](#), Preliminary Objections, Merits, Reparations, and Costs, Judgment of March 8, 2018, Series C. No. 250, para. 161.

factors of particular populations of girls. States should take concrete and appropriate steps to ensure their uniform implementation at the local and national levels and should organize mandatory training on their proper implementation and on the standards of protection for girls who are victims of sexual violence.

246. In that sense, the questioning of the credibility of the testimony of victims in the case of girls and adolescents—either because of the victim’s age in the case of young girls, or because of prejudice and subjective views about the victims’ behavior and sexuality—remains a major hurdle in ensuring access to effective justice for victims and contributes to their re-victimization. On this point, the IACHR considers it important to remember that not all cases of violence and/or sexual assault cause physical injury or illness that can be verified by a medical examination.⁵⁰⁸ In addition, if the participation of the girl is deemed necessary and may aid in the collection of evidence, their revictimization should be avoided at all times, and the process limited to measures and actions in which their participation is deemed strictly necessary; furthermore, the presence of their assailant and their interaction with the latter in the procedures thus ordered should be avoided.⁵⁰⁹
247. In view of the foregoing considerations, the Commission recognizes that sexual violence against girls is a phenomenon with specific dynamics that differentiate it from sexual violence against adults. The Inter-American Court has stressed that rape is an extremely traumatic experience that can have severe consequences and causes great physical and psychological damage, which leaves the victim physically and emotionally humiliated, a situation that can hardly be overcome by the passage of time, unlike what happens with other traumatic experiences. In the case of children victims of sexual violence, this impact could be severely aggravated, suffering an emotional trauma differentiated from adults, and an extremely profound impact, particularly when the aggressor maintains a bond of trust and authority with the victim, as a parent⁵¹⁰.
248. In general, it is observed that the use of physical force in cases of sexual violence against children is rarely used since many times and in turn, because of their status as girls, victims do not understand the nature of the acts they are inflicted. Likewise, the aggressor is usually a close, trustworthy person or an authority figure, while this type of violence can occur over several weeks, months or even years, in repetitive episodes that may worsen over time⁵¹¹. The particularities of this kind of violence include that the victims tend to remain silent for a long time before making complaints, among other reasons, for fear of not being believed, for the family

⁵⁰⁸ I/A Court H.R., J. v. Peru, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 27, 2013, para. 329.

⁵⁰⁹ I/A Court H.R., Case of V.R.P., V.P.C. et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, Judgment of March 8, 2018, Series C. No. 250, para. 163.

⁵¹⁰ I/A Court H.R., Case of V.R.P., V.P.C. et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, Judgment of March 8, 2018, Series C. No. 250, para.163.

⁵¹¹ World Health Organization, Guidelines For Medico-Legal Care For Victims Of Sexual Violence, Chap.7. Child Abuse, 2003.

consequences that the revelation may cause or because they have blocked the memory therefore, in these cases in particular, victim girls do not always have the possibility to make the corresponding complaints quickly or at the same time. Due to the above and with a view to overcoming some of the main barriers and obstacles to access to justice for children, the Commission has recommended extending the limitation periods for crimes committed against children and considering the imprescriptibility of the most serious crimes⁵¹². For its part, the Committee on the Rights of the Child has repeatedly recommended ending the prescription of sanctions and criminal action in cases of sexual violence against girls and boys as a way to protect the rights of children⁵¹³.

249. In this regard, the Commission warns that in Peru, through Law No. 30838, new measures were adopted to punish sexual violence, including, among other measures, the imprescriptibility of rape, public sexual offenses and child pornography⁵¹⁴. Also, in Ecuador, in the referendum that took place on February 4, 2018, the majority of the Ecuadorian population decided in favor of amending the Constitution of the Republic so that sexual crimes committed against children could not prescribe⁵¹⁵. Similarly, the Commission warned that in Chile unanimously, the Chamber of Deputies and Deputies, and the Senate approved that the imprescriptibility of sexual crimes against children and adolescents⁵¹⁶.
250. On the other hand, the Commission has considered necessary the existence of specific services and protection for victims of certain offenses, such as those involving sexual assault, especially rape. In cases of sexual violence, it has been interpreted that the State should, once the facts are known, provide immediate professional assistance, both medical and psychological or psychiatric, through professionals specifically trained in the care of victims of such crimes and with a gender and childhood perspective.⁵¹⁷ Support should be maintained throughout the criminal process, if possible by the same professional who provides care to the girl. It should also be ensured that such support services are provided without discrimination, taking into account the age, sex, gender, sexual orientation or expression, socioeconomic status, skills and abilities of the pre-teen or teenage girl,

⁵¹² IACHR. [Hacia la garantía efectiva de los derechos de niñas, niños y adolescentes: Sistemas Nacionales de Protección](#). OEA/Ser.L/V/II.166 Doc. 206/17. November 30, 2017, Par.130.

⁵¹³ Naciones Unidas - Comité de los Derechos del Niño, [Observaciones finales sobre los informes periódicos cuarto y quinto consolidados de México](#), CRC/C/MEX/CO/4-5, 8 de junio de 2015. Párrs.33 y 34; Naciones Unidas - Comité de los Derechos del Niño, [Observaciones finales sobre los informes periódicos cuarto y quinto combinados de Chile](#), CRC/C/CHL/4-5, 2 de octubre de 2015. Pár. 47.

⁵¹⁴ NODAL, [Perú: la violación sexual y la trata de personas serán imprescriptibles](#), August 9, 2018.

⁵¹⁵ UNICEF, [La imprescriptibilidad de los delitos sexuales contra niños, niñas y adolescentes. Una forma de decir "¡No Más!"](#), 5 de febrero de 2018; El Comercio, [La sanción contra el abuso sexual a los niños cambió](#), February 9, 2018.

⁵¹⁶ Biblioteca del Congreso Nacional de Chile, [Guía legal sobre Imprescriptibilidad de los delitos sexuales contra menores de 18 años](#), August 20, 2019; UNICEF, [UNICEF valora decisión presidencial de decretar imprescriptibilidad total de los delitos sexuales contra niños, niñas y adolescentes, May 7, 2018; La Clave, Por el derecho al tiempo: Abuso sexual infantil imprescriptible, pero no retroactivo, June 26, 2019.](#)

⁵¹⁷ I/A Court H.R., [Case of V.R.P., V.P.C., et al. v. Nicaragua](#), Preliminary Objections, Merits, Reparations, and Costs, Judgment of March 8, 2018, Series C. No. 250, para. 165.

or any other factor or special need they may have; and taking into consideration also their level of maturity and understanding.

251. In particular, the Commission considers it essential to create gender-based joint strategies between the child protection sector and the judicial authorities in order to ensure effective access to physical and psychological rehabilitation services for girls, as well as comprehensive restitution of their rights.⁵¹⁸ The integration of the entire national comprehensive protection system is considered necessary for a response through essential, multisectoral services for all girls who are victims of sexual violence. The IACHR also emphasizes that the interaction of the above services should take into account and ensure care for girls and adolescents when there is an intersection of two or more discrimination factors.
252. States should also train competent authorities to identify situations of predictable risk to the lives and well-being of girls who are victims of sexual offences. The special protection measures to be taken by the State are based on the fact that children and adolescents are considered more vulnerable to human rights violations, something that is also determined by a number of factors, such as age, their specific individual conditions, and their degree of development and maturity, among others.⁵¹⁹ Finally, the Commission reiterates that sexual violence, with a particular impact on girls and adolescents, also affects reproductive health and often results in unwanted, illegal and unsafe abortions, and an increased risk of sexually transmitted diseases.

3. Early Pregnancies and Pregnancies Resulting from Sexual Violence

253. The Commission notes that child and adolescent pregnancy is a serious problem in the Hemisphere with about 10 million pregnancies per year.⁵²⁰ According to available information, Latin America and the Caribbean is the only region in the world where births in girls under the age of 15 are increasing, and has the second-highest number of pregnancies in adolescents aged 15 to 19.⁵²¹ According to various international authorities, the countries of the region with the highest estimated teenage fertility rates are Guatemala, Nicaragua and Panama in Central America;

⁵¹⁸ IACHR, [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#), November 30, 2017, pars. 193-205; and recommendation 129.

⁵¹⁹ I/A Court H.R., [Case of V.R.P., V.P.C, et al. v. Nicaragua](#), Preliminary Objections, Merits, Reparations, and Costs, Judgment of March 8, 2018, Series C. No. 250, para. 156.

⁵²⁰ IACHR, Thematic hearing on [Sexual Violence against Girls in Latin America and the Caribbean](#), October 24, 2017, 165th session; IACHR, Thematic hearing, [Human Rights of Girls in Latin America and the Caribbean](#), October 28, 2016, 149th regular session; and United Nations Population Fund (UNFPA), [Motherhood in Childhood. Facing the challenge of adolescent pregnancy](#), pp. 5, 6, 10, 11, and 12.

⁵²¹ PAHO, WHO, UNFPA and UNICEF, [Accelerating progress toward the reduction of adolescent pregnancy in Latin America and the Caribbean](#), February 2018.

Dominican Republic in the Caribbean; and Bolivia and Venezuela in South America.⁵²²

254. In addition, the Commission has received information on situations of discrimination and stigma in the region against pregnant girls and adolescents by their communities and even their families. In this regard, the IACHR notes that acts of violence against such girls and adolescents as a result of unwanted pregnancies or their simply because of being pregnant could lead to high-risk pregnancies and a variety of problems, including miscarriage, premature births, and fetal distress.⁵²³
255. The IACHR notes the high risk posed by child and adolescent pregnancy to the health of the mother and newborn, as well as the increased risks of complications during pregnancy and labor.⁵²⁴ In that regard, UNICEF has reported that newborns of child mothers are more likely to have low birth weight, with the attendant risk of long-term health effects, as well as malformations or developmental problems due to aspects relating to the physiological and emotional maturity of the mother.⁵²⁵ In particular, the Commission has been aware that, in a number of countries in the region, it is still common for pregnant girls and adolescents not to have access to education as a result of being denied entry to the school or exposed to various forms of harassment, marginalization and rejection. In addition, they often have to contend with isolation within their family group and circle of friends, which aggravates the impact of their lack of economic autonomy, difficulties in accessing employment, and the inadequacy of social assistance provided by the State.
256. In the case of Colombia, the reported rate of violence against pregnant women in 2015 was 12.59 per 100,000 women (national report) (cases reported by SIVIGILA).⁵²⁶ In El Salvador the estimated rate of physical violence against pregnant women was 7.6 percent in 2014, while in Guatemala, the rate was 7 percent for

⁵²² PAHO, OMS, UNFPA y UNICEF. [Accelerating progress toward the reduction of adolescent pregnancy in Latin America and the Caribbean](#), February 2018. Similarly, the IACHR received information on other countries in the region. In the case of Argentina, "since the first year of the 2000s (2000-2016), an average of 2967 girls between the ages of 10 and 14 underwent pregnancies that end in childbirth, i.e., 8 girls per day." [Report by cladem submitted to the IACHR as part of the Questionnaire]. According to UNICEF, 99,324 births of mothers under the age of 20 were recorded in Argentina in 2016, of which 2,149 corresponded to mothers under the age of 15, and 96,905 to mothers between the ages of 15 and 19. In this regard, UNICEF expressed concern about the "extremely serious" situation, especially from a health, social and legal point of view, as these cases were mainly involved the sexual abuse of mothers.

⁵²³ United Nations General Assembly, [Report of the Secretary-General, In-depth study on all forms of violence against women, A/61/122/Add. 1](#), 6 July 2006, pars. 162 and 179.

⁵²⁴ PAHO, OMS, UNFPA y UNICEF. [Accelerating progress toward the reduction of adolescent pregnancy in Latin America and the Caribbean](#), February 2018.

⁵²⁵ UNICEF, [Embarazo en adolescentes](#), 2009.

⁵²⁶ OAS, MESECVI, [Third Hemispheric Report on the Implementation of the Belém do Pará Convention. Prevention of Violence against Women in The Americas: Paths to Follow](#), OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.242/17, 2017, para. 383.

2014/2015. In the Dominican Republic 7.4 percent of women aged 15-49 who have been pregnant at some point experienced physical violence during pregnancy.⁵²⁷

257. In particular, the IACHR has been aware of a significant incidence of adolescent pregnancies due to early sexual initiation and lack of access to quality information and sex education.⁵²⁸ Faced with the above, the IACHR considers crucial the need to implement sex education in schools syllabuses for boys and girls in an impartial, accessible and progressive way, consistent with students' ages and educational level.⁵²⁹ The IACHR believes that objective sex education stimulates the empowerment of girls in terms of awareness of the content of their sexual and reproductive rights.⁵³⁰
258. The Commission has indicated that, despite progress in identifying and reporting cases of pregnancies resulting from sexual violence, the response of States has continued to focus on the process of reporting and criminal prosecution, even at the expense of victims' well-being or re-victimization. As a result, girls and adolescents who are victims of sexual violence are unlikely to seek medical attention out of fear or because of stigma, which hinders their access to emergency oral contraception or termination of a pregnancy, facilitating a broader pattern of lifelong violence.⁵³¹
259. In addition, the Commission emphasizes the serious repercussions that, in particular, forced pregnancy due to sexual violence could have, including social isolation and suicide. Pregnancy has immediate and lasting consequences for girls and means the violation of many of their rights in the areas of health, education, social and community inclusion, family insertion and life project. In this regard, the IACHR has received worrisome information regarding the prevalence of maternal mortality in young women caused by self-inflicted injuries. According to this information, since 2011 at least 42 pregnant girls committed suicide in El Salvador. These deaths would have been associated with cases of pregnant girls who put an end to their lives in the absence of options to assume unwanted pregnancies, the result of rapes, which generate discrimination and social signaling⁵³².
260. In cases where sexual violence has resulted in a forced pregnancy in girls and adolescents, the IACHR emphasizes the importance of adopting appropriate

⁵²⁷ OAS, MESECVI, [Third Hemispheric Report on the Implementation of the Belém do Pará Convention, Prevention of Violence against Women in The Americas: Paths to Follow](#), OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.242/17, 2017, para. 383.

⁵²⁸ CLADEM, [Informe Regional Alterno al Comité de Expertas \(CEVI\) Tercera Ronda de Evaluación Multilateral del Mecanismo de Seguimiento de la Convención de Belém do Pará: Acceso a la justicia, niñas madres y situación de defensoras de derechos humanos](#), August 2016, para. 40.

⁵²⁹ IACHR, Press Release No. 011A/18, [Conclusions and Observations on the IACHR's Working Visit to El Salvador](#), January 29, 2018,

⁵³⁰ IACHR, [Access to Information on Reproductive Health from a Human Rights Perspective](#), OEA Ser.L/V/II. Doc.61, 2011, para. 3.

⁵³¹ MESECVI, [Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention](#), OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.234/16 rev. 1, 2016, para.12.

⁵³² IACHR, Annex to the Press Release No. 011/18. [IACHR Wraps Up Working Visit to El Salvador](#). March 29, 2018.

protocols to guarantee legal, timely and free access to emergency contraceptive methods and truthful, sufficient and impartial information to access the legal termination of pregnancy, especially when it comes to young girls⁵³³. In this regard, effective access to adequate health services for victims, based on health care protocols that include the obligation to provide adequate information to victims of sexual violence and their families that regulate how, when and by whom the legal termination of pregnancy can be determined, it would allow that in practice there is real access to these procedures without discrimination and without any legal or criminal consequences. The foregoing is particularly important in countries whose domestic legislation provides for the possibility of legal termination of pregnancy in cases where it represents a risk to the life of the girl.

261. It is also worrying that even in cases where girls and adolescents are legally guaranteed access to termination of pregnancy according to the provisions provided, important barriers persist, in many cases based on gender stereotypes, for access to legal and safe abortion. For example, in the absence of clear and adequate medical protocols, temporary delays in processing requests or medical opinions and, in some cases, the requirement of the presence or authorization of the parents for the provision of such information, goods and services, on account of their age.⁵³⁴ In this regard, the IACHR has urged States to adopt legislation to safeguard the effective exercise of women's and girls' sexual and reproductive rights, with the understanding that the denial of a safe and timely voluntary termination of a pregnancy in certain circumstances can constitute a violation of their fundamental rights.⁵³⁵ In the face of this reality, there is a need for States, among other measures, to develop protocols, guidelines and public policies designed specifically and comprehensively to address the problem of sexual violence against girls, including multidisciplinary procedures to follow up on cases where such violence has resulted in a child pregnancy.⁵³⁶
262. In particular, the Commission emphatically highlights the special duty of States to conduct judicial and health procedures impartially and effectively. Girls and adolescents who become pregnant a result of rape should have access to appropriate and timely care, and the necessary steps should be taken to ensure their

⁵³³ IACHR. Press Release No. 147/16. [IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region](#), October 12, 2016; IACHR. Thematic Hearing [Sexual Violence and the rights of Girls and Adolescents in Paraguay](#), April 4, 2016; IACHR, Thematic Hearing, [Situation of the rights of women and girls in Nicaragua](#), December 7, 2016; IACHR. Thematic Hearing on [Sexual and Reproductive Rights in South América](#), June 7, 2016.

⁵³⁴ IACHR, [Annual Report](#), Ch. IV.A, Human Rights Developments in the Region, OEA/Ser.L/V/II. Doc. 210, 2017, para. 117.

⁵³⁵ IACHR, Press Release No. 11/18, [IACHR Wraps Up Working Visit to El Salvador](#), January 29, 2018; IACHR, Press Release No. 42/18, [IACHR Urges El Salvador to End the Total Criminalization of Abortion](#), March 7, 2018; IACHR, Press Release No. 133/17, [IACHR Welcomes Approval of Chilean Law Decriminalizing Abortion on Three Grounds](#), September 5, 2017; IACHR, Press Release No. 165/17, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights](#), October 23, 2017.

⁵³⁶ CLADEM, [Informe Regional Alterno al Comité de Expertas \(CEVI\) Tercera Ronda de Evaluación Multilateral del Mecanismo de Seguimiento de la Convención de Belém do Pará \(MESECVI\): Acceso a la justicia, niñas madres y situación de defensoras de derechos humanos](#), August 2016, para. 54.

human rights, especially the rights to life and humane treatment, the right not to be subjected to violence, and sexual and reproductive rights. The IACHR urges States to remember their special duty to protect the human rights of girls owing to their special vulnerability, as well as the obligation to act in a way that takes into account the best interests of the child as a fundamental criterion. In this vein, the IACHR notes that it is necessary for States to act, at the very least, under the presumption that any pregnancy in a girl under the legal age of consent is the result of sexual assault.

263. In that regard, the IACHR considers it essential for States to develop a specialized care path to comprehensively protect the health of victims, taking into account not only their physical integrity and health, but also their mental health, and their emotional and psychological well-being. The Commission recalls since female victims of sexual and physical violence commonly suffer psychological consequences, such as depression, anxiety disorders, and post-traumatic stress disorders, the profound impacts resulting from traumatic events and forced pregnancy should also be taken into account. Subject to their particular needs based on their age, gender and individual experiences, States should assess and provide responses that take account of the obstacles faced by pregnant girls in a differentiated manner.
264. Finally, as regards access to schools, the Commission notes that pregnant girls and adolescents still face barriers to an education during pregnancy. The IACHR considers that the State is responsible for establishing the necessary conditions to ensure access to education free from discrimination or violence for pregnant girls and adolescents. That obligation includes conducting studies that identify the causes of school dropout or failure and implementing policies that ensure scholastic continuity and completion by addressing both school-related and extracurricular factors.⁵³⁷ The IACHR believes that failure to guarantee the right to education for girls and adolescents can have significant repercussions, not only on their formation and empowerment, but also in terms of reproduction of harmful stereotypes that legitimize restricting a woman's and/or adolescent's access as a way of condemning or "rejecting" their perceived sexual conduct or early sexual initiation that resulted in pregnancy.
265. Without prejudice to preceding sections of this report, the IACHR calls on States to specifically and comprehensively address the problem of child and adolescent mothers in the region, with the aim of lowering high rates and, at the same time, eradicating the discrimination and violence to which they are subjected. In that regard, among other actions, the Commission considers that States should identify the particular causes and consequences for each group in order to design and implement appropriate prevention, protection, and rights-guarantee measures. The IACHR has noted that there is a clear relationship between child and adolescent pregnancy and socially entrenched stereotypes about the value of motherhood and

⁵³⁷ El Clarín, [Informe de Unicef con datos oficiales. Cada tres horas una nena de entre 10 y 14 años tiene un bebé en la Argentina.](#) July 10, 2017.

the role of women; the lack of empowerment of pre-teen and teenage girls; and low investment in education, particularly sex and reproductive education.

4. Child labor, Labor Exploitation and Trafficking

266. Article 32 of the Convention on the Rights of the Child provides that States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The same provision also establishes that States shall set a minimum age for employment. For its part, Article 3 of Convention No. 138 of the International Labour Organization (ILO) states that the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.
267. In the same sense, ILO Convention No. 182 states that the "worst forms of child labor" are all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor,⁵³⁸ including forced or compulsory recruitment of girls for use in armed conflict; for prostitution, the production of pornography or pornographic performances; or for illicit activities, in particular for the production and trafficking of drugs. According to the same convention, the worst forms of child labor shall be determined by national laws after consultation, in which States should allow and promote the participation of civil society organizations working with girls, as well as those of children, especially those exposed to work, in order to better understand their vulnerabilities.⁵³⁹
268. It is crucial to note that child labor has higher prevalence levels in traditionally excluded and discriminated groups.⁵⁴⁰ In this regard, the lack of programs to support families, especially in the most excluded and poorest areas of countries, and the combination of that with other conditions, such as that of migrants or displaced persons, leads to an increase in child labor rates. In that regard, the IACHR notes that girls living in poverty are exposed to informal child labor and to situations that may represent abuse and exploitation, including modern forms of slavery.

⁵³⁸ The term forced labor, as defined in ILO Convention No. 29, means "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Crucially, coercion can take many forms, from physical and sexual violence or threats against the family to more subtle means, such as wage retention, identity document retention, threats of dismissal, and threats of reporting to authorities.

⁵³⁹ IACHR, Press Release No. 067/15, [IACHR Urges States to Take Immediate, Effective Steps to Eliminate the Worst Forms of Child Labor](#), June 11, 2015.

⁵⁴⁰ Article 32 of the Convention on the Rights of the Child provides that all children should be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Children's involvement in productive activities for economic reasons is customary in the region and families see it as a contribution to the household economy and a survival strategy⁵⁴¹.

269. In that connection, the IACHR has expressed its concern regarding situations of abuse, mistreatment, and exploitation to which girls engaged in some type of productive activity may be subjected; their vulnerability when reporting such situations; their frequent victimization by stigmatization and criminalization, even at the hands of government security forces; health problems associated with the work they do (for example, on landfills or in informal mining); and how difficult it is for them to complete their education, as evidenced by high absenteeism and dropout rates.⁵⁴²
270. Child labor is prevalent in many of the region's countries, in spite of States' efforts to implement measures and plans to eradicate child labor. Although child labor in Latin America and the Caribbean has been substantially reduced in recent years, 5.7 million children work before reaching the minimum employment age or perform jobs that should be prohibited.⁵⁴³ According to information received by the IACHR, in the case of Argentina, 9.4 percent of minors between 5 and 15 years of age routinely engage in some type of work,⁵⁴⁴ while in the case of Colombia, 869,000 minors between the ages of 5 and 17 are working.⁵⁴⁵ UNICEF, for its part, said that in Peru, though the State is making significant efforts to eradicate child labor, 18 percent of children under the age of 14 are still victims of child labor.⁵⁴⁶
271. Child labor is reflected in a very diverse range of activities; the most worrying phenomena involve different forms of abuse and exploitation that put the lives, physical integrity, and health of children and adolescents at risk. On this point, the Committee on the Rights of the Child and the IACHR have highlighted the need to distinguish child labor that should be abolished from other productive activities that should be accepted, such as, for example, activities that enable indigenous children to learn their identity and culture, provided that they are not hazardous or hamper the education of children and adolescents, nor are potentially harmful to their health or physical, mental, spiritual, moral, or social development, whose abolition should be immediate and absolute.⁵⁴⁷

⁵⁴¹ IACHR, Press Release No. 256/19, On the International Day of the Girl Child, the IACHR Stresses States' Obligation to Grant Special, Reinforced Protection to Girls' Fundamental Rights, October 11, 2019.

⁵⁴² IACHR, Press Release No. 147/16, IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region, October 12, 2016.

⁵⁴³ ILO, Convention No. 138 on the minimum age for admission to employment and work; and ILO, Convention No. 182 on the worst forms of child labour.

⁵⁴⁴ Response submitted by UNICEF regarding Argentina for this report. IACHR Archive.

⁵⁴⁵ Response submitted by Observatorio de Género y Derecho de la Universidad Autónoma de Latinoamérica regarding Colombia for this report. IACHR Archive.

⁵⁴⁶ UNICEF, 4 estrategias para acabar con el trabajo infantil.

⁵⁴⁷ IACHR, Press Release No. 067/15, IACHR Urges States to Take Immediate, Effective Steps to Eliminate the Worst Forms of Child Labor, June 11, 2015; Committee on the Rights of the Child, General Comment No. 11

272. Child labor hinders or impedes schooling and the exercise of other children's rights, such as the right to play and the right to recreation. Of particular concern are the risk and harm that it can cause to their well-being, integral development, and rights to humane treatment, health, and life. As mentioned, it exposes girls to ill-treatment, abuse, physical, psychological and sexual violence, neglect, exploitation, and human trafficking.
273. In this way, priority should be given to adopting comprehensive structural measures designed to prevent child labor and hazardous working conditions and to provide the direct assistance necessary to ensure rehabilitation and reintegration of children who are victims of exploitation, such as, for example, social and economic development and poverty alleviation programs;⁵⁴⁸ family social assistance policies; free universal access to inclusive, accessible, quality, appropriate, pertinent primary and secondary education; measures targeting adolescents to facilitate the transition from school to work; campaigns to raise awareness and encourage reporting of situations that put girls and adolescents at risk; information systems to analyze the incidence of this phenomenon, its causes, manifestations, and problems, in order to have a reliable diagnostic assessment with which to design a plan of action and monitor its results; facilitate support and complaints mechanisms for girls through well-known, accessible, appropriate, and reliable services; and adopt comprehensive measures of prevention, protection, rehabilitation, and redress for girls who are victims of exploitation, among other measures.
274. Strengthening free access to basic public services, particularly health and education, for families in situations of greatest vulnerability and in areas of the country with less access to such services is an important strategy for reducing child labor. Priority should be given to getting girls who are not receiving a formal education into a quality education system with flexible study programs that meet their needs and enable their effective reintegration. The Commission urges the adoption of measures to ensure that all children in the region can at least complete the primary education cycle, have training opportunities for decent work, and are free from all forms of harmful work, in order to ensure their social inclusion while addressing the needs of their families.
275. The IACHR highlights as measures for preventing situations of exploitation and promoting the social inclusion of adolescents living in poverty is to introduce age-appropriate, education-compatible work programs. Such programs ease the transition from education to employment and also play an important developmental role in the lives of adolescents, equipping them with skills and enabling them to learn responsibilities and, where necessary, to contribute to their families' economic well-being and support their access to education. The IACHR has also highlighted

(2009), *Indigenous children and their rights under the Convention*, CRC/C/GC/11, 12 February 2009, para. 68 ff; ILO, *Handbook on Combating Child Labour among Indigenous and Tribal Peoples*, 2006.

⁵⁴⁸ The Commission underscores that “[w]hen the State has a sturdy safety net that ensures assistance to cover the basic needs of low-income families, the risk that children will be exploited decreases.” IACHR, Press Release No. 067/15, *IACHR Urges States to Take Immediate, Effective Steps to Eliminate the Worst Forms of Child Labor*, June 11, 2015.

such programs as an appropriate measure for preventing the recruitment of children and adolescents by organized crime in contexts characterized by a lack of opportunities.⁵⁴⁹ Such programs should respect the national legal minimum age, in keeping with international standards and with the age of compulsory education, with due respect accorded to their rights to education and to rest, leisure, play, and recreational activities. To that end, schooling and the introduction to decent work should be coordinated to facilitate both in the lives of adolescents, according to their age.⁵⁵⁰

276. In particular, the IACHR notes the situation of working women and girls in the region and stresses that gender is a crucial factor in child labor. Structural poverty in a number of countries particularly affects women and girls, who are often head of households forced to work and set aside their studies or are in charge of the housework in their homes, living under precarious conditions and without protection. Many girls work in agriculture and high-risk sectors, such as mining, garbage dumps, fireworks, and informal vending, or are recruited for illicit activities, including production, marketing, distribution and trafficking of narcotics.
277. Although this phenomenon is a violation of children's rights—of both boys and girls—many girls start working at an early age, as young as six years old in some cases, especially in rural areas. In the case of girls, due to gender roles, they are often responsible for domestic work and the care of others, such as siblings, persons with illness, persons with disabilities, or older persons, especially when the family has no other means to meet such needs. Although domestic work is recognized as a troubling form of child labor that both girls and boys perform and which is still socially entrenched and accepted in the region, according to information received by the IACHR, high numbers of girls engage in child labor as domestic employees to contribute to the household economy.⁵⁵¹
278. In this regard, the Commission has received information regarding the situation of gender-based violence against domestic workers in Latin America and the Caribbean, giving account of the situation of violation and risk in which they find themselves, particularly girls and adolescents⁵⁵². Furthermore, in relation to Paraguay, for example, the Commission has learned about the practice of parenting and the so-called “criaditas”⁵⁵³: according to the information available, 47,000 children in Paraguay are doing domestic work, exposing themselves to various forms of violence, including sexual violence⁵⁵⁴. In the case of Haiti, the Commission has expressed concern about the situation of about 300,000 Haitian children, 85%

⁵⁴⁹ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15, 2015, pars. 542 and 543.

⁵⁵⁰ Committee on the Rights of the Child, [General Comment No. 20 on the implementation of the rights of the child during adolescence](#), CRC/C/GC/20, 6 December 2016, para. 86.

⁵⁵¹ IACHR, Thematic hearing on [Human Rights of Girls in Latin America and the Caribbean](#), October 28, 2013, 149th regular session.

⁵⁵² CLADEM, CARE, [Situación de violencia de género contra trabajadoras del hogar en América Latina y El Caribe](#), Audiencia Temática celebrada en el marco del 171 Período de Sesiones de la CIDH, February 15, 2019.

⁵⁵³ ABC, [El caso de Panambí llega hasta la CIDH](#), March 29, 2017.

⁵⁵⁴ El Espectador, [El "criadazgo" en Paraguay: una forma de esclavitud moderna](#), January 16, 2017.

girls, who work without pay and are condemned to live as *restavek* (“stay with them” in Creole). In the case of girls working in these conditions, they are also called *lapourca* (“here for that” in French), implying that their function is not limited only to housework but also to sexually pleasing their employers. As the IACHR has indicated, “The *restavek* system deprives children of the family environment and subjects them to multiple forms of abuse, including economic exploitation, sexual violence and corporal punishment, thus violating their right to security, education, health and food. Many of these children have been declared victims of human trafficking inside and outside the country while the United Nations Special Rapporteur on Contemporary Slavery described the *restavek* system as a “modern form of slavery”⁵⁵⁵.

279. As a result of the pressure of traditionally assigned gender roles, many girls find it hard to exercise a series of rights, including the right to education, although many families in precarious socio-economic circumstances send their daughters to cities to work as maids in the belief that they will have better access to education. However, the IACHR has learned that very often these girls are not only prevented from accessing education, but are subjected to situations of labor exploitation, forced to perform domestic work in precarious conditions for long hours without decent treatment or pay, their vulnerability is taken advantage of, and they are even being subjected to sexual abuse.⁵⁵⁶ That becomes a factor of gender inequality and can negatively interfere with their development and health if it involves them dropping out of school or causes them to over-exert themselves physically and psychologically, as well as having repercussions on their life plans. Working as domestic servants exposes them to mistreatment; abuse; physical, psychological, and sexual violence; neglect; and exploitation, all of which is facilitated by, among other things, their vulnerability due to distance from and lack of customary contact with their families and limited contact with people they trust.
280. The Commission also notes that responsibilities and time devoted without pay to the home or care of dependents, without significantly limits the possibility of women having their own income in the future, seeking options in the labor market, advancing their educational and work careers, and participating fully in politics and society. In this regard, it has been verified that as a result of such work, girls find themselves immersed in situations in which they have “less time for learning, specialization, leisure, social and political engagement, or personal care; greater difficulties finding a job outside the home; and greater participation in low-value, low-income jobs in which women can have greater control over their time, even if such work does not offer them social protection.”⁵⁵⁷
281. Despite the adverse effects, such situations tend to be accepted and States do not develop sufficient measures to support families and prevent this violation of rights

⁵⁵⁵ IAHR. *Annual Report – Chapter IV – Haiti*. 2009, para. 434; OuestrFrance, *Restavèk, les enfants esclaves en Haïti*, February 9, 2012; Terre des Hommes, *Les enfants Restaveks en Haïti*, April 21, 2018.

⁵⁵⁶ IACHR, Precautionary Measure *PM-68-17, Panambi regarding Paraguay*, March 2, 2017.

⁵⁵⁷ UN Women, *Unpaid domestic work and care*, 2016.

of girls. Currently, at the regional level, there are countless cases of domestic working women and girls whose human rights are being systematically violated, consigning them to positions of vulnerability. The Commission stresses in this regard that a high percentage of trafficking victims have a history of domestic work from an early age.⁵⁵⁸

282. Interventions against child labor should avoid "punishing" the family or "correcting" the pre-teen or teenage girl by separating them from their family and placing them in a residential facility without first making an analysis based on their best interests. The IACHR has stated that what is needed is the timely and careful intervention of welfare institutions with the financial resources and qualified staff to solve those problems or allay their consequences, as opposed to a punitive reaction.⁵⁵⁹ Interventions should target the causes, such as the family's situation, with a view to taking protective steps, unless circumstances are found that potentially would justify the child's separation from their family, in which case all the guarantees of legal due process must be observed.
283. With regard to trafficking in girls, the Commission notes the point made by the I/A Court H.R. as to the essential nature of the right recognized in the American Convention not to be subjected to slavery, involuntary servitude, forced labor, or the slave trade and traffic in women, which is inalienable even in time of war, public danger, or other threats, in accordance with Article 27(2) of said treaty.⁵⁶⁰ The court has also stated that the crime of trafficking in persons can be committed "for any purpose of exploitation," in that the purpose element is not limited to a specific exploitation goal, such as forced labor or sexual exploitation, but can also include other forms of exploitation.⁵⁶¹ In particular where trafficking in girls and adolescents exists, the conditions to which they are subject are also in themselves violations of human rights, as they are characterized by unacceptable environments, work that is hazardous to health, and the treatment to which they are subjected.
284. States should adopt comprehensive measures and have an appropriate legal framework of protection, prevention policies, and practices that allow effective measures to be taken in response to complaints. That obligation is reinforced by the duty under Article 35 of the Convention on the Rights of the Child, read in conjunction with Article 19 of the American Convention, by which States are required to take all measures to prevent the sale and trafficking of children, without

⁵⁵⁸ IACHR, Precautionary Measure [PM-68-17 Panambi regarding Paraguay](#), March 2, 2017; IACHR, Press Release No. 147/16, [IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region](#), October 12, 2016; IACHR, [The Right of Boys and Girls to a Family, Alternative Care, Ending Institutionalization in the Americas](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, pars. 295-301; IACHR, [Preliminary Report on Poverty, Extreme Poverty, and Human Rights in the Americas](#), 2016, pars. 292 and 293.

⁵⁵⁹ IACHR, [The Right of Boys and Girls to a Family, Alternative Care, Ending Institutionalization in the Americas](#), OEA/Ser.L/V/II. Doc.54/13, 2013, para. 216.

⁵⁶⁰ [I/A Court H.R., Case of Ramírez Escobar et al. v. Guatemala, Merits, Reparations and Costs, Judgment of March 9, 2018, Series C. No. 351, para. 309.](#)

⁵⁶¹ [I/A Court H.R., Case of Ramírez Escobar et al. v. Guatemala, Merits, Reparations and Costs, Judgment of March 9, 2018, Series C. No. 351, para. 312.](#)

exception or limitation, including, but not limited to: legislative, administrative and other measures; the obligation to prohibit under criminal law the sale and trafficking of children, whatever their form or purpose; and the obligation to investigate its possible infringement.⁵⁶²

285. In the work of the IACHR, trafficking in minors for the purpose of sexual exploitation was one area on which follow-up was done in 2017, both at the regional level,⁵⁶³ and with respect to countries such as Peru⁵⁶⁴ and Guatemala.⁵⁶⁵ In that regard, the IACHR learned about such aspects as: structural causes, such as poverty and social exclusion; difficulties in accessing justice for victims; lack of quality and free legal representation; revictimization in judicial proceedings; authorities lacking in capacity; budget cuts; high levels of impunity and the corruption factors associated with the latter; institutionalization of victims; weakness of the protection system at the local level; and the large number of girls among the victims.
286. The IACHR also received information on the efforts made by States towards the eradication of child trafficking. In that regard, the Commission highlights and appreciates the usefulness of the operations of police and prosecution units that specialized in the prosecution of this crime, the implementation of national anti-trafficking plans, awareness-raising campaigns aimed at the public and minors themselves, and toll-free telephone hotlines to register complaints.⁵⁶⁶ Despite the above, the IACHR draws attention to the restrictive interpretations made by some courts in trying alleged offenses of trafficking for the purpose of sexual exploitation, allowing crimes to go unpunished.⁵⁶⁷ In light of the challenges concerning the interpretation of criminal classifications by courts, the IACHR has determined that the expression “slave trade and traffic in women” in Article 6(1) of the American Convention should be interpreted broadly as referring also to “trafficking in persons.”⁵⁶⁸

⁵⁶² I/A Court H.R., Case of Ramírez Escobar et al. v. Guatemala, Merits, Reparations and Costs, Judgment of March 9, 2018, Series C. No. 351, para. 316.

⁵⁶³ IACHR, Thematic hearing Human Rights Situation of Victims of Human Smuggling and Trafficking in Latin America and the Caribbean, October 24, 2017, 165th session.

⁵⁶⁴ IACHR, Thematic hearing Reports of Trafficking of Children and Adolescents in Peru, March 27, 2017, 161st session.

⁵⁶⁵ IACHR, Press Release No. 114/17, IACHR Wraps Up On-Site Visit to Guatemala, August 4, 2017.

⁵⁶⁶ IACHR, Thematic hearing Human Rights Situation of Victims of Human Smuggling and Trafficking in Latin America and the Caribbean, October 24, 2017, 165th session; IACHR, Press Release No. 114/17, IACHR Wraps Up On-Site Visit to Guatemala, August 4, 2017; IACHR, Press Release No. 114A/17, Preliminary Observations to the IACHR's On-Site Visit to Guatemala, August 4, 2017; and IACHR, Thematic hearing Reports of Trafficking of Children and Adolescents in Peru, March 27, 2017, 161st session.

⁵⁶⁷ Ombudsman's Office, Colombia, Press Release, 161/OCII/DP/2016, Defensoría del Pueblo rechaza sentencia que absuelve a mujer acusada de trata contra una adolescente de 15 años, September 23, 2016.

⁵⁶⁸ I/A Court H.R., Case of Ramírez Escobar et al. v. Guatemala, Merits, Reparations and Costs, Judgment of March 9, 2018, Series C. No. 351, para. 310.

287. The IACHR has received information about harassment, abuse, illegal detentions, and round-ups of girls trafficked for the purpose of sexual exploitation.⁵⁶⁹ On many occasions, instead of being acknowledged as victims, even of trafficking for the purpose of sexual exploitation, they are arrested and denied the protections and guarantees envisaged for their protection and comprehensive reparations.⁵⁷⁰ Interventions targeting girls in such circumstances should be under the supervision of child services, with specialized personnel adopting a protective approach, rather than one of criminalization. State security personnel should be issued clear guidelines in that regard and where their involvement is necessary, it is important that they be accompanied by personnel from child social services to provide appropriate handling.

5. Violence and Discrimination in the Educational Context

288. 122. The Inter-American system has recognized the direct relationship between the right to education of children and adolescents and the possibility of enjoying a dignified life.⁵⁷¹ As previously stated, a person's educational level has a decisive impact in terms of opportunities of access to decent employment in the future and, therefore, access to economic resources in order to be able to enjoy a decent, independent life.⁵⁷² In the region education is regarded as an indispensable means for the realization of other human rights, in particular for ensuring gender equality and preventing unfavorable situations for the minor and for society itself.⁵⁷³
289. 123. Article 16 of the Protocol of San Salvador expressly recognizes the right of every child to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system. Thus, it has been determined that based on the duty to provide the child special protection embodied in Article 19 of the American Convention, interpreted in relation to the obligation to ensure progressive development contained in Article 26 of the American Convention, the State must provide education in an appropriate environment and in the conditions necessary to ensure their full intellectual development.⁵⁷⁴

⁵⁶⁹ IACHR, Thematic hearing "Human Rights Situation of Child Victims of Trafficking and Sexual Exploitation in the United States," March 16, 2015, 154th session.

⁵⁷⁰ IACHR, Thematic hearing, "[Human Rights Situation of Child Victims of Trafficking and Sexual Exploitation in the United States](#)," March 16, 2015, 154th session.

⁵⁷¹ I/A Court H.R., [Advisory Opinion OC-17/02, Juridical Condition and Human Rights of the Child](#), Requested by the Inter-American Commission on Human Rights, August 28, 2002, para. 84.

⁵⁷² IACHR, Press Release No. 147/16, [IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region](#), 2016.

⁵⁷³ IACHR, [The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights](#), OEA/Ser.L/V/II.143, 2011, para. 18.

⁵⁷⁴ I/A Court H.R., [Case of the Girls Yean and Bosico v. Dominican Republic](#), Judgment of September 8, 2005, Series C. No. 130, para. 185.

290. On this point, the Commission notes that there are significant disparities in terms of quality and pertinence of the content of education that do not fully ensure equal enjoyment of that fundamental right for all children and adolescents, especially in those sectors worst affected by inequality and exclusion.⁵⁷⁵ In that regard, the IACHR notes that inequalities in terms of education access and quality are more marked at the secondary level, restricting the future opportunities of a large number of children and adolescents in the region. Some of those disparities are highly evident in territorial terms, particularly in rural areas and poor neighborhoods on the outskirts of cities.
291. In particular, the Commission notes that in the region girls and women are struggling to claim and exercise their right to education. Although the obligations of not to discriminate and to protect equality before the law apply immediately to all aspects of the exercise of the right to education, in all cycles of learning, girls and women, compared to men, are more likely to suffer various forms of discrimination and violence in schools, a situation that, if not adequately addressed, impacts both whether they go to school and whether they stay.⁵⁷⁶
292. Although some barriers are structural in nature and affect boys and girls alike, such as poverty, inadequate school infrastructure, the geographic location of the schools, insecurity factors on the way to school, lack of adequate transportation, the costs of schoolbooks and textbooks, and other factors, it has been recognized that such challenges affect girls differently.⁵⁷⁷ Girls are up against other unique barriers, such as the family's possible unwillingness to educate its daughters, family responsibilities assigned to young and teenage girls, stereotypes in academic curricula, textbooks, and pedagogical processes that perpetuate discrimination against women; teen pregnancy;⁵⁷⁸ violence against women and girls in and out of school; and obstacles of an ideological nature against taking up positions in male-dominated academic fields or vocational training disciplines.⁵⁷⁹
293. In that context the IACHR warns that educational establishments, both public and private, can become spaces for infringement of rights and settings for acts of discrimination and violence. In this sense, the Commission observes that situations persist in which the treatment girls receive from teachers or other schoolchildren can be humiliating, intimidating, or even violent, and lead to absenteeism or to a

⁵⁷⁵ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II., Doc. 40/15, 2015, para. 212.

⁵⁷⁶ IACHR, [The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights](#), OEA/Ser.L/V/II.143, 2011, para. 233.

⁵⁷⁷ IACHR, [The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights](#), OEA/Ser.L/V/II.143, 2011, para. 174.

⁵⁷⁸ The IACHR has reiterated its concern regarding adolescent pregnancy, especially when the school, whether through laws, rules or practices, prohibits pregnant teens from pursuing their education. IACHR, [The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights](#), OEA/Ser.L/V/II.143, 2011, para. 178.

⁵⁷⁹ IACHR, [The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights](#), OEA/Ser.L/V/II.143, 2011, pars. 174 and 178; CEDAW. [General recommendation No. 36 on the right of girls and women to education](#), CEDAW/C/GC/36, 2017.

child dropping out of school altogether, which is an infringement of the right to personal integrity and to education. For instance, in some countries in the region corporal punishment at school is not expressly prohibited by law; in many places it is still a common and accepted practice as a means of discipline and control, as is still the case in countries like Antigua and Barbuda, Bahamas, Barbados, Dominica, Guatemala, Grenada, Guyana, Panama, and Suriname, according to the Global Initiative to End All Corporal Punishment of Children⁵⁸⁰.

294. In addition to this, the Commission has indicated that “public authorities should make greater efforts to prevent violence in education, both peer violence and that perpetrated by teachers or others. All schools should have a plan for prevention and response to violence. In that sense, several countries in the region have established the need to strengthen schools as a safe and protective environment for children through action plans, programs and protocols”.⁵⁸¹ In the case of girls and adolescents, these efforts must be directed with a gender perspective, with a view to preventing the particular impact that these forms of violence could have on them.
295. The violence and discrimination that girls and women face in educational contexts can take a variety of forms, from corporal punishment, to bullying, to rape. Of particular concern to the IACHR is sexual harassment as it is seen as a form of violence that is very commonplace in schools and often overlooked.⁵⁸² Sexual harassment and other forms of violence, including sexual assault and rape of girls, are usually inflicted by school staff and/or other students.⁵⁸³ Girls are subjected to an environment in which they have to coexist and even interact with their aggressor on a daily basis. In Peru, for example, the IACHR has been informed that during the year 2017, 6,030 cases of sexual violence against girls and adolescents between 0 and 17 years⁵⁸⁴ of age were reported and, according to the Specialized System in cases of School Violence between September 2013 and March 2018, 2,262 cases of sexual violence were registered in educational institutions in the country⁵⁸⁵. In addition, in a study conducted by the Ministry of Education and the United Nations Population Fund (UNFPA) it is reported that in the town of Condorcanqui, Department of Amazonas, there are between 60 and 80 annual complaints of sexual violence against girls and adolescents, especially from the awajún ethnic group, perpetrated by staff of the educational centers. According to this study, the prosecution and resolution of these cases, both administratively and criminally, would not be progressing properly in light of the seriousness of facts reported. Although in the school environment, reportedly there are rules and guidelines aimed at preventing and protecting students against the violence exercised by the

⁵⁸⁰ IACHR, [Report on Corporal Punishment and Human Rights of Children and Adolescents](#), August 5, 2009. Global Initiative to End All Corporal Punishment of Children, [Corporal punishment in schools](#), 2018.

⁵⁸¹ IACHR, [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II., Doc. 40/15. 2015, pars.216 y 221

⁵⁸² IACHR, [Report No. 76/08, Petition No. 1055-06, Admissibility, Guzmán Albarracín and family, Ecuador](#), 2008.

⁵⁸³ IACHR, [The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights](#), OEA/Ser.L/V/II.143, 2011, para. 234.

⁵⁸⁴ El Comercio. [El 2017 se reportaron más de 6.000 casos de niñas violentadas sexualmente](#). April 13, 2018.

⁵⁸⁵ Ministerio de Educación - Perú. [Plataforma SíseVe contra la violencia escolar](#). Consulta libre. April 15, 2018.

staff of educational institutions, there is no specific provisions or policies focused on addressing the particular problem of indigenous peoples, taking into consideration their sociocultural institutions and the difficulties in accessing justice.⁵⁸⁶

296. Furthermore, the Commission has decided in the case of Paola Albarracín Guzmán regarding Ecuador, which relates to the international responsibility of the State of Ecuador for the sexual violence suffered by a girl between 14 and 16 years of age and, her subsequent suicide at the age of 16. The Commission concluded that the girl was a victim of violence as a woman and a girl, including sexual violence, by the vice-principal and by the doctor of her school, both public officials, and that there was a direct causal link between the situation that she lived in school and her decision to take her life. The Commission considered that the responsibility of the State, in addition to that derived from the breach of the duty of respect, also extends to the breach of the guarantee duty in its prevention component, since neither the school nor the State in general had preventive and early detection tools, or accountability mechanisms in situations like this, which was not isolated in that particular school.⁵⁸⁷
297. It is regrettable that in the absence of protection from such acts, girls and adolescents often distance themselves from the school environment and, therefore, from the enjoyment of their right to education. Girls who drop out of school, especially those from low socioeconomic backgrounds, put themselves at higher risk of entering cycles of violence and at greater risk of being used to carry out criminal acts.⁵⁸⁸
298. Although some countries in the region have laws and public policies against violence and discrimination in education, the Commission notes that in most of the region there is a persistent lack of social and political will for adequate measures to tackle such problems. In this regard, the Commission recalls that states parties should not only refrain from interfering, either directly or indirectly, in the full enjoyment of the right of women and girls to education but, at the same time, should take positive steps to meet their obligation to enforce the right to education so that girls and women can fulfill their full potential on an equal footing with men.⁵⁸⁹ Given the heightened duty to protect girls and the risks identified in schools, the IACHR notes that the response of States should entail an organized, comprehensive approach in collaboration with other sectors involved, such as the labor, justice, and health sectors.⁵⁹⁰

⁵⁸⁶ Ministerio de Educación (Peru). *Desenrollando las Madejas de la Impunidad* (2017). La República. [Niñas awajún: víctimas sin justicia](#). March 31, 2018.

⁵⁸⁷ IACHR, Press Release No.32/19. [IACHR sends case on Ecuador to the Court](#), February 13, 2019,

⁵⁸⁸ IACHR, [Poverty and Human Rights in the Americas](#), OEA/Ser.L/V/II.164, September 7, 2017, para. 320, citing OAS, [Inequality and Social Inclusion in the Americas – 14 essays](#), OEA/Ser.D/XV.11 (undated), p. 131.

⁵⁸⁹ CEDAW, [General recommendation No. 36 on the right of girls and women to education](#), CEDAW/C/GC/36, 2017, para. 22.

⁵⁹⁰ IACHR, [The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights](#), OEA/Ser.L/V/II.143. 2011, para. 183.

299. The Commission stresses the obligation to enact and implement appropriate laws, policies and procedures to prohibit and combat violence against girls in and around education centers, both by their peers and by teachers or other persons. They must consistently send a message of non-tolerance and condemnation of acts of violence and discrimination against minors in schools. Similarly, among the measures taken, they must ensure the human, financial and technical resources necessary to ensure their sound functioning.
300. On the other hand, the IACHR notes that cases of violence are under-reported in educational settings in the region. Girls do not report out of fear, shame, mistrust or even ignorance of what constitutes inappropriate conduct considered an act of violence or discrimination.⁵⁹¹ Educational institutions, for their part, do not have trained staff, have no adequate legal mechanisms in place to respond to the problem, and even in many cases cover up or tolerate incidents to protect the offender or the educational institution's reputation.⁵⁹² States should inform and teach children, parents, educators and others stakeholders in school about the forms of violence and discrimination to which girls may be subjected, as well as measures to prevent and report them.
301. States should implement care and response policies and mechanisms for addressing violence against girls in schools by establishing confidential and independent reporting mechanisms, carrying out effective investigations without delay, instituting criminal proceedings where appropriate, imposing appropriate sanctions on perpetrators, and providing services to victims/survivors. In relation to the latter, States should ensure that girls who are victims of discrimination and violence are not prevented from continuing their studies. The IACHR stresses that proactive measures should be strengthened to end discrimination of the groups that are most vulnerable in terms of access to education by respecting minority and indigenous cultures; promoting inclusive education for children with disabilities; and combating bullying and discriminatory attitudes within the education system, among other measures.
302. It is also crucial that States value and prioritize measures to provide assistance for teenage girls who have been victims of child marriage, live in rural areas, have very limited economic resources, belong to traditionally excluded and discriminated groups, including indigenous and Afro-descendent communities or other ethnic minorities, as well as LGBTI girls, migrants or refugees, those who are homeless, have disabilities, or have HIV/AIDS.⁵⁹³ In that regard, the IACHR recalls that States should take such measures from an intersectional perspective, taking into account multiple

⁵⁹¹ IACHR, Press Release No. 147/16, [IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region](#), October 12, 2016.

⁵⁹² IACHR, [Access to Justice for Women Victims of Sexual Violence: Education and Health](#), OEA/Ser.L/V/II. Doc. 65, 2011, para. 94.

⁵⁹³ I/A Court H.R., [Case of Gonzales Lluy et al. v. Ecuador](#), Preliminary Objections, Merits, Reparations, and Costs, Judgment of September 1, 2015, Series C. No. 298, para. 290.

factors of vulnerability and discrimination associated not only with their status as a girls and women.

6. Violence in the Context of New Technologies

303. Technology and internet use can be an important tool for almost immediate reporting and communicating by making ways of imparting and receiving information available to the masses. As a result of being exposed to frequent use of information and communication technologies from a young age, children and teenagers make up a high percentage of their users. However, it is crucial to keep in mind that all children who connect to the Internet are at some risk. As noted, the IACHR finds that violence experienced by women and girls takes many forms that may in fact be mutually reinforcing and overlap.⁵⁹⁴ Violence against women on the Internet has emerged as a new form of gender-based violence which the IACHR notes is spreading rapidly and poses a significant danger.⁵⁹⁵
304. Online violence against women and girls includes acts that partly or fully arise from the use of information and communication technologies, especially on social media. Due to the accessibility of these technologies to a large population, the Commission underscores that girls, in particular, face a high risk of violence and discrimination, such as stalking, grooming,⁵⁹⁶ threats, blackmail and sexual harassment; upload and/or dissemination of intimate images, videos, or audio clips without their consent; accessing or disclosure of their private information without their consent; upload and dissemination of modified images or videos of girls as pornographic material; creation of fake profiles, etc.
305. UNICEF has also emphasized that new information and communication technologies can increase access to victims and to child sexual abuse material, increase profits for criminal enterprises, reduce risk of identification and prosecution for perpetrators, provide social affirmation for offenders and increase levels of harm for victims.⁵⁹⁷ Because of the nature of communications, girls often find themselves in a continuum of violence both offline and online in which they feel isolated, humiliated, and emotional distressed. The Commission notes with concern that persons both known and unknown to girls commit these acts of violence online by virtue of the ability to perpetrate them remotely and the anonymity offered by

⁵⁹⁴ United Nations General Assembly, [Report of the Secretary-General, Intensification of efforts to eliminate all forms of violence against women and girls, A/73/294](#), 2018, para. 16.

⁵⁹⁵ IACHR, Press Release No. 250/18, [International Day for the Elimination of Violence against Women](#), November 25, 2018.

⁵⁹⁶ Grooming is the practice of stalking and sexual abuse of a minor that in the majority of cases occurs on social networks.

⁵⁹⁷ UNICEF, [The State of the World's Children 2017, Children in a Digital World](#), p. 76.

some digital platforms, including by using fake names and profiles on social networks.⁵⁹⁸

306. Similarly, the Commission notes a proliferation in the use of technologies and digital spaces for planning, recruiting the girl in order to violate them sexually or traffic them for various purposes, but in particular for the sexual exploitation and pornography.⁵⁹⁹ From the information received, the IACHR notes that organized crime networks in various countries use social networks and different online communication platforms to lure girls, usually with deception, into criminal activities.⁶⁰⁰ In particular, faced with this context, the IACHR believes that States should recognize through their regulatory frameworks new forms of gender-based violence in order to ensure observance of human rights on the Internet. Although in recent years it has been on the rise, use of the Internet and communication technologies as a means of perpetuating gender stereotypes and subordination of women and girls is a phenomenon that has been occurring for several years throughout the region. In this regard, the IACHR stresses the importance of adopting strategies, laws and policies that promote education and awareness of this issue and contribute to combating stereotypes and discriminatory attitudes.
307. Given the nature of cyber violence, various acts take place in a private context. In that regard, States should take immediate steps to teach girls, in particular, how to use these technologies safely, by understanding their rights in the event of any act of violence and discrimination and knowing the multiple risks that exist online. It is crucial to create a protective environment by regulating and monitoring information technologies to minimize risks to women and girls. In particular, the IACHR agrees that resources should be allocated to provide equipment and technological education to personnel employed in public institutions, such as schools and the police; as well as reporting on technology, risks, acts of violence and discrimination that may occur, and the physical, moral and psychological harm that they can cause, in order to instruct teachers, parents, representatives, prosecutors and judges.⁶⁰¹ Police forces must also be trained in digital investigative techniques and have adequate resources to reach victims and ensure that all forms of online violence are recognized, recorded, and promptly dealt with

⁵⁹⁸ UNICEF, [The State of the World's Children 2017. Children in a Digital World](#), 2017.

⁵⁹⁹ UNICEF has identified this process as grooming. Specifically, UNICEF describes grooming, psychological manipulation, or seduction online, as the term employed by a number of authors to refer to the process of at communication and socialization of minors in order to encourage them to manifest sexual behavior or engage in sexual conversations with or without their knowledge. According to UNICEF, the minors most at risk of being psychologically manipulated for sexual purposes are teenagers, especially girls, [UNICEF. Child Safety Online. Global challenges and strategies, March 2012]. The aggressor uses this process to manipulate victims in order to make them more vulnerable to sexual abuse.

⁶⁰⁰ UNICEF, [Child Safety Online. Global challenges and strategies](#), 2012, p. 2; UNICEF, [The State of the World's Children 2017. Children in a Digital World](#), p. 76; El Telegráfo, [Redes sociales se usan para captar víctimas](#), April 5, 2019.

⁶⁰¹ UN Working Group on Broadband and Gender, [Cyber Violence against Women and Girls: A World-wide Wake-up Call](#), 2015.

308. The IACHR has interpreted the Internet as an essential tool for vulnerable or historically discriminated communities to obtain information, expose their grievances, make their voices heard, actively participate in public debate, and contribute to building public policy to rectify their situation.⁶⁰² Children belonging to minority groups are particularly vulnerable to harm from online violence, which deserves special attention from the State in order to protect their rights.

⁶⁰² IACHR, Standards for a Free, Open, and Inclusive Internet, Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF.17/17, 2017, para. 65.

CHAPTER 4
CONCLUSIONS AND
RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS

309. In this report, the IACHR has compiled and analyzed the main inter-American standards regarding violence and discrimination against women and girls, as well as recommendations for attaining them. In the light of the standards and recommendations, the Commission has identified both significant progress and pending challenges and in the region. In view of the above, the Inter-American Commission concludes this report by reiterating the need to continue diligent and progressive efforts to address the main problems facing States in terms of compliance with the recommendations issued by the Commission on protection, prevention, and access to justice in the face of violence and discrimination against women and girls.
310. In view of the challenges still pending in the region, the Commission reiterates that the states of Latin America and the Caribbean must adopt coordinated and multifaceted efforts at both the national and local levels to: ensure the sustainability and scope of the measures taken; ensure implementation of initiatives to promote gender equality, in particular the elimination of violence against women; fully mainstream the gender perspective in all sectors;⁶⁰³ and continue efforts to meet their due-diligence obligations in this area. Based on the information gathered for this report, the Commission sees the need to disarm deeply entrenched discriminatory and stereotypical socio-cultural patterns in the countries of the region that result in the violation of women's rights. In turn, it is necessary to deal with new and complex forms of violence against them and other obstacles that continue to impede the full enjoy of the rights of women and girls.
311. In tandem with the above, the IACHR reiterates the need to ensure that women's views, concerns and priorities are integrated into the public agenda⁶⁰⁴ in order to develop and maintain an institutional and political environment to assess the general and specific risks posed by the various forms of gender-based violence and to contribute to reducing them. Thus, the IACHR stresses the importance of including in the fields of justice, education and politics, among other areas, women from all sectors of society, reaffirming diversity and pluralism as part of the efforts to strengthen advancement and protection of women's human rights.⁶⁰⁵ In that sense, the participation of women and girls in the processes of design, adoption, and

⁶⁰³ UNHCR, [In-depth study on all forms of violence against women, Report of the Secretary-General, A/61/122/Add.1](#), 2006, para. 62.

⁶⁰⁴ IACHR, [The Road To Substantive Democracy: Women'S Political Participation In The Americas, OEA/Ser.L/V/II. Doc. 79](#), 2011, para. 48.

⁶⁰⁵ IACHR, Press Release No. 180/18, [IACHR Salutes Gender Parity in the Cabinet of Ministers in Colombia](#), August 13, 2018.

implementation of laws and/or public policies is imperative, as is the collaboration and commitment of a wide range of actors and entities, so that efforts can be turned into concrete results for women in the Americas.

312. The IACHR welcomes the significant progress in relation to gender equality and women's rights in the region and takes note of the efforts made by States to date to take steps to meet their international obligations, follow up on recommendations from different systems, and promote the protection and guarantee of women's rights against the historical discrimination and violence they have faced in the region. In that sense, the IACHR considers that accepting the challenges is an important first step that must be accompanied by concrete and effective measures. Accordingly, the Commission welcomes the communications received by the States of the region for this report, which provide an account of the initiatives carried out and the challenges identified by their own bodies.
313. The IACHR also believes that the proper representation of the various interests and priorities on the public and social agenda could have a significant positive impact on the empowerment of women, including girls, with information, communication, and education to exercise their rights, to foster female leadership, and to strengthen mechanisms for protection and access to justice. In addition, the Commission reiterates the fundamental role played by civil society organizations, particularly women's and girls' rights organizations, in building a public agenda on the rights of women, and therefore it reminds States of the need for their participation in the relevant bodies. In that regard, the Commission welcomes the many contributions received from civil society organizations for this report.
314. In keeping with its mandate, the Commission calls on both States in the region and other stakeholders to make use of the analysis developed in this report with a view to improving and strengthening legislation, policies and practices at all levels of government in order to deal decisively with the discrimination and violence against women and adolescents that have persisted in the region. To that end, in addition to the main international obligations in this area and the specific recommendations that have already been put forward by the Commission in this and previous reports⁶⁰⁶, below the IACHR makes a number of general recommendations related to the protection of women's and girls' rights, as well as reiterating its commitment to support and collaborate with American states in their follow-up.

⁶⁰⁶ See Annex 1. Standards and Recommendations Regarding Violence and Discrimination against Women and Girls.

RECOMMENDATIONS

1. Actively identify groups of women and girls that endure particular discrimination or are especially at risk, in order to adopt laws, public policies, and legal protection programs and mechanisms to prevent, respond to, and remedy acts of violence from an intersectional perspective. Such measures should take into account their particular needs and the material barriers that limit the exercise of their rights.
2. Create spaces for the full and active participation of representatives and organizations of particularly vulnerable groups in the formulation and execution of initiatives, programs, and policies at all levels of government. Such spaces should specifically promote the participation of women and girls, in the terms examined in this report.
3. Differentiate, insofar as is possible and pertinent, the human rights of girls from the human rights of women, in order to recognize that girls face specific challenges, different from those encountered by adult women. Identify special protection measures that girls require, as distinct from what women need, in order to ensure full observance of all their rights.
4. Design and adopt comprehensive, integrated, and cross-sectoral services at the national and local levels that incorporate a gender and child rights perspective to respond to the needs of women and girls. Establish inter-agency coordination and dialogue mechanisms between national and local programs and services for women victims of violence and discrimination.
5. Design and/or strengthen policies aimed at preventing acts of violence and discrimination against women through a comprehensive approach that covers the justice, education, and health sectors and that addresses the various manifestations of violence and the contexts in which it occurs. Consider that prevention policies should be structured in a way that makes them accessible to girls and women of different ages.
6. Conduct periodic processes to assess the effectiveness of existing policies and programs on discrimination and violence against women; where necessary, adapt such programs in accordance with available information.
7. Adopt necessary measures to repeal provisions inconsistent with the guiding principles set out in this report.
8. Take special and differentiated measures to protect the lives and safety of women who challenge gender-related stereotypes in their work or activities, such as women human rights defenders, women leaders, women with political commitments, and women journalists, in view of the heightened risk

they face and recognizing the importance of their work, in the terms mentioned in this report.

9. Design, develop and implement educational initiatives, programs and policies for citizens, including children from an early and formative stage, on discriminatory gender roles and stereotypes, with the aim of educating for the elimination of stereotyped patterns of subordination of women and girls; promoting respect for women as equals and for their rights to non-violence and non-discrimination; and ensuring respect for the rights of all people.
10. Develop or intensify efforts to collect information, statistics, research and studies that reflect the situation of women of different ethnicities, races, ages and economic levels, as well as the violence they face, in the terms examined in this report. That information should be collected to serve as the basis for the formulation of public policies aimed at the prevention, punishment, and eradication of acts of violence and discrimination perpetrated against them and for the improvement of interventions from the justice system.
11. Take steps to provide women victims of violence and discrimination with accessible and effective legal services free of charge to denounce acts of violence and discrimination in the courts, and make efforts to universalize access to judicial services, particularly in rural and marginalized areas. Increase the number of lawyers available to women victims of violence and discrimination. Create free, impartial, culturally relevant, and worldview-sensitive translation services for users.
12. Strengthen the institutional capacity of judicial bodies, such as the Public Prosecution Service, the police, the courts, and forensic medicine services, by providing them with the necessary human and financial resources and training, in order to combat the pattern of impunity in cases of violence against women, through effective, non-revictimizing criminal investigations followed by appropriate judicial action, thus guaranteeing proper punishment and reparations. This will involve the purchase of the necessary technical equipment to conduct chemical and forensic tests, as well as all the tests required to clarify the facts under investigation.
13. Refer, where necessary, to the Inter-American Model Laws developed by the Mechanism to Follow Up on Implementation of the Convention of Belém do Pará (MESECVI) with a view to adopting, adapting and/or implementing its internal regulations in line with inter-American standards in this area.
14. Analyze emerging forms of violence and discrimination, such as, *inter alia*, hate speech, on-line violence, street harassment, and obstetric violence. Analyze their impact at the regional and local level, proceed to address them conceptually, and, as necessary, adopt appropriate responses in terms of prevention, protection, punishment, and redress.
15. Ensure the follow-up of the recommendations made in the framework of this report in relation to good practices for the recognition of the rights of women,

girls and adolescents, adopting a particular approach to make visible when necessary the situation of girls and adolescents.

16. Ensure the follow-up of the recommendations made in the framework of this report in relation to overcoming challenges for the decisive eradication of violence and discrimination against women and girls adopting a particular approach to make visible when necessary the situation of girls.