

ANNEX 1

Standards and Recommendations

Violence and Discrimination against Women and Girls



OAS

More rights for more people.

OEA.Ser.L/V/II.

Doc. 233

14 November 2019

Original: English

Annex 1

Standards and Recommendations regarding Violence and Discrimination against Women and Girls

Violence and Discrimination against Women and Girls: Best
Practices and Challenges in Latin America and the Caribbean

INDEX

<i>A. Standards and Recommendations on Addressing the Causes and Consequences of Violence and Discrimination against Women and Girls</i>	5
1. Standards pertaining to the connection between violence and non-discrimination, from an intersectional perspective	5
2. Recommendations Pertaining to Structural Discrimination and Intersectional Forms of Discrimination	9
3. Recommendations on Comprehensive, Crosscutting Instruction with a Gender and Children’s Rights-Based Perspective in All Bodies and at All Levels of the State	10
4. Recommendations on Gathering and Availability of Comprehensive, Consolidated, Disaggregated, Periodic and Public Information about Gender-Based Violence and Discrimination against Women and Girls	11
5. Specific Recommendations Pertaining to the Protection of the Rights of Girls	12
6. Standards regarding Discriminatory Sociocultural Stereotypes and Patterns of Behavior and Their Impact on the Right to a Life Free from Violence	15
7. Recommendations on changing discriminatory sociocultural stereotypes and patterns of behavior	20
<i>B. Standards and Recommendations relating to Protection, Comprehensive Prevention and Access to Justice in Cases of Violence against Women</i>	25
1. Standards relating to the Obligation of due Diligence	25
2. Recommendations Aimed at Compliance with the Due Diligence Obligation	27
3. Standards Relating to the Obligation to Prevent, Provide Comprehensive Protection and Access to Justice	29
4. Recommendations Aimed at Fulfillment of the Obligation to Prevent, Provide Comprehensive Protection and Access to Justice	34
<i>C. Standards and Specific Recommendations on Girls</i>	40
1. Specific Standards on Recognizing Entitlement to Rights and Progressive Autonomy	41
2. Recommendations on States’ Recognition of Entitlement to Rights and Progressive Autonomy	42
3. Standards regarding Special and Heightened Protection of Girls	46

4. Recommendations Aimed at Compliance with Special and Heightened Protection of Girls	48
5. Standards Relating to the Principle of the Best Interest of the Child	49
6. Recommendations Aimed at Compliance with Promotion of the Principle of the Best Interest of the Child	51
7. Standards Relating to the Participation of Children and Adolescents in Matters Concerning Them	52
8. Recommendations Relating to Compliance and Promotion of the Participation of the Child in Matters Affecting Him or Her	53

COMPILATION OF MAIN STANDARDS AND RECOMMENDATIONS REGARDING VIOLENCE AND DISCRIMINATION AGAINST WOMEN AND GIRLS

A. Standards and Recommendations on Addressing the Causes and Consequences of Violence and Discrimination against Women and Girls

1. Standards pertaining to the connection between violence and non-discrimination, from an intersectional perspective

- *Strict prohibition of gender-based violence and discrimination against women*

1. The international human rights protection systems strictly prohibit gender-based violence and discrimination against women and girls. This prohibition “has evolved into a principle of customary international law.”¹ In this same vein, the Inter-American human rights system has recognized the close connection between a woman’s right to live free from violence and the right to equality and non-discrimination,² and has also stressed that gender-based violence “is a reflection of the historically unequal power relations between women and men,”³ that is perpetuated by persisting discriminatory attitudes and practices towards the victims.⁴ In particular, the IACHR has held that gender-based violence is one of the

¹ CEDAW. [Recomendación General No. 35 sobre la violencia por razón de género contra la mujer, por la que se actualiza la Recomendación General No. 19. CEDAW/C/GC/35](#). General Recommendation No. 35 on gender-based violence against women, updating Recommendation No. 19 CEDAW/C/GC/35. 2017, par. 2.

² IACHR. [Report No. 28/07. Cases 12.496-12.498. Merits. Claudia Ivette Gonzalez et al. Report N 2007](#); IACHR. [Informe No. 54/01. Caso 12.051. Fondo. Maria da Penha Maia Fernandes. Brasil](#). Report No. 54/01. Case 12.051. Merits. Maria da Penha Maia Fernandes. Brazil. 2001; IACHR. [Access to Justice for Women Victims of Violence in the Americas. OEA/Ser.L/V/II, Doc. 68, 2007](#); and IA Court of HR. [Caso I.V. Vs. Bolivia. Excepciones Preliminares, Fondo, Reparaciones y Costas](#). Case I.V. v. Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Series C No. 389, par. 253.

³ IACHR. [Derecho de las mujeres a una vida libre de violencia y discriminación en Haití](#). The Right of Women in Haiti to be Free from Violence and Discrimination. OEA/Ser.L/V/II. Doc. 64, 2009, par.168; IA Court of HR. [Caso Fernández Ortega y otros Vs. México. Excepción Preliminar, Fondo, Reparaciones y Costas](#). Case of Fernández Ortega et al v. Mexico. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 30, 2010 Series C No. 215, par. 118.

⁴ IACHR. [Derecho de las mujeres a una vida libre de violencia y discriminación en Haití](#). The Right of Women in Haiti to be Free from Violence and Discrimination. OEA/Ser.L/V/II. Doc. 64, 2009, par. 78.

most extreme and widespread forms of discrimination against women and girls which, among other consequences, seriously impairs women's ability to "exercise and enjoy their rights and freedoms on an equal footing with men."⁵

2. The Commission holds that gender-based violence against women and girls is a global pandemic and constitutes a major human rights violation.⁶ Women's right to a life free from violence is indivisible and interdependent on other rights, such as the right to life, health, personal liberty and security, equality and protection itself within the family, protection from torture and other cruel, inhuman or degrading treatment, among other ones.⁷
- *Additional discrimination and violence resulting from particular situations of vulnerability*
3. The Commission has established that discrimination does not affect all women equally and has found that the rights of some women are at greater risk of violation than those of others, as result of the intersection of several factors in addition to their gender, such as indigenous women,⁸ Afro-descendant women,⁹ lesbian,

⁵ IACHR. Informe No. 80/11. Caso 12.626. Fondo. Jessica Lenahan (Gonzales) y otros. Estados Unidos, Report No. 80/11. Case 12.626. Merits. Jessica Lenahan (Gonzales) et al. United States. July 21, 2011; IACHR. Access to Justice for Women Victims of Violence in the AmericasOEA/Ser.L/V/II, Doc. 68, 2007. Section I, par. 65; IA Court of HR. Case of I.V. v. Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Series C No. 389, par. 253; CEDAW. Recomendación General No. 19 sobre la violencia contra la mujer. General Recommendation No. 19 on violence against women. A/47/38. 1992, par. 1.

⁶ IACHR. Press Release No. 188/17: International Day on the Elimination of Violence against Women. November 22, 2017.

⁷ CEDAW. Recomendación General No. 35 sobre la violencia por razón de género contra la mujer, por la que se actualiza la Recomendación General No. 19. General Recommendation No. 35 on gender-based violence against women, updating Recommendation No. 19. CEDAW/C/GC/35. July 26, 2017, par. 15. Also see: IA Court of HR. Caso Espinoza Gonzales Vs. Perú. Excepciones Preliminares, Fondo, Reparaciones y Costas, Case of Espinoza Gonzales v. Peru. Preliminary Objections, Merits and Costs. Judgment of November 20, 2014. Series C No. 289, pars. 192-195.

⁸ IACHR. Las mujeres indígenas y sus derechos humanos en las Américas. Indigenous Women and Their Human Rights in the Americas. OEA/Ser.L/V/II. Doc. 44, 2017, par. 131.

⁹ IACHR. Access to Justice for Victims of Sexual Violence in Mesoamerica. OEA Ser.L/V/II. Doc. 63, 2011, par. 315. IACHR. Press Release No. 117/17: IACHR Urges States to Reaffirm Commitment to Gender Equality and Non-discrimination and to Guarantee the Rights of Afro-descendant Women. August 7, 2017; 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.

bisexual, trans and intersex persons (LBTI);¹⁰ women with disabilities¹¹ and older women;¹² also, in particular risks contexts.

4. Likewise, the IACHR has established that the risk of violation of women's rights is heightened in certain situations, such as when they are deprived of liberty¹³ and are migrants, refugees or displaced.¹⁴ Furthermore, certain contexts such as natural disasters, humanitarian emergencies, armed conflicts or breakdowns in democratic institutions exacerbate women's situation of vulnerability.¹⁵ Similarly, the Commission has acknowledged that women have been victims of aggravated and gender-differentiated violence and discrimination in the context of internal conflicts in the region.¹⁶ The Commission has affirmed that, in these instances, physical, psychological and sexual violence against women is characterized by a systematic

¹⁰ IACHR. Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas. OAS/Ser.L/V/II.rev.2. Doc. 36, 2015, pars. 270 and 275.

¹¹ IACHR. Press Release No.062/17: CIDH condena asesinatos de mujeres y urge a Estados a intensificar esfuerzos de prevención. IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts. May 16, 2017. IACHR. Press release No. 011A: Conclusiones y observaciones sobre la visita de trabajo de la CIDH a El Salvador. Conclusions and Observations on the IACHR's Working Visit to El Salvador. January 29, 2018. IACHR. Press release No.104A: Anexo: Audiencias celebradas durante el 168 Período de Sesiones. Annex: Public Hearings of the 168th Period of Sessions. May 11, 2018.

¹² The discrimination that older women experience is often a result of unfair resource allocation, maltreatment, neglect and limited access to basic services. Both men and women experience age-based discrimination, but older women experience aging differently, inasmuch as the effect of gender inequality over the course of their lives grows worse with old age. OAS. Convención Interamericana sobre la protección de los derechos humanos de las personas mayores. Inter-American Convention on Protecting the Human Rights of Older Persons. Preamble and Article 9 (i). CEDAW. Recomendación No. 27 sobre las mujeres de edad y la protección de sus derechos humanos. CEDAW/C/GC/27. Recommendation No. 27 on older women and protection of their human rights. 2010, par. 11.

¹³ IACHR. Informe sobre medidas dirigidas a reducir el uso de la prisión preventiva en las Américas. Report: Measures Aimed at Reducing the Use of Pretrial Detention in the Americas. OEA/Ser.L/V/II.163 Doc. 105, 2017, par. 195. IACHR. Derechos humanos de migrantes, refugiados, apátridas, víctimas de trata de personas y desplazados internos: Normas y Estándares del Sistema Interamericano de Derechos Humanos. Human Rights of Migrants, Refugees, Stateless Persons and Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System. OEA/Ser.L/V/II. Doc. 46, 2015, par. 66.

¹⁴ IACHR. Derechos humanos de migrantes, refugiados, apátridas, víctimas de trata de personas y desplazados internos: Normas y Estándares del Sistema Interamericano de Derechos Humanos. Human Rights of Migrants, Refugees, Stateless Persons and Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System. OEA/Ser.L/V/II. Doc. 46/15. 2015, pars. 32 and 66. IACHR. Press release No.062/17: CIDH condena asesinatos de mujeres y urge a Estados a intensificar esfuerzos de prevención. IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts. May 16, 2017.

¹⁵ IACHR, Press Release No.192/17: IACHR Calls on States to Recognize and Protect the Work of Women Human Rights Defenders. November 29, 2017.

¹⁶ IACHR. "Verdad, justicia y reparación: Cuarto informe sobre la situación de derechos humanos en Colombia". "Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia." OEA/Ser.L/V/II. doc. 49, 2013, par. 360.

nature and by the scope of the phenomenon, the use of sexual violence as a strategy of war¹⁷ and by high impunity rates shrouding these cases.¹⁸

5. As for young and adolescent girls in particular, the IACHR has stressed that States must take into consideration that aspects related to age and stage of development make them more exposed to certain forms of violence than adult women. The IACHR has also warned about the specific challenges to providing them with proper protection: age, especially the younger they are; lack of awareness of their rights; dependence on adults; not knowing where they can seek relief; lack of credibility of their testimony; barriers to access to services and to justice; and specific protection needs with adapted protection measures and comprehensive interventions.
6. Additionally, the IACHR emphasizes that, in light of Article 9 of the Convention of Belém do Pará, States must take into special account the situation of vulnerability to violence that may be endured by pregnant women. When women are pregnant, in labor or postpartum, they face an entirely new set of risk factors, inasmuch as special care and protection are required based on their biological capacity for pregnancy and birth.¹⁹ The IACHR has written that “many women suffer forms of violence during pregnancy that may affect their physical integrity, for example, leading to sterility, and may in some cases lead to a violation of their right to life.”²⁰
7. In view of the foregoing, the IACHR has stressed States’ heightened duties of prevention and protection toward women living in an intersectional situation with two or more factors of discrimination.²¹ The IACHR highlights that in processing its cases²² by the administration of justice cannot treat all women in the same way as a group without regard to cultural and social diversity of victims and deems it necessary for it to bear in mind the differences still existing within the women’s populations of the region, which are connected to their world view, their traditions and culture, their economic and geographic situation, among other differences.

¹⁷ IACHR. “Las mujeres frente a la violencia y la discriminación derivadas del conflicto armado en Colombia”. “Violence and Discrimination against Women in the Armed Conflict in Colombia. OEA/Ser.L/V/II. Doc. 67, 2006, par. 17-39.

¹⁸ IACHR, Acceso a la Justicia para mujeres víctimas de violencia sexual: La educación y la salud. Access to Justice for Women Victims of Sexual Violence: Education and Health. OEA/Ser.L/V/II. Doc. 65, 2011, par. 67.

¹⁹ IA Court of HR. Caso I.V. vs. Bolivia. Case of I.V. v. Bolivia. Preliminary Objections, Merits and Costs. Judgment of November 30, 2016. Series C No. 329, par. 157.

²⁰ IACHR. Acceso a servicios de salud materna desde una perspectiva de derechos humanos. Access to Maternal Health Services from a Human Rights Perspective. OEA/Ser.L/V/II. Doc. 69. 2010, par. 74.

²¹ IACHR. Situación de las personas afrodescendientes en las Américas. Situation of People of African Descent in the Americas. OEA/Ser.L/V/II. Doc. 62, 2011, par. 60; IACHR. Press Release No.062/17: CIDH condena asesinatos de mujeres y urge a Estados a intensificar esfuerzos de prevención. IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts. May 16, 2017.

²² IACHR. Acceso a la información en materia reproductiva desde una perspectiva de derechos humanos. Access to Information on Reproductive Health from a Human Rights Perspective. OEA/Ser.L/V/II. Doc. 61, 2011, par.316.

2. Recommendations Pertaining to Structural Discrimination and Intersectional Forms of Discrimination

- *Adopting a legislative framework and comprehensive public policies with a gender-based perspective*
8. In view of the fact that the historical state of structural discrimination faced by women in Latin America and the Caribbean is deeply rooted in norms, beliefs, practices and societal stereotypes, the Commission has repeatedly stressed the need to take effective and comprehensive steps to bring sweeping changes to society. Prohibiting by law all forms of violence and discrimination against women and girls is essential, but insufficient on its own. Consequently, a legal framework and comprehensive, multisectoral and multifaceted public policies with a gender-based perspective must be adopted, to spotlight the structural imbalance faced by women in the enjoyment of their rights, aimed at taking measures to prevent violations, protect and restore their rights. The IACHR has said that “addressing discrimination may require changes in legislation, administration, policies, programs, services, and resource allocation as well as educational measures to change attitudes and perceptions.”²³
 9. Accordingly, the IACHR has recommended that all agencies and offices of the State, including the Executive, Legislative and Judicial branches, look closely at all laws, regulations, rules, practices and public policies, that enshrine in their texts any sex or gender-based differences in treatment and that may have a direct or indirect discriminatory impact on women. States must draw up, approve and implement a plan of action to repeal any provisions of domestic law that run counter to the guiding principles on the eradication of gender-based violence and discrimination.²⁴
- *Adopting a gender-differentiated and intersectional approach*
10. The IACHR has underscored the need to adopt a gender-differentiated and intersectional approach, that takes into account the particular risk factors and situations of human rights violations cited above when adopting legislation, public policies, programs and mechanisms of judicial protection to remedy acts of violence.²⁵
 11. In this regard, States must introduce into all laws and policies affecting women a holistic approach to address the manifold and interconnected forms of

²³ IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206, 2017, par. 293.

²⁴ IACHR. [El trabajo, la educación y los recursos de las mujeres: La ruta hacia la igualdad en la garantía de los derechos económicos, sociales y culturales](#). The Work, Education and Resources of women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights. OEA/Ser.L/V/II.143 Doc. 59, 2011, pars. 5 and 96.

²⁵ IACHR. [Acceso a la justicia para mujeres víctimas de violencia sexual: la educación y la salud](#). Access to Justice for Women Victims of Sexual Violence: Education and Health. OEA/Ser.L/V/II. Doc. 65. 2011. General Recommendations, par. 13.

discrimination faced by women in different contexts, in order to protect their individual and collective rights. This holistic, comprehensive approach must recognize the special role played by women in the community, in order to transform and rectify the structural patterns of discrimination affecting them.²⁶

- *Guaranteeing women and girls opportunities for full and active participation*

12. At all levels of government, States must create opportunities for women to fully and actively participate in the drafting, planning and execution of initiatives, programs, laws and policies, that are aimed at or have a bearing on the prevention, investigation, punishment and reparation for acts of violence and discrimination perpetrated against them. The IACHR understands that consulting with women about matters that concern them is crucial to the success of any initiative, especially in light of the context of historic and structural discrimination and, therefore, it stresses the importance of providing for opportunities for engagement and designing appropriate agendas for women and the organizations representing them, and strengthening and creating opportunities for dialogue between women community leaders and governments.²⁷ On this score, the IACHR also emphasizes the need for girls to take part in decision-making processes on matters that affect them, providing adaptable and accessible means for the proactive participation of different girls of different ages.²⁸ Participation must also be broad, plural, diverse and inclusive, making sure, for example, that girls of different backgrounds, ages and social groups, among other things, are represented.²⁹

3. Recommendations on Comprehensive, Crosscutting Instruction with a Gender and Children’s Rights-Based Perspective in All Bodies and at All Levels of the State

13. With a view toward decisively eradicating discriminatory gender stereotypes and ensuring effective access to justice, the Commission has recommended that States take immediate steps to guarantee effective training on women’s rights for all public officials and employees involved in the prosecution of cases of discrimination and violence against women (including family court judges, prosecutors, public defenders and court administration employees). The trainings must be aimed at implementing national and international norms to provide an adequate response to the criminal acts and respecting the integrity and dignity of the victims and their

²⁶ IACHR. [El trabajo, la educación y los recursos de las mujeres: La ruta hacia la igualdad en la garantía de los derechos económicos, sociales y culturales](#). The Work, Education and Resources of women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights. OEA/Ser.L/V/II.143 Doc. 59, 2011. General Recommendations, par. 4.

²⁷ IACHR. [The Road To Substantive Democracy: Women’S Political Participation In The Americas](#). OEA/Ser.L/V/II. Doc. 79, 2011. Recommendations, par. 11.

²⁸ IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206, 2017, par.445 and Recommendations, par.93.

²⁹ IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206 2017, paragraph. 146.

families, when these acts are reported and while they take part in the judicial proceedings.³⁰

14. States must select and institutionalize forms of training on gender competency for public officials of all sectors of government, including attorneys, judges, teachers, law enforcement agents and medical and health care personnel. The IACHR recommends that public employees and all public sector personnel receive mandatory training on the causes and consequences of gender-based violence using a comprehensive approach to the specific forms of discrimination stemming from the intersection of sex, gender, age, race, ethnic origin, disability, sexual orientation, gender identity and economic position, among other factors.³¹ In view of the wide target audience, States must tailor the information to each particular audience requiring it, regardless of whether it is for men or women, and it must be culturally and linguistically appropriate.

4. Recommendations on Gathering and Availability of Comprehensive, Consolidated, Disaggregated, Periodic and Public Information about Gender-Based Violence and Discrimination against Women and Girls

15. The Commission recalls that Article 8(h) of the Convention of Belém do Pará establishes the obligation of the State to adopt measures aimed at ensuring “research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes.” On this score, the IACHR has asserted that the right of access to information encompasses the State’s obligation to gather information on matters such as violence and discrimination against women, as well as to produce and disseminate statistical information about these matters.³²
16. In this context, the IACHR has recommended that States put mechanisms into place to gather data and make comprehensive, disaggregated and reliable information available on a periodic basis, in keeping with their obligation to make information available to the public. For this purpose, the IACHR has recommended that States develop protocols for the collection, recording and management of information, especially in judicial systems. These protocols should reflect the specific situation of women of different ages, ethnic origins or social groups, geographic location,

³⁰ IACHR. [Informe sobre los derechos de las mujeres en Chile: la igualdad en la familia, el trabajo y la política](#). Report on the Rights of Women in Chile: Equality in the Family, Labor and Political Spheres. OEA/Ser.L/V/II.134 Doc. 63, 2009. Specific Recommendations, par. 7.

³¹ IACHR. [Mujeres Indígenas Desaparecidas y Asesinadas en Columbia Británica, Canadá](#). Missing and Murdered Indigenous Women in British Columbia, Canada. OEA/Ser.L/V/II. Doc. 30, 2014, par. 313.

³² IACHR. [Access to Information, Violence against Women and the Administration of Justice in the Americas](#). OEA/Ser.L/V/II.154 Doc.19, 2015, par. 7.

socioeconomic situation, migratory status, disability, and other traits relevant to the context of the nation.³³ The IACHR also recommends that information collection measures must particularly pay close attention to the situation of indigenous, LGBTI, Afro-descendant, migrant, older adult women and girls.

17. Information must be suitably and relevantly disaggregated to serve the purposes of oversight and fulfillment of the entire range of women's and girl's human rights, and it must be useful to ascertain and monitor the situation of women, groups that are vulnerable when exercising their rights, or are historically discriminated against, excluded or are socio-economically disadvantaged. The Commission notes the importance of producing complete and disaggregated statistics and recommends that they be updated on a regular basis in order to identify the specific ways in which violence and discrimination affect the most vulnerable groups among women and measure progressiveness in compliance with the obligations of States.

5. Specific Recommendations Pertaining to the Protection of the Rights of Girls

- *Creating a specific and special institutional framework in order to ensure the promotion and protection of the rights of the child*
18. As part of the obligations stemming from Articles 19 of the ACHR and VII of the ADRDM, which recognize the rights of the child, the IACHR has recommended that the State create and adapt its entire institutional structure to promote and protect the rights of the child. In order for intersectoral coordination to be effective, the lead office of this structure must be at a high level in the organizational chart of the public administration. This also involves the creation of specialized services that are able to provide care to girls and protect their rights and satisfy their particular protection needs.³⁴
 19. According to the IACHR, the National Children's Policy must set concrete objectives, goals and outcomes to be achieved over the period it is in effect, as well as mechanisms of monitoring and compliance assessment, in order to be accountable to society with regard to the progress made. The National Policy should also be subject to open, periodic, inclusive and participatory evaluation of progress achieved, potential departures, and include a plan to overcome any obstacles that

³³ IACHR. [Informe de seguimiento – Las mujeres frente a la violencia y discriminación derivadas del conflicto armado en Colombia. Informe Anual 2009, Capítulo V. Follow-up Report – Violence and Discrimination against Women in the Armed Conflict in Colombia. 2009 Annual Report, Chapter V. OEA/Ser.L/V/II. Doc. 51 corr. 1. 2009. Recommendations, par. 40.](#)

³⁴ IACHR. [Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206, 2017, pars.99 et seq, and 580 to 587.](#)

may arise. The information must be widely accessible and written in language that is understandable to both the public and children and adolescents.³⁵

- *Adopting the necessary measures to coordinate a gender-based and children's rights-based approach in the institutional structure relating to women's and children's rights*
20. The IACHR has stressed the need for the strategies and plans of children's institutions to be coordinated with women's rights initiatives in order to effectively promote and protect the rights of girls and confront gender-based violence and discrimination. This aspect has been neglected by the States of the region and requires considerably more attention.³⁶ The IACHR has urged States to strengthen the gender-based perspective in the workings of national systems for the protection of children's rights, in the normative, programmatic and institutional spheres thereof. Specifically, the IACHR has asserted that explicit measures are needed in all laws, policies and programs and, particularly, in national children's policies.³⁷ Giving consideration to this approach in the aforementioned national child protection systems is critical for taking steps to overcome gender- and sex-based structural inequalities and discrimination.
- *Adopting the necessary measures to include a gender-based approach in providing services to girls*
21. The IACHR has affirmed that a gender-based approach must also permeate the provision of services and specialized care meeting special needs in order to fully ensure the rights of girls in keeping with differences. A gender-based approach must be crosscutting and be employed in the formulation, implementation, monitoring and evaluation of policies and programs, as well as in the creation and provision of services targeted to children, in the training of personnel and professionals, and in public outreach and public awareness strategies.³⁸
- *Considering the best interests of girls in budget decision-making*
22. Given that States do not have unlimited resources and the resources they have must be allocated among different sectors, States must be able to demonstrate that the best interests of girls have been taken into account in decision-making on budgets. As the main obstacle to this, the IACHR has identified a lack of availability of information on the level of total and disaggregated economic investment,³⁹ that a State makes in children, in order to be able to assess whether or not the State has

³⁵ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 560 et seq.

³⁶ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 85 to 98, and par. 545.

³⁷ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 371 et seq.

³⁸ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, par. 373.

³⁹ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, par. 637.

effectively prioritized ensuring the rights of girls and a gender-based approach in budgeting.⁴⁰ The State must consider the sustainability of financial investment in the rights of children in order to avoid regression and maintain the levels of wellbeing and satisfaction of rights among all children and adolescents under the jurisdiction of the State.⁴¹

- *Institutionalizing the participation of girls in public policy design and monitoring*
23. The IACHR recommends institutionalizing the participation of girls in the formulation, implementation, monitoring and evaluation of policies, programs and services that are for them. More specifically, the national child policy-making body, as well as the regional and municipal child policy-making bodies, must be linked to children's participation mechanisms, especially to formal and institutional mechanisms, such as children's and adolescents' consultative councils.⁴²
 24. The IACHR has also recommended that the right to participate, as well as the means to ensure representation, must be adequately set forth in the rules and several aspects should be considered, such as geographic distribution, age, gender, socioeconomic condition, minority status, cultural and linguistic diversity, ethnic origin, and disability. The law should also expressly set forth the obligation that the opinions and recommendations of children and adolescents shall be duly taken into account so that their participation is meaningful and not merely tokenistic. In other words, explanations must be provided for how the opinions of the children and adolescents were incorporated into the policies and other decisions and, when they were not, an adequate justification for such a decision will also be provided.⁴³
 25. The IACHR recommends that States earmark resources for participation strategies.⁴⁴ In view of the disproportionately low representation of women in politics and in spaces of debate and social influence, the IACHR recommends ensuring adequate participation of girls from an early age, in order to break the cycle of social exclusion. The IACHR recalls, as did the Committee on the Rights of the Child, that the exercise of the right of the child to participate and to due consideration to be given to his or her views is a self-executing obligation under the law. It entails the responsibility of States to take legal measures and provide for funding to achieve the meaningful participation of children and adolescents in all

⁴⁰ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 237, 634 and 635.

⁴¹ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 252, 261 to 271, and 629-630.

⁴² IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, par. 117.

⁴³ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 149-150.

⁴⁴ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206 2017, par. 148.

decisions affecting them, specifically, in the workings of the national protection system.⁴⁵

- *Adopting public policies on young and adolescent girls from an intersectional perspective*
26. The intersectional nature of different circumstances of vulnerability and the coexistence of structural factors of discrimination make girls from particular groups more vulnerable and place them at greater risk of their rights being violated. In this regard, the IACHR has recommended that States establish relevant mechanisms to identify the groups that are especially vulnerable and formulate appropriate policies of inclusion that ensure full exercise of all their rights.⁴⁶
27. In their national plans for children, States must include policies and strategies to promote equality for groups in which situations of vulnerability are present in combination.⁴⁷ The national child policy must include specific indicators to monitor concrete progress made in terms of transforming the realities of these groups of girls, in whose lives different vulnerability factors intersect. The results, or lack thereof, must be made public.⁴⁸

6. Standards regarding Discriminatory Sociocultural Stereotypes and Patterns of Behavior and Their Impact on the Right to a Life Free from Violence

- *Gender-based stereotypes as a form of discrimination at odds with the rights of women and girls*
28. Article 6 of the Convention of Belém do Pará expressly establishes that the right of every woman to live free from violence includes the right to “be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.” In addition, Article 8(b) of the same Convention obligates States parties to adopt, progressively, specific measures to “modify social and cultural patterns of conduct of men and women.”⁴⁹ Bodies of the

⁴⁵ See Committee on the Rights of the Child. Article 4 in [Observación General No. 19 sobre la elaboración de presupuestos públicos para hacer efectivos los derechos del niño](#) General Observation 19 on public budgeting for the realization of the rights of the child CRC/C/GC/19. 2016, par.53 and Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). General Observation No. 12 on the right of the child to be heard CRC/C/GC/12. 2009, par. 137.

⁴⁶ IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 294-296.

⁴⁷ IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#).. OEA/Ser.L/V/II.166 Doc. 206 2017, par. 297.

⁴⁸ IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206 2017, pars. 296, 297, 398, 426, 543, 550, 637.

⁴⁹ Also see IACHR. [Violence and Discrimination against Women in the Armed Conflict in Colombia](#). OEA/Ser.L/V/II. Doc. 67, 2006, par.43.

Inter-American human rights system have said that gender stereotyping refers to “a preconception of personal attributes, characteristics or roles that correspond or should correspond to either men or women. The subordination of women can be associated with practices based on persistent socially-dominant gender stereotypes, a situation that is exacerbated when stereotypes are reflected, implicitly or explicitly, in policies and practices and, particularly in the reasoning and language of the judicial police authorities.”⁵⁰

29. On this score, the IACHR has noted that these discriminatory patterns are influenced by sociocultural values and deeply rooted cultural notions, which are premised on the supposed inferiority of women⁵¹ to men by virtue of their biological differences and reproductive capacity and function.⁵² Consequently, binding instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter the “CEDAW Convention”) and the Convention of Belém do Pará, as well as the IACHR and the IA Court of HR have recognized that the prevalence of elements of discrimination, stereotypes, social and cultural practices is “one of the causes and consequences of gender violence practiced against women”⁵³ while reiterating States’ obligation to take the necessary measures to ensure the eradication thereof.
30. The IACHR emphasizes that the use of and references to gender-based stereotypes constitute a form of discrimination against women and girls because they are predicated on pre-conceptions placing them in a position of inferiority, which encourages, legitimizes and exacerbates gender-based violence against them.⁵⁴ Likewise, the Court has stressed that these gender stereotypes are incompatible

⁵⁰ 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 2009. Series C No. 205.

⁵¹ IACHR. Report No. 04/01. Caso 11.625. Fondo. María Eugenia Morales de Sierra. Guatemala. Case 11.625. Merits. Maria Eugenia Morales de Sierra. Guatemala. 2001, par. 52; IACHR. Report No. 51/13. Caso 12.551. Fondo. Paloma Angélica Escobar Ledezma y otros. México. Case 12.551. Merits. Paloma Angélica Escobar Ledezma et al. Mexico. 2013, par. 119. Also see IACHR. Poverty and Human Rights in the Americas. OEA/Ser.L/V/II.164 Doc. 147. 2017, par. 186.

⁵² IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser.L/V/II. Doc. 68. 2007, par. 151.

⁵³ IACHR. Violence and Discrimination against Women in the Armed Conflict in Colombia. OEA/Ser.L/V/II. Doc. 67. 2006, par. 43; CIDH. Poverty and Human Rights in the Americas. OEA/Ser.L/V/II.164. Doc. 147. 2017, par. 187; and IA Court of HR. Caso González y otras (“Campo Algodonero”) vs. México. Case of González et al (“Cotton Field”). Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205, par. 401.

⁵⁴ Convention of Belém do Pará, Article 8 (b). See IACHR. Poverty and Human Rights in the Americas. OEA/Ser.L/V/II.164. Doc. 147, 2017, par. 187, quoting IACHR, Informe mujeres indígenas desaparecidas y asesinadas en Columbia Británica, Canadá. Report: Missing and Murdered Indigenous Women in British Columbia, Canada. OEA/Ser.L/V/II. 2014, par. 175. Also see IACHR. Informe No. 4/01. Caso 11.625. Fondo. María Eugenia Morales de Sierra. Guatemala. Report No. 4/01. Case 11.625. Merits. Maria Eugenia Morales de Sierra. Guatemala. 2001, par. 52.

with international human rights law and measures must be taken to eradicate them.⁵⁵

- *Impact of the use of gender-based stereotypes on the right to a life free from violence*
31. The IACHR has written that stereotyping has a negative impact on **access to justice for women victims of violence**, inasmuch as it affects the objectivity of State officials or agents responsible for investigating the complaints filed with them and, thus, has a bearing on their perception in determining whether or not an act of violence took place, on their assessment of the credibility of the witnesses and the victim herself, and on the weighing of evidence.⁵⁶ In particular, the IACHR has established that the prevalence of gender stereotyping and other discriminatory sociocultural behavioral patterns “may cause a victim’s credibility to be questioned in cases involving violence, or lead to a tacit assumption that she is somehow to blame for what happened, whether because of her manner of dress, her occupation, her sexual conduct, relationship or kinship to the assailant and so forth. The result is that prosecutors, police and judges fail to take action on complaints of violence.”⁵⁷ In light of these considerations, the IA Court of HR has underscored the importance of establishing rules for the assessment of the evidence that avoid stereotyped affirmations, insinuations and allusions.⁵⁸
 32. Hand in hand with the foregoing, the IACHR has recognized that discriminatory provisions of anachronistic law still on the books can turn into another **obstacle to effective investigation, punishment and reparation for acts of gender-based violence**.⁵⁹ On this score, the IACHR asserts that provisions of law premised on stereotyped notions regarding the role of women in society and values such as honor, decency and chastity, stand as an impediment to proper legal protection of the victims of such offenses, subjects them to never-ending judicial proceedings causing continual victimization and places the burden on them to prove that they resisted in cases of rape, for example.
 33. In the area of **health**, the IACHR has noted that gender stereotyping is still an obstacle for women to gain access to this service, in particular, to maternal, sexual and reproductive health. Laws, policies or practices, that require women to have the authorization from third persons in order to obtain medical care, do not respect

⁵⁵ IA Court of HR. Caso Artavia Murillo y otros (Fecundación in vitro) Vs. Costa Rica. 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. 257, par. 302.

⁵⁶ IA Court of HR. Caso Gutiérrez Hernández y otros Vs. Guatemala. Case of Gutiérrez Hernández et al v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 24, 2017. Series C No. 339, par. 147; IA Court of HR. Caso Veliz Franco y otros Vs. Guatemala. Case of Veliz Franco et al v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 19, 2014. Series C No. 277, par. 173.

⁵⁷ IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser.L/V/II. Doc. 68. 2007, par. 155.

⁵⁸ IA Court of HR. Caso Espinoza Gonzáles Vs. Perú. Case of Espinoza Gonzáles v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C No. 289, par. 278.

⁵⁹ IACHR. Acceso a la información en materia reproductiva desde una perspectiva de derechos humanos. Access to Information on Reproductive Health from a Human Rights Perspective. OEA/Ser.L/V/II. Doc. 61. 2011, par. 122.

women’s right to confidentiality, enable forms of coercion such as sterilization of women without consent, and perpetuate stereotypes of women as vulnerable and incapable of making their decisions about their health on their own.⁶⁰ In fact, situations in which women are denied medical care because of being women, their marital status or educational level, constitute forms of discrimination in the access to these services.

34. Particularly with regard to sexual and reproductive health, gender stereotypes linked to the supposed inability of women to make their own decisions and the notion that “it is the job of the woman in a relationship to choose and use a method of contraception,”⁶¹ have a negative impact on both access to information on the subject and the way in which informed consent is obtained, especially when it comes to access to contraception methods and legal termination of pregnancy. On this score, the IA Court of HR has noted that: “the element of a woman’s freedom to decide and to make responsible decisions about her body and her reproductive health [...] can be undermined [...] because of the existence of gender and other stereotyping by health care providers.”⁶²
- *The use of gender-based stereotypes, in addition to other stereotypes, compounds the situation of vulnerability of certain women and girls*
35. The Commission has examined stereotypes toward particular groups of women and girls and the impact they have on specific forms of violence and discrimination perpetrated against them. In this regard, the prevalence of stereotyped perceptions that **indigenous women** are “inferior, sexually available and/or easy victims”⁶³ gives perpetrators confidence that violence against indigenous women will not be carefully investigated and encourages law enforcement agents and broader society to be dismissive in response to requests for help and complaints filed by indigenous women, regarding them as not serious or invalid.⁶⁴
36. Similarly, “**migrant women’s** involvement in the global care chains keeps intact the image of women as caretakers, homemakers, and persons responsible for domestic matters.”⁶⁵ The IACHR has consistently received reports of the violence and discrimination faced by migrant women throughout the migration process in the

⁶⁰ IACHR. [Acceso a servicios de salud materna desde una perspectiva de derechos humanos](#). Access to Maternal Health Services from a Human Rights Perspective. OEA/Ser.L/V/II. Doc. 69. 2010, par. 38.

⁶¹ IA Court of HR. [Caso I.V. Vs. Bolivia. Case of I.V. v. Bolivia](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Serie C No. 389, par.187.

⁶² IA Court of HR. [Caso I.V. Vs. Bolivia. Case of I.V. v. Bolivia](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Serie C No. 389, par. 185.

⁶³ IACHR. [Mujeres indígenas desaparecidas y asesinadas en Columbia Británica, Canadá](#). Missing and Murdered Indigenous Women in British Columbia, Canada. OEA/Ser.L/V/II, 2014, pars. 98, 139-140.

⁶⁴ IACHR. [Las mujeres indígenas y sus derechos humanos en las Américas](#). Indigenous Women and their Human Rights in the Americas. OEA/Ser.L/V/II. Doc. 44/17. 2017, par. 82.

⁶⁵ IACHR. [Derechos humanos de migrantes, refugiados, apátridas, víctimas de trata de personas y desplazados internos: Normas y Estándares del Sistema Interamericano de Derechos Humanos](#). Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System. OEA/Ser.L/V/II. Doc. 46/15. 2015, par. 31.

country of origin, destination and transit, putting them at high risk of being victims of human trafficking and of different forms of exploitation, such as labor and sexual exploitation.

37. As for **Afro-descendant women**, gender-based stereotypes are further compounded by racist notions identifying them as “sexual objects, which is closely associated with prostitution and human trafficking.”⁶⁶ Or these women are regarded as “less intelligent and less capable than white women.”⁶⁷ Gender-based stereotypes also have an impact on men and on their relations with women: the IACHR has made reference to the “phenomena of “hypermasculinity” or “reinforced male chauvinism by Afro-American men, which may result in harmful intrafamily discrimination for Afro-descendant women because they prevent the development of education and labor activities, and establish female roles only related to housewife duties.”⁶⁸
38. As established by the Committee on the Rights of Persons with Disabilities (hereinafter “CDPD”), **women with disabilities** may be at heightened risk of experiencing violence and abuse by virtue of their situation of disability. In particular, harmful stereotypes, among other perceptions, that infantilize women with disabilities perpetuate stereotyped views on their sexuality and call into question their ability to make decisions.⁶⁹ In this regard, the Commission has written that persistent gender-based stereotypes, combined with stereotypes about disability, pose barriers to these women’s political participation, their autonomy in the labor market and to the exercise of their sexual and reproductive rights.⁷⁰
39. With regard to **lesbian, bisexual, transsexual and intersex women**, the IACHR has said that “traditional social norms about gender and sexuality and pervasive societal discrimination towards non-normative orientations and identities, and persons whose bodies do not necessarily fit the socially accepted definitions of male and female bodies,” fuel violence against LGBTI persons.⁷¹
40. Lastly, as for **adolescents**, the Commission notes the link between women’s unequal status within the family and their limited participation in public life and the labor

⁶⁶ IACHR. Situación de las personas afrodescendientes en las Américas. The Situation of People of African Descent in the Americas. OEA/Ser.L/V/II. Doc. 62. 2011, par. 69.

⁶⁷ IACHR. Press Release No.243/18: IACHR Completes Working Visit to Peru. 2018.

⁶⁸ IACHR. Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en América. Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons. OAS/Ser.L/V/II.rev.2 Doc. 36. 2015, par.359; and IACHR. Situación de las personas afrodescendientes en las Américas. The Situation of People of African Descent in the Americas. OEA/Ser.L/V/II. Doc. 62. 2011, par. 69.

⁶⁹ CDPD. Observación General No. 3 sobre las mujeres y niñas con discapacidad. General Comment No. 3 on women and girls with disability. CRPD/C/GC/3. 2016, par. 30.

⁷⁰ IACHR. Press Release No. 011A/18: Conclusiones y observaciones sobre la visita de trabajo de la CIDH a El Salvador. Conclusions and Observations on the IACHR’s Working Visit to El Salvador January 29, 2018; Hearing “Situation of sexual and reproductive rights of women and girls with disabilities in the Americas.” IACHR. Press Release No.104A/18: Anexo audiencias celebradas durante el 168 periodo de sesiones. ‘Annex Public Hearings of the 168th Period of Sessions.’ May 11, 2018.

⁷¹ IACHR. Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en América. Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons. OAS/Ser.L/V/II.rev.2 Doc. 36. 2015, par. 50.

market, due to stereotyped notions of their role in society as women and mothers.⁷² During adolescence, discrimination, inequality and stereotyping against girls often intensify and lead to more serious violations of their rights because, among other reasons, cultural norms ascribing lower status to girls can increase the likelihood of confinement to the home, lack of access to secondary and tertiary education, limited opportunities for leisure, sport, recreation and income generation, lack of access to cultural life and the arts, burdensome domestic chores and childcare responsibilities.⁷³

7. Recommendations on changing discriminatory sociocultural stereotypes and patterns of behavior

- *Changing structural conditions, social norms and cultural patterns that legitimize and reproduce violence and discrimination against women*
41. In order to promote changes in sociocultural patterns of men’s and women’s behavior,⁷⁴ the Commission has pressed for changes in structural conditions, social norms and cultural patterns, that legitimize and reproduce forms of violence and discrimination against women and girls. It also aims to ensure the effective enforcement of the current law on the subject and work to bring down the high levels of impunity in crimes against their physical integrity, which contribute to the reproduction of such violence and discrimination.⁷⁵
42. In view of the structural nature of discrimination against women and girls and how deep-rooted it is in the collective notions of society, the IACHR has said that States should work in partnership with all interested parties, including civil society and children and adolescents themselves. They should recognize the importance of engaging with everyone—boys and men, as well as girls and women—in all measures introduced to change the view of society and achieve gender equality.⁷⁶ In particular, the view that girls are subjects of protection must be replaced by a view that recognizes them as subjects of rights and their progressive autonomy to make decisions.

⁷² IACHR. Informe sobre los derechos de las mujeres en Chile: la igualdad en la familia, el trabajo y la política. Report on the Rights of Women in Chile: Equality in the Family, Labor and Political Spheres. OEA/Ser.L/V/II.134. Doc. 63, 2009, par.56.

⁷³ Committee on the Rights of the Child. Observación General No.20 sobre la efectividad de los derechos del niño durante la adolescencia. General Comment No. 20 on the implementation of the rights of the child during adolescence. CRC/C/GC/20. December 6, 2016, par. 27.

⁷⁴ Also see IACHR. Violence and Discrimination against Women in the Armed Conflict in Colombia.OEA/Ser.L/V/II. Doc. 67. 2006, par. 43.

⁷⁵ IACHR. Towards the Effective Fulfillment of Children’s Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206, 2017, paragraphs 183 and 516.

⁷⁶ IACHR. Towards the Effective Fulfillment of Children’s Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206, 2017, par. 376.

- *Adopting and introducing a gender perspective as a way of identifying, recognizing and correcting existing patterns of behavior discriminating against women*
43. The IACHR has noted that changing stereotypes and discriminatory sociocultural behavioral patterns also involves identifying and recognizing deep-rooted notions of masculinity in society and gender-linked norms of male socialization, that are associated with violence and male domination, both among peers and toward women.⁷⁷ In this regard, the IACHR has urged States to follow a gender-based approach to designing strategies in order to address this issue, by promoting notions of positive masculinity, eradicating male chauvinist cultural values and fostering recognition that much of the mistreatment endured by male children and adolescents also has a gender dimension to it. This approach must include actions aimed at changing the way male and female children and adolescents interact with each other, as well as making parents, educators and caregivers and society at large more sensitive to this issue.⁷⁸
44. The Commission has repeatedly voiced its concern over the fact that the gender perspective is referred to pejoratively as “gender ideology.” The IACHR understands gender perspective to be an approach that raises awareness about women’s and girl’s position of inequality and structural subordination to men, because of gender, as well as a critical tool for combatting discrimination and violence against women, in keeping with Inter-American standards on the subject. Additionally, from a broader standpoint, gender perspective is a key tool to combat discrimination and violence against people with different sexual orientations and gender identities.⁷⁹
- *Taking the necessary measures to eradicate gender stereotypes from early childhood*
45. The IACHR notes that norms of socialization linked to gender relations, as well as resorting to violence as a form of dispute resolution and as an instrument of power and domination in interpersonal relations, have an impact from an early age on children and adolescents, who internalize them and thus continue to follow the same lines of logic and reproduce the same behavior. The Commission has noticed that when children are exposed to violence or encouraged to develop an aggressive masculinity, this contributes to perpetrating violence against women; similarly, when children witness harassment and violence against women in a family or social setting, it becomes more likely that they will reproduce patterns of violent conduct against women in the future.⁸⁰ For this reason, the Commission has recommended a holistic approach to violence and gender stereotypes, that includes both girls and

⁷⁷ IACHR. [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II., Doc. 40/15. 2015, pars. 129, 240 and 241.

⁷⁸ IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206/17. 2017, par. 383.

⁷⁹ IACHR. Press Release No.208/17: [IACHR Regrets Ban on Gender Education in Paraguay](#), 2017. Also see: IACHR. Press Release No.243/18: [IACHR Completes Working Visit to Peru](#). November 16, 2018.

⁸⁰ Unicef, [Informe del experto independiente para el estudio de la violencia contra los niños, A/61/299. Report of the Independent Expert for the Study on violence against Children 2006](#), pars. 36 and 37; and Human Rights Council. [Informe anual de la Representante Especial del Secretario General sobre la violencia contra los niños, A/HRC/34/45](#). Annual Report of the Special Representative of the Secretary General on violence against children. 2017, pars. 98 and 99.

boys and their protection needs, in order to adequately address the structural causes of the problem.

- *Adopting public policies and programs aimed at eliminating stereotypes and notions on the role of women in society*
46. In this same vein, the IACHR has stressed that States must give high priority to adopting public policies and programs aimed at eliminating stereotypes and notions about the role of women in society and promote the eradication of discriminatory sociocultural behavioral patterns that impede full access to justice, and limit women's options to engage in the public life of the country. In particular, the Commission has recommended conducting awareness-raising campaigns to: a) promote shifts in discriminatory sociocultural patterns of behavior against women; b) foster the engagement of women in professions traditionally out-of-bounds to their gender, by eliminating stereotypes at the stages of training and education; and c) to make women aware of their rights and options in the labor sphere.
- *Adopting public policies to promote society's rejection of gender-based violence and to empower women and girls regarding their rights*
47. The IACHR has underscored that greater knowledge and awareness on the part of society helps to promote social rejection of the various forms of violence and other violations of women's and girl's rights and increases the chances of these violations being reported, thereby contributing to create a safer, more protective environment for women and girls. Third person reporting of situations in which rights are violated is much more important for protecting girls than it might be for adults, due precisely to their state of development and the challenges they face to gain access to mechanisms of protection and justice on their own.⁸¹
48. The IACHR has recommended working with families and communities to prevent violence and eradicate stereotypes and practices that are harmful to women and girls.⁸² Publicly disseminating women's and children's rights in general, promoting awareness thereof among women and girls themselves and making society more sensitive to the particular challenges faced by women and girls and about the effects of different forms of violence and discrimination and other infringements of their rights, is particularly important for progressing toward social and cultural transformations with regard to the perception of women and girls.
49. In addition, the IACHR has noted that discrimination and violence against women and girls is usually passed on from generation to generation and, therefore, it has recommended prioritizing and investing in the development of girls at the stage of early childhood. Underinvestment in early childhood can be detrimental to cognitive

⁸¹ IACHR. [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206/17. 2017, par. 518.

⁸² IACHR. [Violence, Children and Organized Crime](#), OEA/Ser.L/V/II. Doc. 40/15. 2015; and IACHR. [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206/17. 2017.

development and can reinforce existing deprivations, inequalities and intergenerational poverty.⁸³

50. The IACHR has repeatedly recognized the challenges and material obstacles faced by women and girls in the region to breaking the cycles of poverty and discrimination. In this regard, the Commission has recommended adopting measures for women to enter and remain in the labor and education spheres. Accordingly, it recommends that States craft coordinated and multidisciplinary strategies to ensure a decent job and education, aimed at guaranteeing women's economic and social empowerment, through effective exercise of their rights.⁸⁴

- *Promoting equal education with a gender perspective*

51. The Commission has asserted that the education system itself and its curricular structure may constitute a source of reproduction of patterns of sociocultural discrimination, inasmuch as textbooks and curricula may perpetuate gender stereotypes and stereotyped notions about the role of women in society.⁸⁵ On this score, the CEDAW has identified that in many societies, instead of challenging entrenched discriminatory gender norms and practices, "schooling in many societies, reinforces gender stereotypes and maintains the gender order of society expressed through the reproduction of the female/male, subordination/domination hierarchies and the reproductive/productive, private/public dichotomies."⁸⁶ On this score, the IACHR has written that "the knowledge and values that the curricula teach must be free of anything that can be construed as discrimination based on sex, gender, age, religion, social status, and so on."⁸⁷

52. In the view of the IACHR, human rights education plays a key role in addressing and eliminating structural prejudice, historic discrimination, stereotypes and false notions about women and people with different sexual orientations or gender identities. Additionally, human rights education is essential to uphold and fully promote diversity and acceptance of different sexual orientations and gender

⁸³ IACHR. Towards the Effective Fulfillment of Children's Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206, 2017, pars. 359 to 362. Also see, IACHR. Violence, Children and Organized Crime. OEA/Ser.L/V/II., Doc. 40/15. 2015, pars. 129 and 130; and Committee on the Rights of the Child. Observación General No. 19 sobre la elaboración de presupuestos públicos para hacer efectivos los derechos del niño General Comment No. 19 on public budgeting for the realization of the rights of the Child (art. 4). CRC/C/GC/19. 2016, par. 50.

⁸⁴ IACHR. El trabajo, la educación y los recursos de las mujeres: La ruta hacia la igualdad en la garantía de los derechos económicos, sociales y culturales. The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights. OEA/Ser.L/V/II.143 Doc. 59. 2011. General Recommendations, par. 1.

⁸⁵ IACHR. El trabajo, la educación y los recursos de las mujeres: La ruta hacia la igualdad en la garantía de los derechos económicos, sociales y culturales. The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights. OEA/Ser.L/V/II.143 Doc. 59. 2011, pars. 176, 217 and 220.

⁸⁶ CEDAW. Recomendación General No. 36 sobre el derecho de las niñas y las mujeres a la educación. General Recommendation No. 36 on the right of girls and women to education. CEDAW/C/GC/36. 2017, par. 16.

⁸⁷ IACHR. El trabajo, la educación y los recursos de las mujeres: La ruta hacia la igualdad en la garantía de los derechos económicos, sociales y culturales. The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights. OEA/Ser.L/V/II.143 Doc. 59. 2011, par. 217.

identities. The message to society must be positive: a gender perspective helps to bring about respect for everyone, tolerance, civil coexistence, and to reduce discrimination and violence, particularly, against women and girls, as well as against LGBTI persons.⁸⁸

- *Adopting measures of public outreach and dissemination of the rights of women and girls*
53. With a view towards eradicating discriminatory gender-based stereotypes, the Commission has recommended taking measures and waging social, civic or public information campaigns to disseminate knowledge about the human rights of women, their right to live free from violence and from all forms of discrimination, about the different ways in which violence against women manifests itself, including sexual violence; diversity among women; and the intercultural perspective.⁸⁹
 54. In addition, States must disseminate information about judicial remedies available to victims of violence against women taking into consideration the country's racial, ethnic and linguistic diversity.⁹⁰ The IACHR has specifically recommended promoting mass information dissemination about the health and rights of indigenous and Afro-descendant women living in rural areas in order to ensure their effective participation in decision-making about their reproductive health, including adolescent girls with a focus on early maternity prevention.⁹¹
 55. Additionally, the IACHR notes the role that the news media can play in reaching a wider audience in public education campaigns and, overall, in communications strategies aimed at transforming perceptions and gender-based stereotypes. In this vein, the IACHR has recommended, among other things, that the national children's policy, and the programs and plans deriving from it, should include a strategy for communication, promotion and dissemination of children's rights with a view towards transforming the mindset of society, breaking down stereotypes and views of children that run counter to their rights. Children and adolescents should be included in the design and implementation phases of these communications and awareness-raising strategies.⁹²

⁸⁸ IACHR. Press Release No.208/17: [CIDH lamenta la prohibición de la enseñanza de género en Paraguay](#). IACHR Regrets Ban of Gender Education in Paraguay. December 15, 2017; IACHR. Press Release No. 243/18: [IACHR Completes Working Visit to Peru](#). November 16, 2018.

⁸⁹ IACHR. [Access to Justice for Victims of Sexual Violence in Mesoamerica](#). OEA/Ser. L/V/II. Doc. 63. 2011, par. 7.

⁹⁰ IACHR. [Access to Justice for Victims of Sexual Violence in Mesoamerica](#). OEA/Ser. L/V/II. Doc. 63. 2011. Recommendations, par. 7.

⁹¹ IACHR. [Acceso a la información en materia reproductiva desde una perspectiva de derechos humanos](#). Access to Information on Reproductive Health from a Human Rights Perspective. OEA/Ser. L/V/II. Doc. 61. 2011. Recommendations, par. 11.

⁹² IACHR. [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206/17. 2017, par. 544.

B. Standards and Recommendations relating to Protection, Comprehensive Prevention and Access to Justice in Cases of Violence against Women

1. Standards relating to the Obligation of due Diligence

- *Content and scope of the obligation of due diligence in the prevention, investigation and punishment of violence against women*
56. Article 7(b) of the Convention of Belém do Pará expressly enshrines States' obligation to act with due diligence to prevent, investigate and punish all forms of gender-based violence against women and girls, by all appropriate means and without unwarranted delays.⁹³ Pursuant to this duty, the IACHR has held that States must organize the structure of the State – including the laws, public policies, law enforcement agencies, such as the police and the judicial system –so that it is capable of adequately and effectively preventing, investigating, punishing and providing reparation for gender-based violence, through a comprehensive approach involving all sectors of the public sphere, including the areas of health, education and justice.⁹⁴
57. Both the Inter-American and international human rights systems have noted the close relationship between gender-based discrimination, violence against women and the duty of due diligence. States' failure to act with respect to a case of violence against women is a violation of the woman's right to life and physical integrity,⁹⁵ and is "a form of discrimination, a failure on the State's part to comply with its obligation not to discriminate, as well as a denial of the right to equal protection."⁹⁶

⁹³ IACHR. Las mujeres frente a la violencia y la discriminación derivadas del conflicto armado en Colombia. Violence and Discrimination against Women in the Armed Conflict in Colombia OEA/Ser.L/V/II. Doc. 67. 2006, par. 28; IACHR. Press Release No. 41/15, Comunicado de Prensa Conjointo de las Relatoras de la ONU y la CIDH. Joint Press Release of UN and IACHR Rapporteurs, 2015. Also see CEDAW. Recomendación General No. 28 relativa al artículo 2 de la Convención sobre la eliminación de todas las formas de discriminación contra la mujer. General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. CEDAW/C/GC/28. 2010, par. 18.

⁹⁴ IACHR. Access to Justice for Victims of Sexual Violence in Mesoamerica. OEA Ser.L/V/II. Doc.63. December 9, 2011, par. 41; IACHR. Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en América. Violence against Lesbians, Gay, Bisexual, Trans and Intersex Persons in the Americas. OAS/Ser.L/V/II.rev.2 Doc. 36. 2015, par. 268; and IACHR. Derecho de las mujeres a una vida libre de violencia y discriminación en Haití. Right of Women to a Life Free from Violence and Discrimination in Haiti. OEA/Ser.L/V/II. Doc. 64. 2009, par. 80.

⁹⁵ IACHR. Violencia contra periodistas y trabajadores de medios: Estándares interamericanos y prácticas nacionales sobre prevención, protección y procuración de justicia. Violence against journalists and media workers: Inter-American standards and national practices on prevention, protection and prosecution of perpetrators. OEA/Ser.L/V/II. CIDH/RELE/INF. 12, 2013, par.254.

⁹⁶ IACHR. Report No. 53/13. Case 12.777. Merits. Claudina Isabel Velásquez Paiz y otros. Claudina Isabel Velásquez Paiz et al. Guatemala. Merits. 2013, par. 166; IACHR. Access to Justice for Victims of Sexual Violence in Mesoamerica. OEA Ser.L/V/II. Doc.63, 2011, par. 40; IACHR. Mujeres indígenas desaparecidas en Canadá. Missing Indigenous Women in Canada. OEA/Ser.L/V/II. Doc. 30/14. 2014, par. 180; IACHR. Report No. 170/11

58. In this same vein, bodies of the Inter-American human rights system have cited the link between the duty to act with due diligence and the obligation of States to guarantee access to adequate and effective judicial remedies for victims and their family members.⁹⁷ In this regard, the IACHR has noted that the lack of due diligence in investigating, prosecuting and punishing acts of gender-based violence, not only is a violation of the obligation of States to guarantee this right, but also on its own constitutes a form of discrimination in the area of access to justice.⁹⁸
59. Likewise, it should be noted with particular emphasis that failure to comply with the duty to act with due diligence, especially when it comes to the investigation, prosecution and punishment of gender-based acts of violence, creates an atmosphere of impunity that facilitates and encourages the repetition of acts of violence in general and sends the message that violence against women can be tolerated and accepted, thereby fueling its perpetuation and society's acceptance of the phenomenon, and women's sense of insecurity, as well as persistent distrust by women in the administration of justice system.⁹⁹ In this context, the IACHR has asserted that this duty of the State encompasses the obligation to adopt measures to prevent and address the discrimination perpetuating this phenomenon.
60. Pursuant to Article 9 of the Convention of Belém do Pará, States must take into account intersectional factors of discrimination whereby certain groups of women are at a heightened risk of enduring acts of violence and/or particular types of gender-based violence.¹⁰⁰ Accordingly, in complying with the duty to act with due diligence, States must consider the varying needs of different groups of women whose situation is especially vulnerable, in terms of age, race, ethnic background, disabilities, sexual orientation and gender identity, socio-economic position, among other intersectional factors.¹⁰¹

Case 12.578. Merits. [María Isabel Véliz Franco et al.](#) Guatemala 2011, par. 140; and IACHR. Report No. 33/16. Case 12.797. Merits. [Linda Loaiza López Soto and Family.](#) Venezuela. 2016, par. 267.

⁹⁷ IACHR. [Access to Justice for Victims of Sexual Violence in Mesoamerica.](#) OEA Ser.L/V/II. Doc.63, 2011, OEA Ser.L/V/II. Doc.63. 2011, par. 43.

⁹⁸ IACHR. [Institucionalidad democrática, Estado de derecho y derechos humanos en Venezuela. Informe de país.](#) Democratic Institutions. Rule of Law and Human Rights in Venezuela. Country Report. OEA/Ser.L/V/II. Doc. 209, 2017, par. 343.

⁹⁹ IA Court of HR. [Caso Gutiérrez Hernández y otros Vs. Guatemala](#), Case of Gutiérrez Hernández et al v. Guatemala. Merits, Reparations and Costs. Judgment of August 24, 2017. Series C No. 339, par. 176; IACHR. [Situación de los derechos de la mujer en Ciudad de Juárez, México: El derecho a no ser objeto de violencia y discriminación.](#) Situation of women's rights in Ciudad Juarez, Mexico. OEA/Ser.L/V/II.117 Doc. 1 Rev. March 17, 2003, par. 7; IACHR. Application to the Inter-American Court of Human Rights. [Caso Ivette González y otras \(Campo Algodonero\) c. México.](#) Case of Ivette González et al (Cotton Field) v. Mexico. Case 12.496, 12.497 and 12.498. November 4, 2007, par. 151; IACHR. Report No. 170/11 Case 12.578. Merits. [María Isabel Véliz Franco y otros.](#) María Isabel Veliz Franco et al. Guatemala. 2011, par. 135; and IACHR. Report No. 72/14. Case 12.655. Fondo. IV. Bolivia. Merits. IV. Bolivia. 2014, par. 182.

¹⁰⁰ IACHR. [Application to the IA Court of HR. Case of Valentina Rosendo Cantu et al v. Mexico.](#) Case 12.579. 2009, par. 160.

¹⁰¹ IACHR. Press Release No.41/15: [Comunicado de Prensa Conjunto de las Relatoras de la ONU y la CIDH. Joint Press Release of UN and IACHR Rapporteurs.](#) April 28, 2015.; IACHR. [Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas.](#) OAS/Ser.L/V/II.rev.2. Doc. 36, 2015, par. 268; and IACHR. [Access to Justice for Victims of Sexual Violence in Mesoamerica.](#) OEA Ser.L/V/II. Doc.63, 2011, par. 43. Also see

- *Due diligence for acts perpetrated by State actors, non-State actors and by private actors with the tolerance or acquiescence of the State*
61. The organs of the Inter-American and international human rights systems have made it clear that the duty of the State to act with due diligence to prevent, investigate, punish and provide reparation for acts of discrimination and violence against women is enforceable on actions perpetrated by non-State actors and private parties acting under the tolerance or with acquiescence of the State.¹⁰² Consequently, the responsibility of the State to act with due diligence to prevent the violation of the human rights of women in peacetime and in times of conflict is of a comprehensive nature.¹⁰³
 62. Gender-based acts of violence committed by private actors give rise to State responsibility when authorities know – or should have known – of the situation of real and imminent danger to a specific women or a particular group of women and they do not act with due diligence to reasonably prevent or avoid that danger from playing out. A State may also be held internationally responsible when it does not properly investigate these acts or does not punish those responsible for them.¹⁰⁴

2. Recommendations Aimed at Compliance with the Due Diligence Obligation

- *Ensuring due diligence, including investigation, punishment and reparation, in cases of gender-based violence against women*
63. The IACHR has underscored the obligation of States to guarantee due diligence so that all cases involving gender-based violence undergo a timely, thorough and impartial investigation, as well as lead to adequate punishment of those responsible and full reparation to the victims. In order to fulfill this obligation, the Commission

CEDAW. Recomendación General No. 28 relativa al artículo 2 de la Convención sobre la eliminación de todas las formas de discriminación contra la mujer. General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. CEDAW/C/GC/28. December 16, 2010, par. 18.

¹⁰² IACHR. Mujeres indígenas desaparecidas en Canadá. Missing Indigenous Women in Canada. OEA/Ser.L/V/II. Doc. 30/14, 2014, par. 158; IACHR. Access to Justice for Victims of Sexual Violence in Mesoamerica. OEA Ser.L/V/II. Doc.63, 2011, par. 42; IACHR. Report No. 80/11. Case 12.626. Merits. Jessica Lenahan (Gonzales) et al. United States. 2011, par. 126; and IACHR. Derecho de las mujeres a una vida libre de violencia y discriminación en Haití. Right of women in Haiti to be Free from Violence and Discrimination. OEA/Ser.L/V/II. Doc. 64, 2009, par. 86.

¹⁰³ IACHR. Derecho de las mujeres a una vida libre de violencia y discriminación en Haití. OEA/Ser.L/V/II. Doc. 64 2009, pár.86.

¹⁰⁴ 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, par. 280; IACHR. Segundo Informe sobre la situación de los derechos humanos en el Perú. Second Report on the Human Rights Situation in Peru. OEA/Ser.L/V/II.106. Doc. 59, Rev. 2 June 2000. Chapter VII, par. 18; and IACHR. Report No. 33/16. Case 12.797. Merits. Linda Loaiza López Soto y familiares. Linda Loiza Lopez Soto and Family. Venezuela. 2016, par. 163.

has recommended that States should design a comprehensive and coordinated State policy, with adequate funding available on a sustainable basis, to make sure that victims of violence and/or their family members have full access to suitable judicial protection.

- *Building institutional capacity to combat the pattern of impunity prevailing in cases of violence against women*
64. The IACHR has noted the negative repercussions caused by the failure to act with due diligence to investigate and punish gender-based acts of violence and prevent the repetition thereof. Failure to fulfill this obligation radically impacts the lives of the victims and their families, and sends a clear message to the community and to those responsible for the acts. The context of structural violence and endemic discrimination is a reflection of the fact that these phenomena are not regarded as a serious problem. The impunity in which such crimes remain sends the message that that such violence is tolerated, thereby fueling its perpetuation.¹⁰⁵
65. On this score, the Commission has recommended building institutional capacity to combat the pattern of impunity for cases of violence against women through effective criminal investigations, that are followed up with consistent judicial proceedings, thus ensuring adequate punishment and reparation. In this regard, the IACHR has explained the importance of adopting uniform protocols for the investigation and prosecution of cases of violence, and to conduct on a consistent and ongoing basis training courses for state employees, in particular, those connected to the judicial system, on the subject of women's rights, factors of discrimination and material barriers faced by them to achieve adequate access to justice and full reparation.
- *Taking the necessary measures, with a gender-based and gender-differentiated approach, in order to guarantee the duty of prevention, access to justice and reparation, as part of the obligation to act with due diligence*
66. The Commission has called upon the States to increase actions to end and prevent such violence¹⁰⁶ and has stressed that all States, and the full State apparatus, including the legislative framework, public policies and law enforcement agencies, such as the police and the judicial system, must act without delay and with determination in order to prevent and provide an adequate response to this crisis of violence against women and girls in the hemisphere.¹⁰⁷ In addition to the recommendations pertaining to adopting measures to address the differentiated

¹⁰⁵ IACHR. Situation of Women's Rights in Ciudad Juarez, Mexico: The Right to Be Free of Violence and Discrimination. [Situación de los derechos de la mujer en Ciudad de Juárez, México: El derecho a no ser objeto de violencia y discriminación](#). OEA/Ser.L/V/II.117 Doc. 1 Rev.17 March 2003, par. 7.

¹⁰⁶ IACHR. Press Release No.180/16: [Es hora de incrementar acciones para terminar y prevenir violencia contra mujeres y niñas](#). 2 de diciembre de 2016. It is Time to Increase Action to End and Prevent Violence against Women and Girls.

¹⁰⁷ IACHR. [Institucionalidad democrática, Estado de derecho y derechos humanos en Venezuela. Informe de país](#). Democratic Institutions, Rule of Law and Human Rights in Venezuela. Country Report. OEA/Ser.L/V/II. Doc. 209. 2017, par. 343.

impacts of violence and discrimination inflicted on women from an intersectional perspective, mentioned above, the IACHR has recommended that States take adequate measures to remove particular barriers faced by women who belong to each of these groups in the areas of access to justice and the pursuit of justice and reparation.

67. In attaching particular importance to cases of violence, States should formulate, adopt and implement a gender and intersectional perspective to prevent, investigate, prosecute and punish all forms of violence against women. In view of the inequalities and heterogeneity of women and girls, the IACHR recommends also introducing this perspective into the reparations process, in order to have a transformational effect on the manifold and interconnected forms of discrimination faced by women. Access to adequate compensation, and the necessary measures of recovery, rehabilitation and full restitution of their rights must be guaranteed. Thus, the IACHR underscores the need for States to grant full reparations, in order to eradicate the patterns and structural causes that make discrimination and violence against women so pronounced.¹⁰⁸

3. Standards Relating to the Obligation to Prevent, Provide Comprehensive Protection and Access to Justice

- *Obligations of the State in the area of prevention and comprehensive protection*

68. According to the IACHR, States' obligation to guarantee equality and non-discrimination is inextricably linked to prevention of violence against women. On this score, the Commission has held that the failure of the State to take reasonable measures to prevent acts of gender-based violence against women and girls not only can entail infringement of the right to life and/or to the physical integrity of the victim, but also is a breach of the State's obligation to respect and guarantee the right to live free from all forms of discrimination.¹⁰⁹ Furthermore, the States should adopt preventive measures in specific instances in which it is evident that certain women and girls may be victims of violence and should ensure that women, who are in danger of sustaining violence, have access to effective judicial protection and due process rights.¹¹⁰

¹⁰⁸ IACHR. Press Release No. 144/18: [CIDH manifiesta su preocupación por la prevalencia de asesinatos y otras formas de violencia extrema contra las mujeres en Perú](#). IACHR Expresses Concern over Prevalence of Murder and Other Forms of Extreme Violence against Women in Peru. 2018.

¹⁰⁹ IACHR. Report No. 86/13. Cases No. 12.595, 12.596 and 12.621. Merits. [Ana Teresa Yarce et al \(Comuna 13\)](#). Colombia. 2013, par. 230.

¹¹⁰ 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, par. 258; Corte IDH. [Caso Favela Nova Brasília vs. Brasil](#). Case of Nova Brasília Favela v. Brazil Preliminary Objections, Merits, Reparations and Costs. Judgment of February 16, 2017. Series C No. 333; and IACHR. [Situación de los derechos de la mujer en Ciudad de Juárez](#). Situation of Women's Rights in Ciudad Juárez, Mexico: The Right to Be Free of Violence and Discrimination OEA/Ser.L/V/II.117 Doc. 1, Rev. 17, March 2003, pars. 103 to 105.

69. States have the duty to put into place an appropriate legal framework for protection, that is effectively enforced, and prevention policies and practices, that make it possible to act effectively in response to complaints of gender-based violence against women. According to the Inter-American Court, the prevention strategy should be comprehensive; in other words, it should prevent the risk factors and, at the same time, strengthen the institutions that can provide an effective response in cases of violence against women.¹¹¹ Likewise, the strategy should include the justice, education and health sectors, as well as address the different manifestations of gender-based violence and the contexts in which it occurs.¹¹²
70. Additionally, the Inter-American Court has established that a State cannot be held responsible for all human rights violations committed between private individuals within its jurisdiction. Indeed, the *erga omnes* nature of a State's treaty-based guarantee obligation does not imply its unlimited responsibility for all acts or deeds between private individuals, because its obligation to adopt measures of prevention and protection for private individuals in their relations with each other is conditional on its awareness of a situation of real and imminent danger for a specific individual or group of individuals and the reasonable possibility of preventing or avoiding that danger. In other words, even though the juridical consequence of an act or omission of a private individual is the violation of certain human rights of another private individual, this cannot be attributed automatically to the State, because the specific circumstances of the case and the discharge of such obligation to guarantee must be taken into account.¹¹³
71. According to Inter-American standards on the subject matter, the measures of protection adopted by the State must be capable of protecting the woman, her closest family members and witnesses to the acts, be adopted immediately and must not be contingent upon a civil or criminal complaint being filed by the woman. These measures must be designed so they are not only aimed at prevention and protection from violence, but also make it possible for the victims to have access to services of emergency care and assistance, shelters and rehabilitation.¹¹⁴
72. Furthermore, pursuant to Article 7 (d) of the Convention of Belém do Pará, it is the duty of States to adopt adequate legal measures to compel the assailant to refrain

¹¹¹ 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, par. 258.

¹¹² IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser. L/V/II. doc. 68. 2007, par. 298.

¹¹³ IA Court of HR. Caso Luna López Vs. Honduras. Case of Luna Lopez v. Honduras. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, par. 120; 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, par. 280; IA Court of HR. Caso de la Masacre de Pueblo Bello Vs. Colombia. Case of the Massacre of Pueblo Bello v. Colombia. Judgment of January 31, 2006. Series C No. 140, par. 123; IACHR. Report No. 53/13. Case 12.777. Merits. Claudina Velásquez Paiz et al. Guatemala. 2013; and IACHR. Report No. 33/16. Case 12.797. Merits. Linda Loaiza López Soto and Family. Venezuela. 2016, par. 158.

¹¹⁴ 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, Eradication of Violence against Women. OEA/Ser.L/II.6.14. 2014, pg. 49.

from harassing, intimidating, threatening, harming or jeopardizing the life of the women in any way that undermines her physical integrity or harms her property, including granting restraining orders.¹¹⁵ It is essential for there to be smooth and effective coordination between State authorities responsible for follow-up and oversight of protection and prevention measures.¹¹⁶ For this purpose, States must conduct employee training programs on the content and scope of these measures and the duties stemming from them and punish any public official who does not fulfill them.

- *Content and scope of the duty to investigate acts of gender-based violence against women*
73. Organs of the Inter-American human rights system have been emphatic in asserting that once States become aware of gender-based violence against women, it is their duty to act with due diligence to investigate, prosecute and punish such acts. Under Inter-American standards on the subject, the duty to investigate is an obligation of means, rather than results, that must be undertaken by the State “as an inherent juridical obligation and not as a mere formality preordained to be ineffective, or as a step taken by private interests that depends upon the procedural initiative of the victims or their next of kin, or upon their offer of proof. In light of this obligation, once the State authorities are aware of an incident, they should initiate ex officio and without delay, a serious, impartial, and effective investigation. This investigation must be carried out using all available legal means with the aim of discovering the truth”¹¹⁷ and “the pursuit, capture, prosecution and eventual punishment of all the perpetrators of the facts.”¹¹⁸
74. This obligation, which must be fulfilled “in a determined and effective manner, taking into account society’s obligation to reject violence against women and the State’s obligation to eliminate it and to ensure that victims have confidence in the State institutions for their protection,”¹¹⁹ has an expanded scope when a case involves the death or mistreatment of a woman or the infringement of her right to personal liberty as part of a widespread context of violence against women.¹²⁰

¹¹⁵ IACHR. Report No.80/11. Case 12.626. Merits. Jessica Lenahan (Gonzales) et al v. United States. 2011, paragraph. 163; MESECVI. Guide to the Application of the Inter-American Convention on the Prevention, Punishment, Eradication of Violence against Women. OEA/Ser.L/II.6.14. 2014.

¹¹⁶ 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, Eradication of Violence against Women OEA/Ser.L/II.6.14. 2014, pg. 49.

¹¹⁷ IA Court of HR. Case of Fernández Ortega. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C No. 215, par. 191.

¹¹⁸ 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, par. 290.

¹¹⁹ IA Court of HR. Caso Fernández Ortega y otros Vs. México. Case of Fernandez Ortega et al v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C No. 215, par.193.

¹²⁰ 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, par. 400.

75. The investigation “must be aimed at exploring all the possible lines of inquiry to identify the perpetrators of the crime with a view to their subsequent prosecution and punishment.”¹²¹ Specifically, potentially gender-based discriminatory connotations must be investigated *ex officio*, especially when there is a context of violence against women in the country in question and “when there are specific indications of sexual violence or some type of evidence of cruelty towards the body of the women.”¹²² The criminal investigation must be carried out by competent and impartial officials, who are highly trained in gender and women’s rights cases and in dealing with victims of discrimination and gender-based violence.¹²³ When investigations are not carried out by appropriate officials, the investigations “are needlessly delayed and important clues or evidence are overlooked, which will be detrimental to any future proceeding on the case”¹²⁴ and victims’ and their family members’ access to justice.
- *The duty to investigate gender-based violence must be fulfilled with a gender perspective and intersectional approach*
76. The IACHR has upheld on several opportunities that lines of investigation should not reflect or perpetuate discriminatory sociocultural patterns. In this regard, the Court has written: “opening lines of investigation into the previous social or sexual behavior of the victims in case of gender violence is merely a manifestation of policies or attitudes based on gender stereotypes.”¹²⁵ In specific cases of acts of sexual violence, the Inter-American system has interpreted that “a guarantee of access to justice for women victims of sexual violence must be the establishment of rules for the assessment of the evidence that avoid stereotyped affirmations, insinuations and allusions.”¹²⁶
77. By the same token, the investigation must be carried out with a gender and intersectional perspective.¹²⁷ The obligation to investigate, try and punish is even

¹²¹ IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser. L/V/II. doc. 68. 2007, Chapter I, B, par. 41.

¹²² IA Court of HR. Caso Veliz Franco y otros Vs. Guatemala. Case of Veliz Franco et al v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 19, 2014. Series C No. 277, par.187.

¹²³ IA Court of HR. Caso Favela Nova Brasília Vs. Brasil. Case of Nova Brasilia Favela v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 16, 2017. Series C No. 333, par. 254; 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, par. 455; and IA Court of HR. Caso Espinoza Gonzáles Vs. Perú. Case of Espinoza Gonzales v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C No. 289, par. 242.

¹²⁴ IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser. L/V/II. doc. 68. 2007, Chapter I, B, par. 46.

¹²⁵ IA Court of HR. Caso Gutiérrez Hernández y otros Vs. Guatemala. Case of Gutierrez Hernandez et al v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 24, 2017. Series C No. 339, par.147; IA Court of HR. Caso Veliz Franco y otros Vs. Guatemala. Case of Veliz Franco et al v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 19, 2014. Series C No. 277, par. 209.

¹²⁶ IA Court of HR. Caso Espinoza Gonzáles Vs. Perú. Case of Espinoza Gonzales v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C No. 289, par. 278.

¹²⁷ IA Court of HR. Caso Favela Nova Brasília Vs. Brasil. Case of Nova Brasilia Favela v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 16, 2017. Series C No. 333, par. 254; IA Court

more specific with regard to particular acts of gender-based violence. Thus, in suspected cases of gender-based homicide, the State's obligation to investigate with due diligence includes the duty to order *ex officio* the appropriate expert examinations and reports to ascertain whether the motive of the homicide was of a sexual nature or any type of sexual violence was involved. In this regard, an investigation into an alleged gender-based homicide must not be confined to the death of the victim, but must encompass other specific adverse effects on physical integrity, such as torture and acts of sexual violence. In a criminal investigation into sexual violence, investigative steps must be documented and coordinated and evidence must be diligently handled, taking sufficient samples, conducting tests to identify the potential perpetrators of the crime, securing other evidence, such as the victim's clothing, immediate examination of the scene of the crime and ensuring proper chain of custody.¹²⁸

78. As for sexual violence, the IACHR has noted that several components of the investigative process are critical to fulfilling the State's duty to act with the required due diligence and ensure access to justice for the victims. These components include the duty to gather and preserve the respective evidence in support of the criminal investigation needed to find those responsible; identifying potential witnesses and obtaining their statements; determining why, how, where and when the act under investigation transpired; protecting and thoroughly investigating the scene of the crime; and ensuring the right of the victim and her family members to take part in the investigative process; among other measures that are essential for the eventual punishment of those responsible. Officials must also gather and consider the body of evidence and the context in which a rape takes place, and not only focus on direct evidence of physical resistance put up by the victim.¹²⁹
79. It is essential for accountability mechanisms to be in place to address conduct by officials of the administration of justice system, that runs afoul of these duties. In this same vein, the IA Court of HR has held that "the lack of the due investigation and punishment of reported irregularities encourages investigators to continue using such methods. This affects the ability of the judicial authorities to identify and prosecute those responsible and to impose the corresponding punishment, which makes access to justice ineffective."¹³⁰

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, par. 455; and IA Court of HR. Caso Espinoza Gonzáles Vs. Perú. Case of Espinoza Gonzales v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C No. 289, par. 242.

¹²⁸ IA Court of HR. Caso Velásquez Paiz y otros Vs. Guatemala. Case of Velasquez Paiz et al v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 19, 2015. Series C No. 307, par. 147.

¹²⁹ IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser. L/V/II. doc. 68. 2007, Executive Summary, par. 15.

¹³⁰ 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, par. 346.

- *Right of access to justice by woman and child victims of gender-based violence*

80. The IACHR has asserted that the right of access to justice for victims of human rights violations is recognized for all persons in the principal international instruments, including in the American Convention and Declaration. Thus, States must take every possible adequate measure to ensure this right, taking into special consideration the particular conditions of girls and the duty of special protection they are entitled to under Article 19 of the ACHR.

81. In this context, the Commission has emphasized the need to create the conditions to strengthen effective access to justice for women and girls, whose rights have been violated, in order to bring down currently high rates of impunity. The Commission understands that, in order to provide adequate protection, the State must make sure that all women and girls in general and, especially, those living in a situation of particular vulnerability, are informed and have access to information about their rights and about complaint and reporting mechanisms.¹³¹

4. Recommendations Aimed at Fulfillment of the Obligation to Prevent, Provide Comprehensive Protection and Access to Justice

- *Taking the necessary measures to adapt and harmonize the content of the existing legal framework designed to protect the rights of women in accordance with Inter-American standards on the subject*

82. The Court has established that States may be held internationally responsible when they do not comply with their obligation to adopt specific measures to prevent situations of risk and to guarantee the right to life, liberty and physical integrity. This duty of prevention and response of the State encompasses the duty to act with regard to the structural causes affecting personal security, in particular, in the area of gender-based violence and human rights defenders.¹³² It entails the State's obligation to take into account specific risks faced by women in a particular context,

¹³¹ IACHR. [Informe sobre el Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas. Report on Boys' and Girls' Right to a Family. Alternative Care. Ending Institutionalization in the Americas.](#) OEA/Ser.L/V/II. Doc.54, October 17, 2013, par. 405. The Committee on the Rights of the Child has also expressed similar views in several General Comments, in particular, see: Committee on the Rights of the Child. [Observación General No. 5 sobre Medidas generales de aplicación de la Convención de los Derechos del Niño General Comment No. 5 on general measures of application of the Convention on the Rights of the Child \(Article 4 and 42 and par. 6 of Article 44\).](#) CRC/GC/2003/5. November 27, 2003, pars. 53, 66 and 68; and Committee on the Rights of the Child. [Observación General No. 13 sobre el Derecho del niño a no ser objeto de ninguna violencia. General Comment No. 13 on the Right of the Child to be Free of Violence.](#) CRC/C/GC/13. 2011, par. 48.

¹³² IACHR. [Informe sobre la Situación de las Defensoras y Defensores de los Derechos Humanos en las Américas. Report on the Situation of Human Rights Defenders in the Americas.](#) OEA/Ser.L/V/II.124 Doc. 5 Rev. March 7, 2006, par. 47.

when taking measures to protect their physical integrity and prevent further violations of their human rights.

83. In order to meet these obligations, in the Commission's view, it is crucial for States to overhaul the existing civil and criminal law framework intended to protect women's rights, and bring it in line with the principles enshrined in the American Convention, the Convention of Belém do Pará and the CEDAW, among other international human rights instruments; and with international standards on access to information, violence and discrimination against women.
- *Strengthening policies to prevent acts of violence and discrimination against women and girls through a comprehensive, intersectional and gender-based approach*
84. Closely linked to the previous paragraph, the IACHR has understood that States must adopt and strengthen policies to prevent acts of violence and discrimination against women and girls, with a comprehensive approach encompassing the justice, education and health sectors, and addressing the different manifestations of violence and their contexts.¹³³ In building such policies, the IACHR urges States to explicitly recognize and address the interdependence of economic and social policies; as well as the impact thereof on women's rights.¹³⁴
85. The Commission has noted that for a national policy on the prevention of acts of gender-based discrimination and violence to be successful it is crucial to allocate the necessary funding to ensure actual implementation thereof. In this regard, a well-defined, sustainable and adequate funding mechanism must be put into place to enable attainment of pre-established goals. Furthermore, the IACHR recommends that States ensure the representation and participation of women and their organizations in every sphere and at every level, including at the stages of economic policy making.
86. In order to update policies, the IACHR has recommended that States strengthen their data and information analysis generation and collection systems by introducing a gender-based approach. Significant gaps of available data and statistics pose a critical challenge to the enhancement of policies and to the ability to assess the impact and effectiveness thereof in transforming the structural conditions of discrimination and violence. Information should be disaggregated by categories that are useful to identify the particular challenges faced by women and girls in the realization of their rights, as well as to actively identify any groups that are in a situation of vulnerability or situations that intersect among several

¹³³ IACHR. [Access to Justice for Women Victims of Violence in the Americas](#). OEA/Ser. L/V/II. doc. 68. 2007, Chapter IV. Specific Recommendations: precautionary and preventive protection.

¹³⁴ IACHR. [El trabajo, la educación y los recursos de las mujeres: La ruta hacia la igualdad en la garantía de los derechos económicos, sociales y culturales](#). The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights. OEA/Ser.L/V/II.143 Doc. 59. 2011. General Recommendations.

conditions of vulnerability and who require interventions focused on their protection needs.¹³⁵

- *Creating reporting, complaint and rights enforcement mechanisms*

87. One of the State's duties of guarantee is to create reporting, complaint and rights enforcement mechanisms. On this score, the IACHR highlights the promotional and public awareness efforts put forward by women and girls themselves to spread knowledge of their rights and of where to go to seek assistance or to obtain more information or dispel doubts. Schools and human rights education programs as a part of the academic curriculum play a crucial role in this field, as was explained above. Concretely, States must take adequate measures to disseminate information nationwide about what judicial remedies are available to victims of violence against women, in a format that is sensitive to the diversity of the target audience in terms of economic and educational level, race, ethnic background and language. This information must be provided to victims together with guidelines about evidence gathering and the ability to file a complaint about justice operators who do not fulfill their duty in processing cases.

88. Children face particular barriers and challenges, because of their condition as minors, in access to complaint and reporting mechanisms and to justice. Mechanisms should be accessible and safe, dispensing with formalities or other limitations and/or requirements that place unwarranted restrictions on the ability of children and adolescents to gain access to justice. According to the understanding of the IACHR, it is important to grant broad and clear legal authority to direct care services of the national protection system, operating at the local level in order to examine the complaints made by children and adolescents, who use those services, and provide them with legal guidance, and support in accessing the judicial system.

- *Creating adequate mechanisms to oversee officials responsible for investigating and responding to crimes of violence against women*

89. The IACHR has identified that one of the many obstacles faced by women to have access to justice is the gender stereotypes under which State officials operate in the investigation and prosecution of cases of violence, as well as material barriers giving rise to the situation of disadvantage women are subjected to because of belonging to groups in a situation of particular discrimination and their lack of familiarity with and confidence in the institutions of the State. In these situations, women at times are unaware of the status of the investigation and/or judicial proceedings, and are prevented from receiving up-to-date and specific information.

90. In an effort to reduce the discretionary power of authorities, who deal with cases of extreme violence against women and girls, the IACHR has recommended guaranteeing adequate mechanisms of oversight over officials responsible for investigating and responding to crimes of violence against women, as well as

¹³⁵ IACHR. *Towards the Effective Fulfillment of Children's Rights: National Protection Systems*. OEA/Ser.L/V/II.166 Doc. 206, 2017, pars. 548 et seq.

ensuring that administrative, disciplinary and criminal measures are provided for to hold these officials accountable.¹³⁶ In this regard, victims and their next of kin must be able to file administrative, disciplinary or criminal suits, as the case may warrant, in response to the acts or omissions by State officials, who contributed to denial of justice and impunity in their cases. Concretely, States should adopt measures to punish public officials who do not act with due diligence, in order to send society a message of zero tolerance of this problem and prevent the repetition thereof.¹³⁷

91. In order to ensure that victims and their next of kin have effective and immediate access to complete and accurate information, the IACHR recommends introducing judicial procedures for the review of the decisions of public officials, who deny women the right of access to a particular piece of information or who simply fail to provide a response to the request. Specifically, the IACHR underscores the need for victims' family members to be treated with dignity and respect during judicial proceedings.
- *Guaranteeing accessible and quality legal services free of charge and geographically, linguistically and culturally appropriate*
92. States should take steps to ensure and guarantee women victims of acts of violence and discrimination, accessible and quality legal services, free of charge, from the time the acts are reported to the authorities until sentencing. States must assess whether the legal services offered by them are sufficient and adequate to ensure women's and girls' right of access to justice. In the context of the reports filed by the women, States must ensure women victims' access to the court file for their pending cases before any authority, at all stages of the proceedings without restrictions.
93. Additionally, as for women and girls in situations of particular vulnerability, States should implement public policies and create institutions to address violence that takes place in rural, marginalized and economically disadvantaged areas. For this purpose, States should create agencies and suitable and effective judicial remedies in such areas, in order to guarantee that all women have full access to effective judicial protection from acts of violence. To the extent possible, States should offer comprehensive and integrated responses in a one stop service, through multidisciplinary teams, in order to avoid the need to go to different agencies to receive comprehensive care (for example, full service sexual violence victim assistance services that include medical, legal, psychological, social and family assistance).
94. On a related topic, the IACHR has also understood States' duty to establish public programs that provide comprehensive, interagency and specialized support to women victims of violence to help them overcome the emotional trauma and

¹³⁶ IACHR. Mujeres indígenas desaparecidas y asesinadas en Columbia Británica, Canadá. Missing and Murdered Indigenous Women in British Columbia, Canada. OEA/Ser.L/V/II. Doc. 30, 2014, par. 314.

¹³⁷ IACHR. Access to Justice for Victims of Sexual Violence in Mesoamerica. OEA/Ser.L/V/II. Doc. 63.2011, Recommendation 17.

psychological effects of acts of violence, especially sexual violence. Concretely, States should create specialized facilities that are accessible to all women victims of violence –regardless of their geographic location – for the purpose of offering them multidisciplinary services, that include legal, medical and psychological aid, and allocate adequate human and financial resources for them to properly function.

- *Guaranteeing simple, prompt and accessible judicial remedies of a precautionary nature*
95. States should design and implement simple, prompt and accessible judicial remedies of a precautionary nature, that can offer suitable and effective relief, to prevent situations of violence against women; they should establish effective administrative and civil and criminal procedures to ensure women's access to justice when their right to physical and psychological integrity is violated; and they should take steps to build institutional capacity of judicial agencies, such as the Office of the Public Prosecutor, the police, the courts, and forensic medical services, in terms of financial and human resources, in order to combat the pattern of impunity through effective criminal investigations, that are appropriately monitored by the judiciary, thus ensuring adequate punishment and reparation.
 96. Women victims of violence, including of sexual violence, or women or girls at risk of being victims should have legal measures available to them to ensure that the State protects theirs and their next of kin's lives and physical integrity from imminent acts of violence. In this regard, States should implement a system of protection measures that are flexible, effective and can be tailored to complainants, survivors and witnesses and should take measures to protect their privacy, dignity and safety when such acts are reported and during criminal proceedings. In order to ensure proper implementation thereof, States should provide the agencies involved with the necessary human, technical and economic resources, and should take immediate measures to coordinate with courts, prosecutor's offices, police departments and other authorities involved in the monitoring of compliance with the protection measures granted and/or alternative sentences imposed.
- *Creating action protocols with a gender perspective in victim assistance and investigations of acts of gender-based violence*
97. As for assistance services for women victims of gender-based violence, the bodies of the Inter-American system have recommended that protocols and manuals be used for the assistance of victims of violence and discrimination, that also have a gender-differentiated perspective.¹³⁸ These protocols must include an intersectional perspective in order to address the different factors of vulnerability that afflict women; an intercultural and holistic perspective, that respects the world view of particular groups of women; and a rights-based perspective of children, that

¹³⁸ 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.

provides for differentiated and specialized care for young women and girls, who are victims of violence.

98. The Commission has also recommended that States promote multidisciplinary investigation of these crimes and design protocols to facilitate and foster effective, standardized and transparent investigation of acts of physical, sexual and psychological violence, including in schools or health care institutions. An investigation should include a description of the complexity in the evidence and details of the required minimum of evidence gathered in order to provide adequate evidentiary support, including scientific, psychological, physical and testimonial evidence. The IACHR finds it useful to draw up protocols or “road maps,” to guide officials and authorities from the time the complaint is received, throughout the judicial proceedings, and as victims are receiving the necessary care and treatment. This should involve both administrative authorities and the justice sector, and when relevant, the health sector, for a comprehensive vision.
99. The Commission has further recommended creating cultural expertise systems and methods for cases of violence and discrimination, in order to ensure the availability of suitable and sensitive expert personnel to assist victims of violence, especially, victims of sexual violence, from diverse cultures, races, ethnic backgrounds, ages and economic levels.¹³⁹ The actions of experts must be guided by protocols with a gender, intercultural and human rights perspective.
 - *Guaranteeing bodies specialized in access to justice for woman and girl victims of gender-based violence*
100. In order to fulfill the obligation of ensuring effective access to justice, the Commission has spelled out specific actions such as allowing children and adolescents to bring complaints on their own, extending the statute of limitations for crimes committed against children and adolescents, considering non-applicability of the statute of limitations for more serious crimes; and facilitating legal assistance and independent specialized legal representation free of charge, to make it possible to defend their interests and rights effectively.
101. The IACHR has recommended creating and ensuring operation of specialized children’s rights courts, where diligent processing and prompt resolution of cases is guaranteed. States should adapt judicial procedures to children and adolescents to make them expedited, accessible, appropriate and understandable to both male and female juveniles, ensuring that they have sufficient information about proceedings affecting them in understandable and adapted language.¹⁴⁰ All mechanisms should be directed to help to fulfill children’s and adolescents’ right to be heard in the context of the proceedings, and mechanisms should be established to determine their best interest. State should also prevent children from being re-victimized at

¹³⁹ IACHR. Access to Justice for Women Victims of Violence in the Americas. OEA/Ser. L/V/II. doc.68 2007, Recommendations.

¹⁴⁰ IACHR. Towards the Effective Fulfillment of Children’s Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206, 2017. Recommendations, par. 132.

all stages of criminal justice proceedings, for example, by placing limits on the number of interviews, using video recordings and Gesell Cameras.¹⁴¹

C. Standards and Specific Recommendations on Girls

102. The IACHR notes that there are many problems in the region standing in the way of the full exercise of girls' rights. The scope and consequences of these problems in many instances are still the subject of little analysis and are not very well known, they have been inadequately addressed, and have even become accepted as normal by society. In this regard, the IACHR has called on the countries of the region to pay greater attention to the different challenges faced by girls. For this purpose, it has urged the States to strengthen the gender perspective in the workings of National Comprehensive Protection Systems for Children and to directly and periodically consult with girls about their reality, empowering them and engaging them in the design of public policies to guarantee their rights.
103. The Commission has noted that the context in which the girls of our region grow up is heavily marked by violence and discrimination against them. In particular, the IACHR has noticed that an alarming number of girls are victims of abuse, harassment, physical, psychological and sexual violence, exploitation and neglect; in many instances perpetrated by people close to them, such as family members, neighbors, acquaintances, teachers and fellow students. Violence against them and difficulties in exercising their rights are closely linked to the conditions of structural discrimination against women and gender stereotypes found throughout the countries of the hemisphere.¹⁴²
104. A cause of great concern, sexual violence is one of the most serious forms of violence, as it strikes at girls' dignity and severely impacts their lives, physical and psychological integrity and their personal development. This form of violence has harmful effects on reproductive health and often leads to unwanted and high-risk pregnancy, illegal and unsafe abortion and increased risk of sexually transmitted disease. There are also structural barriers to access to justice for girls because of, among other reasons, the lack of free legal advisory services to take up their cases, the fact that in some countries limits are placed on who can file a complaint, and because of application of the statutes of limitations to this type of crime.
105. In the context of strategies to address violence and discrimination, in the view of the IACHR, it is fundamental to empower girls in terms of knowledge and exercising their rights. Measures that ought to be considered for this purpose include access to quality and age group-adapted sexual education, and accessible sexual and reproductive health services. The Commission also recalls that girls with disabilities

¹⁴¹ IACHR. [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206, 2017. Recommendations, par. 135.

¹⁴² IACHR. Press Release No.147/16: [CIDH llama la atención sobre constantes desafíos que las niñas y las adolescentes enfrentan en la región](#). IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region. October 12, 2016.

or who belong to indigenous, Afro-descendant, migrant groups, as well as groups traditionally excluded and subjected to discrimination, face greater discrimination and obstacles to exercising their rights and often are more vulnerable to being victims of different forms of violence and exploitation.

106. Because these girls belong to groups that are traditionally excluded and subjected to discrimination, the State has not taken adequate measures to ensure the effective enjoyment and exercise of their rights on an equal footing with others and with equal opportunity. In this regard, the IACHR has urged States to undertake measures of all types that are necessary to break the circle of tolerance and impunity toward violence and discrimination against girls, to consider empowering them, and strengthen local child protection services to aid in making early identification of risks and violations, and provide an adequate response.¹⁴³

1. Specific Standards on Recognizing Entitlement to Rights and Progressive Autonomy

107. International human rights law unequivocally recognizes girls as full rights holders and emphasizes their dignity as persons. These days girls are not considered incapable and lacking, but full human beings with dignity who possess capacities and potential to be developed, and holders of all rights that must be recognized and guaranteed.¹⁴⁴
108. Girls are at a vital and enormously important stage in the evolution of their abilities and in the development of all facets of their personality.¹⁴⁵ During different stages of childhood and later as teenagers, girls gradually develop their personal, social and legal autonomy, which occurs as they grow and their abilities develop. Childhood and adolescence are, therefore, vital stages of critical importance that have value in their own right and should not be regarded for legal purposes and socially as a transit to adulthood. Girls' protection needs vary throughout their different stages of development, and their capacities for autonomous exercise of their rights increase and evolve.¹⁴⁶

¹⁴³ IACHR. Press Release No.147/16: [CIDH llama la atención sobre constantes desafíos que las niñas y las adolescentes enfrentan en la región](#). IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region. October 12, 2016.

¹⁴⁴ IACHR. [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#). OEA/Ser.L/V/II.166 Doc. 206, 2017. Recommendations, pars. 275 and 276, and 38 et seq.

¹⁴⁵ IACHR. [Towards the Effective Fulfillment of Children's Rights: National Protection Systems](#)., OEA/Ser.L/V/II.166 Doc. 206, 2017, pars. 275 and 277.

¹⁴⁶ See: Committee on the Rights of the Child. [Observación General No. 7 sobre la realización de los derechos del niño en la primera infancia](#). General Comment No. 7 on Implementing Child Rights in Early Childhood CRC/C/GC/7/Rev.1. 2006; and Committee on the Rights of the Child. [Observación General No 20 sobre la efectividad de los derechos del niño durante la adolescencia](#). General Comment No. 20 on the implementation of the rights of the child during adolescence. CRC/C/GC/20. 2016.

109. The Inter-American Commission has stressed that even though all persons under the age of 18 are recognized in the region as being entitled to rights, a girl's capacity to exercise the rights is dependent upon her degree of development and maturity level. As girls grow and evolve, they develop abilities and capacities to make decisions for themselves on issues affecting them and to exercise their rights on their own. During the early years of the life of a girl, when she is more dependent on adults for the realization of her rights, the link between the right to live in a family and the rights to life, development and physical integrity, is particularly important. As a child grows and develops abilities and capacities, this dependence on adults for the exercise and enjoyment of rights decreases, and this is also reflected in the legal sphere.¹⁴⁷
110. Recognizing girls' progressive autonomy to exercise rights on their own, in keeping with their age and maturity level, and pursuant to their evolving capacities and physical and mental development, means that States are obligated to adopt laws, policies and practices to recognize and support girls in the autonomous exercise of their rights. Empowering girls and making them aware of their rights is crucial to their ability to take part in all proceedings concerning them, by expressing their opinions and these opinions being taken seriously.

2. Recommendations on States' Recognition of Entitlement to Rights and Progressive Autonomy

111. In order for girls to exercise and defend their rights, they must first know and understand them. The State must promote greater empowerment of children and adolescents, in terms of knowledge of their rights, from an early age and in accordance with their stage of development, so they are able to exercise them and raise alerts about violations thereof. States must tailor content and media to the different target age groups, taking particular care that the information reaches children and adolescents in special situations of vulnerability.
112. The IACHR has drawn a link between the State's duty to promote knowledge of human rights among children and adolescents, and empowerment to exercise and demand those rights, for the aims of education and its role in this important function.¹⁴⁸ This principle recognizes the special and unique condition of children and adolescents, based on their growth, development and their right to special adapted measures to ensure their rights. Protection needs vary depending on the girl's stage of life, in other words, her age and level of biological, psychological,

¹⁴⁷ IACHR. [Informe sobre el Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas](#). Report on Boys' and Girls' Right to a Family. Alternative Care. Ending Institutionalization in the Americas. OEA/Ser.L/V/II. Doc.54, 2013, par. 271; and Committee on the Rights of the Child. [Observación General No. 7 sobre la realización de los derechos del niño en la primera infancia](#). General Comment No. 7 on Implementing Child Rights in Early Childhood. CRC/C/GC/7/Rev.1. 2006, par. 17.

¹⁴⁸ See Articles 28 and 29 of the CRC. Also see: Committee on the Rights of the Child. [Observación General No. 1 sobre el pár.1 del artículo 29: Propósitos de la Educación](#). General Comment No. 1 on paragraph 1 of Article 9: The Aims of Education. CRC/GC/2001/1. 2001.

emotional, social and cognitive development, and on her family and social surroundings.¹⁴⁹ This means interventions must be adapted on the basis of the protection needs associated with her particular stage of life and the progressive development of her capacities and autonomy.

113. Nonetheless, the foregoing does not mean disregarding the importance of each stage of life. It does mean, however, recognizing that risks factors and protection factors in adolescence are not the same as in childhood,¹⁵⁰ and therefore interventions must be carried out accordingly. The IACHR concurs with the Committee about the importance of paying greater attention to adolescence, because during that period of life gender inequalities become more significant. Manifestations of discrimination, inequality and stereotyping against girls often intensify at that time in life leading to more serious violations of their rights.¹⁵¹
114. The IACHR notes that the States of the region have moved forward in introducing some legislative amendments to overcome the traditional view of legal incapacity of persons under 18 years of age to autonomously exercise their rights, taking into consideration different aspects of age and maturity level for the exercise of different rights.¹⁵² In this regard, there must be at all times broad recognition of the capacities of children and adolescents, unless this recognition stems from unacceptable risks to their protection and safety. As was asserted by the Committee on the Rights of the Child: “Evolving capacities should be seen as a positive and enabling process, not an excuse for authoritarian practices that restrict children’s autonomy and self-expression and which have traditionally been justified by pointing to children’s relative immaturity.”¹⁵³

¹⁴⁹ Committee on the Rights of the Child. Observación General No. 7 sobre la realización de los derechos del niño en la primera infancia. General Comment No. 7 on Implementing Child Rights in Early Childhood. CRC/C/GC/7/Revision.1. 2006; and Committee on the Rights of the Child. Observación General No 20 sobre la efectividad de los derechos del niño durante la adolescencia. General Comment No. 20 on the implementation of the rights of the child during adolescence. CRC/C/GC/20. 2016.

¹⁵⁰ Committee on the Rights of the Child. Observación General No. 20 sobre la efectividad de los derechos del niño durante la adolescencia. General Comment No. 20 on the implementation of the rights of the child during adolescence. CRC/C/GC/20. 2016, pars. 2 and 3; and IACHR. Violence, Children and Organized Crime. OEA/Ser.L/V/II. Doc. 40, 2015, pars. 128 to 132.

¹⁵¹ Committee on the Rights of the Child. Observación General No. 20 sobre la efectividad de los derechos del niño durante la adolescencia. CRC/C/GC/20. General Comment No. 20 on the implementation of the rights of the child during adolescence. 2016, par. 27.

¹⁵² The Committee on the Rights of the Child has also raised this topic in several General Comments such as: General Comment No. 20 on the implementation of the rights of the child during adolescence. CRC/C/GC/20. December 6, 2016; CEDAW and CRC. Recomendación General No. 31 del CEDAW y Observación General No. 18 del CDN sobre prácticas nocivas, adoptadas de manera conjunta. Joint General Recommendation No. 31 of the CEDAW and General Comment No. 18 of the CRC on harmful practices. CEDAW/C/GC/31/CRC/C/GC/18. 2014; Committee on the Rights of the Child. Observación General No. 15 sobre el derecho del niño al disfrute del más alto nivel posible de salud (artículo 24). General Comment No. 15 on the right of the child to highest attainable standard of health (Article 24). CRC/C/GC/15. 2013; and Committee on the Rights of the Child. Observación General No. 7 sobre la realización de los derechos del niño en la primera infancia. General Comment No. 7 on implementing child rights in early childhood CRC/C/GC/7/Rev.1. September 20, 2006.

¹⁵³ Committee on the Rights of the Child. Observación General No. 7 sobre la realización de los derechos del niño en la primera infancia. General Comment No. 7 on implementing child rights in early childhood CRC/C/GC/7/Rev.1. September 20, 2006, par. 17; and Committee on the Rights of the Child.

115. Parental function must decrease as the child begins to play an increasingly more active role during adolescence in the exercise of his capacity to choose, such as in exercising freedom of religion, access to information, freedom of thought and freedom of expression, freedom of association, health planning, and in access to information and to sexual and reproductive health, among other ones.¹⁵⁴
116. Along these same lines, the IACHR underscores that the right to exercise increasingly higher degrees of autonomy and responsibility in decision-making by children and adolescents does not negate the obligations that are incumbent upon the State to guarantee their protection. Therefore, a proper balance between respect for adolescents' evolving development and levels of appropriate protection must be struck.¹⁵⁵ Thus, States must recognize the right of persons under the age of 18 to be continually protected from any form of exploitation and abuse; for example, by setting a minimum age over 18 for marriage, for recruitment into the armed forces, and to perform dangerous labor or to perform it in hazardous conditions. The State also has the responsibility to provide support to families in the development of their child-rearing skills, pursuant to Article 19 of the ACHR and Article VII of ADRDM, in connection with the provisions of Articles 5 and 18 of the CRC.¹⁵⁶ Local direct care services could play a role in this area, in coordination with health and support services for pregnant women/families and through settings associated with schools, such as parent teacher associations.
117. Children's right to live with their parents and to be cared for by them is also recognized, as well as States' duty to support the family to properly perform its function. The family is at the core of protection of children and adolescents and plays a predominant role in the guarantee of the care, wellbeing and protection of children

General No 20 sobre la efectividad de los derechos del niño durante la adolescencia. General Comment No. 20 on the implementation of the rights of the child during adolescence. CRC/C/GC/20. 2016, pars. 18, 39 and 40.

¹⁵⁴ IACHR. Informe sobre el Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas. Report on Boys' and Girls' Right to a Family. Alternative Care. Ending Institutionalization in the Americas. OEA/Ser.L/V/II. Doc.54, 2013, pars. 603 to 624. In the sphere of the universal system: Committee on the Rights of the Child. Observación General No. 12 sobre el derecho del niño a ser escuchado. General Comment No. 12 on the right of the child to be heard. CRC/C/GC/12. 2009, pars. 99 and 100; Committee on the Rights of the Child. Observación General No. 15 sobre el derecho del niño al disfrute del más alto nivel posible de salud (Artículo 4) General Comment No. 15 on the right of the child to highest attainable standard of health (Article 24). CRC/C/GC/15. April 17, 2013; Committee on the Rights of the Child. Observación General No. 4 sobre la salud y el desarrollo de los adolescentes en el contexto de la Convención sobre los Derechos del Niño. General Comment No. 4 on health and development of adolescents in the context of the Convention of the Rights of the Child. CRC/GC/2003/4. July 21, 2003, pars. 26 and 28. Additionally, Committee on Economic, Social and Cultural Rights, General Comment No. 14: The right to enjoyment of the highest attainable standard of health (Article 12 of the International Covenant on Economic, Social and Cultural Rights). E/C.12/2000/4. August 11, 2000, par. 23. Regarding the exercise of the right to health, see: IACHR. Acceso a la información en materia reproductiva desde una perspectiva de derechos humanos Access to Information on Reproductive Health from a Human Rights Perspective. OEA/Ser.L/V/II. Doc. 61, 2011, in particular, pars. 3 2, 38, 48, 59, 60, 90, and 91.

¹⁵⁵ Committee on the Rights of the Child. Observación General No 20 sobre la efectividad de los derechos del niño durante la adolescencia. General Comment No. 20 on the implementation of the rights of the child during adolescence CRC/C/GC/20. December 6, 2016, par. 19, 20, 39 and 40.

¹⁵⁶ See Article 18 of the Convention on the Rights of the Child (CRC).

and adolescents, because it is the natural setting for their growth and development, particularly in their early stages of life.¹⁵⁷ Girls and adolescents require a safe family setting that meets their needs and provides for their full development. The family setting must offer appropriate conditions for them to reach an optimal standard of living, and realize their capacities and full potential.¹⁵⁸

118. The Court and Commission have noted that “in principle, the family should provide the best protection of children (...) And the State is under the obligation not only to decide and directly implement measures to protect children, but also to favor, in the broadest manner, development and strengthening of the family nucleus.”¹⁵⁹ Accordingly, the State is obligated to adopt measures that attach a high priority to strengthening the family as a major element of protection and care of the child, and

¹⁵⁷ [Convención Americana](#), American Convention, Article 17.1; [Declaración Americana](#), American Declaration, Article VI; CRC, Preamble and Articles 3.2, 5, 7, 8, 9, 10, 11, 16, 18, 20, 21 and 27. 40. Additionally, the body of law prior to the CRC framed the topics of child protection and development in terms of the family sphere. State responsibilities for the wellbeing of children was mostly confined to interventions in response to the situations of exception described above, a “state of danger or material or moral abandonment.” Laws failed to recognize the rights of the child, such as recognition of progressive autonomy and the right to participate in decisions affecting him or her, in keeping with age and maturity level. This legal vision for the most part treated the child as “property” of his or her family, not as an individual entitled to rights, and relegated the State to interventions of an exceptional nature, while not requiring it to make any investment in effort and resources to ensure the child’s wellbeing and enjoyment of his or her rights. IACHR. [Towards the Effective Fulfillment of Children’s Rights: National Protection Systems](#). par. 40.

¹⁵⁸ IACHR. [Informe sobre el Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas](#). Report on Boys’ and Girls’ Right to a Family. Alternative Care. Ending Institutionalization in the Americas. OEA/Ser.L/V/II. Doc.54/13. 2013, par. 42.

¹⁵⁹ IA Court of HR. [Condición jurídica y derechos humanos del niño. Opinión Consultiva OC-17/02](#). Juridical Condition and Human Rights of Children. Advisory Opinion OC-17/02. 2002. Series A No. 17, par. 66. Also see: IA Court of HR. [Caso Gelman Vs. Uruguay. Case of Gelman v. Uruguay](#). Merits and Reparations. Judgement of February 24, 2011. Series C No. 221, par. 125; IA Court of HR. [Caso Chitay Nech y otros Vs. Guatemala. Case of Chitay Nech et al v. Guatemala](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of May 25, 2010. Series C No. 212, par.157; IACHR. [Informe No. 83/10. Caso 12.584. Fondo. Milagros Fornerón y Leonardo Aníbal Fornerón. Argentina](#). Report No. 83/10. Case 12.584. Merits. Milagros Fornerón and Leonardo Aníbal Fornerón. Argentina. 2010, par. 105; IACHR. [Informe sobre el Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas. Report on Boys’ and Girls’ Right to a Family. Alternative Care. Ending Institutionalization in the Americas](#). OEA/Ser.L/V/II. Doc.54/13. 2013, pars. 42 and 53. In the sphere of the universal system, the United Nations Human Rights Committee has expressly linked the protection deserved by the family as recognized in Article 23.1 of the International Covenant on Civil and Political Rights to the duty to protect children because of their special condition, as recognized in Article 24.1 of the same Covenant. Human Rights Committee. [Observación General No. 17, Artículo 24 - Derechos del niño](#). General Comment No. 17, Article 24 – Rights of the Child. HRI/GEN/1/Rev.7. April 7, 1989; and Human Rights Committee [Derechos Humanos. Observación General No. 19, Artículo 23 - La familia](#). General Comment No. 19. Article 23 – The Family. HRI/GEN/1/Rev.7. 1990].

to reduce risk factors.¹⁶⁰ The State must give financial priority to these policies, in compliance with international obligations of child protection.¹⁶¹

119. Nonetheless, the IACHR also notes that those closest to children, who are supposed to protect and care for them, may in some instances expose them to situations or be responsible for acts that jeopardize their physical integrity and full development. In order to prevent violations of the rights of children, States should provide for measures of an exceptional nature to protect a child when the family itself becomes the cause of defenselessness and violation of rights of that child. Based on the foregoing, the State should have a national child protection system in place that includes policies, programs and support services, family strengthening and assistance, which take into account the role of families as the natural setting in which children grow up and where they are provided with the care and protection they need for their full and harmonious development, in addition to coordinating mechanisms for the early detection of situations of violence, abuse and neglect.

3. Standards regarding Special and Heightened Protection of Girls

120. International human rights law recognizes the right of girls to adapted and heightened special protection, precisely because of their condition as growing human beings in a stage of development.¹⁶² The rationale behind this special protection is based on the fact that they are different from adults as to their abilities

¹⁶⁰ IA Court of HR. [Condición jurídica y derechos humanos del niño. Opinión Consultiva OC-17/02.](#) Juridical Condition and Human Rights of Children. Advisory Opinion OC-17/02. 2002. Series A No. 17, pars. 53, 71, 72, 73 and 76. Also see, Human Rights Committee. Also see, Committee on the Rights of the Child. [Observación General No. 17, Artículo 24 - Derechos del niño.](#) General Comment No. 17, Article 24 – Rights of the Child. HRI/GEN/1/Rev.7. April 7, 1989.

¹⁶¹ IACHR. [Informe sobre el Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas.](#) Report on Boys' and Girls' Right to a Family. Alternative Care. Ending Institutionalization in the Americas. OEA/Ser.L/V/II. Doc.54/13. 2013, par. 4.

¹⁶² The Commission and the Inter-American Court have made this recognition based on Article 19 of the American Convention and Article VII of the American Declaration. Article 19 of the American Convention establishes that "Every 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, Article VII of the American Declaration recognizes that "All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid." IACHR. [Informe No. 83/10. Caso 12.584. Merits. Milagros Fornerón and Leonardo Aníbal Fornerón. Argentina.](#) Report No. 83/10. Case 12.584. Merits. Milagros Fornerón and Leonardo Aníbal Fornerón. Argentina. 2010, par. 72; IA Court of HR. [Condición jurídica y derechos humanos del niño. Opinión Consultiva OC-17/02.](#) Juridical Condition and Human Rights of Children. Advisory Opinion OC-17/02. 2002. Series A No. 17, pars. 51, 54, 55 and 60; IA Court of HR. [Caso de las Masacres de Ituango Vs. Colombia.](#) Case of the Massacres of Ituango v. Colombia. Judgment of July 1, 2006. Series C No. 148, par. 244; IA Court of HR. [Caso de la "Masacre de Mapiripán" Vs. Colombia.](#) Case of the "Massacre of Mapiripán" Judgement of September 15, 2005. Series C No. 134, par. 152; and especially: IA Court of HR. [Caso "Instituto de Reeducación del Menor" Vs. Paraguay. Case of the Juvenile Reeducation Institute v. Paraguay.](#) Preliminary Objections, Merits, Reparations and Costs. Judgment of September 2, 2004. Series C No. 112, par. 147; and IA Court of HR. [Caso Servellón García y otros Vs. Honduras. Sentencia de 21 de septiembre de 2006.](#) Case of Servellón García et al v. Honduras. Judgment of September 21, 2006. Series C No. 152, par. 113.

and the challenges they face for effective exercise and full respect for their rights,¹⁶³ which entails “specific duties of the family, society, and the State.”¹⁶⁴ States play the role of guarantor, which involves adopting a number of different types of measures¹⁶⁵ aimed at providing special protection to children and adolescents with special care and a sense of responsibility that serves their best interests, acting at all times with the utmost due diligence.¹⁶⁶

121. The Commission and the Court have asserted that girls, specifically, are more susceptible to forms of violence and discrimination stemming from the structural situation of violence and discrimination faced by women in the region, which triggers the State’s duty to protect, to prevent violations of their rights and to promote effective respect for these rights. The particular risks faced by girls, as well as their special protection needs resulting from the compounded factors of age and their condition as women, must be taken into proper consideration by the State.
122. Thus, in the sphere of the Inter-American human rights system, based on Article 19 of the ADHR and Article VII of the ADRDM, the Member States are under the obligation to take all necessary measures to ensure effective respect for the rights of children, to remove any obstacles, and to take into account the particular circumstances and challenges children face at each stage of life in the enjoyment of their rights.¹⁶⁷ The duty of special protection set forth in Article 19 of the ACHR is connected to Article 1.1 of the ACHR,¹⁶⁸ regarding the obligations to respect and ensure rights, and to Article 2 of the ACHR,¹⁶⁹ regarding the duty to adopt domestic

¹⁶³ IACHR. Towards the Effective Fulfillment of Children’s Rights: National Protection Systems. OEA/Ser.L/V/II.166 Doc. 206/17. 2017, par. 44.

¹⁶⁴ IA Court of HR. Condición jurídica y derechos humanos del niño. Opinión Consultiva OC-17/02. Juridical Condition and Human Rights of Children. Advisory Opinion OC-17/02. 2002. Serie A No. 17, par. 54.

¹⁶⁵ IA Court of HR. Condición jurídica y derechos humanos del niño. Opinión Consultiva OC-17/02. Juridical Condition and Human Rights of Children. Advisory Opinion OC-17/02. 2002. Series A No. 17, pars. 56 and 60; IA Court of HR. Caso Bulacio Vs. Argentina. Case of Bulacio v. Argentina. Merits, Reparations and Costs. Judgment of September 18, 2003. Series C No. 100, pars. 126 and 134; IA Court of HR. Caso Comunidad Indígena Sawhoyamaya Vs. Paraguay. Case of the Sawhoyamaya Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of March 29, 2006. Series C No. 146, par. 177; IA Court of HR. Case of Servellón García et al v. Honduras. Judgment of September 21, 2006. Series C No. 152, par. 116; IA Court of HR. Caso Chitay Nech y otros Vs. Guatemala. Case of Chitay Nech et al v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 25, 2010. Series C No. 212, par. 164.

¹⁶⁶ IACHR. Informe No. 170/11. Caso 12.578. Fondo. María Isabel Véliz Franco y Otros. Guatemala. Report No. 170/11. Case 12.578. Merits. María Isabel Veliz Franco et al. Guatemala. 2011, par. 153; IA Court of HR. Condición jurídica y derechos humanos del niño. Opinión Consultiva OC-17/02. 28 de Agosto. Juridical Condition and Human Rights of Children. Advisory Opinion OC-17/02. August 28, 2002. Serie A No. 17, pars. 56 and 60; IA Court of HR. Caso de los Hermanos Gómez Paquiyaury Vs. Perú. Merits, Reparations and Costs. Judgment of July 8, 2004. Series C No. 110, pars. 124, 163-164, and 171; IA Court of HR. Caso Bulacio Vs. Argentina. Merits, Reparations and Costs. Judgment of September 18, 2003. Series C No. 100, pars. 126 and 134; and IA Court of HR. Caso de los “Niños de la Calle” (Villagrán Morales y otros) Vs. Guatemala. Case of the “Street Children” (Villagrán Morales et al) v. Guatemala. Merits. Judgment of November 19, 1999. Series C No. 63, pars. 146 and 191.

¹⁶⁷ IACHR. Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas. Report on Boys’ and Girls’ Right to a Family. Alternative Care. Ending Institutionalization in the Americas OEA/Ser.L/V/II. Doc. 54, 2013, par. 43.

¹⁶⁸ See Article 1 of the American Convention on Human Rights Convención Americana sobre Derechos Humanos.

¹⁶⁹ See Article 2 of the American Convention on Human Rights Convención Americana sobre Derechos Humanos.

legislative or any other provisions that may be necessary and adequate to give effect to this duty of special protection of children.

123. As for violence against girls, a group of United Nations experts stressed the duty of States to take prompt and effective action to end gender-based discrimination and violence against girls. The IACHR concurs in that many of the challenges faced by girls are rooted “in outdated and harmful perceptions about gender roles and what is ‘appropriate’ behavior for young women, strongly influenced by patriarchal culture.”¹⁷⁰

4. Recommendations Aimed at Compliance with Special and Heightened Protection of Girls

124. Girls require specific actions that reflect the particular and interconnected challenges of inequality based on gender, age and level of development. States must address deliberately and explicitly this double burden of discrimination based on gender and on age stereotypes. The IACHR has asserted that the fact that girls are not considered as social actors or stakeholders in society, with a voice and the ability to advocate on any decision that affects them, exacerbates their situation and hampers the ability to move forward more decisively and quickly in transforming society.
125. All children and adolescents have the same right to grow and develop on an equal footing, to expand their potential and contribute to the development of society. States must respect the rights set forth in the Convention on the Rights of the Child and ensure implementation thereof without any distinction. This entails the duty of States to actively identify groups of girls in special circumstances of vulnerability in terms of the enjoyment of their rights and to adopt specific and special measures to promote and ensure their rights.¹⁷¹
126. This involves, among other things, the need for States to have relevantly disaggregated data to be able to identify existing discrimination and the groups of girls with special protection needs, as well as those with an intersection of different factors of vulnerability, social exclusion or discrimination, such as socioeconomic circumstances, geographic location, belonging to an indigenous people or another ethnic minority, being Afro-descendant, a migrant, having a disability, among other ones.

¹⁷⁰ UNHCR. Press Release on International Day of the Girl Child: States must listen to girls to end prejudices and deliver their rights, say UN Experts. [Comunicado de prensa en el Día Internacional de la Niña: Los Estados deben escuchar a las niñas para acabar con los prejuicios y garantizar sus derechos, según los expertos de la ONU](#). October 11, 2018.

¹⁷¹ Committee on the Rights of the Child. General Comment No. 5 on General measures of application of the Convention on the Rights of the Child. (Articles 4 and 42 and par. 6 of Article 44). CRC/GC/2003/5. 2003, pars. 12 and 30; and Human Rights Committee. General Comment No. 18. HRI/GEN/1/Rev. 7.1989, par. 10.

127. There is evidence that violations of children's rights and the different forms of violence perpetrated against them are usually linked to each other and overlap, the consequence of which is successive victimization of the most susceptible children to these violations.¹⁷² It is important to view child protection in a comprehensive way and not as isolated episodes of protection interventions to safeguard a particular right or in response to a particular circumstance. Prevention measures must be holistic and contemplate, among other aspects, the impact that socialization norms and social patterns of behavior have on children.¹⁷³
128. The IACHR understands that interventions limited to just one sphere or to a particular manifestation of violence or violation of a right, can only partially achieve their objective. In addition, the IACHR has noted that initiatives to address the most extreme forms of violence need to take into account the above-mentioned factors involving the superimposition and interconnection of different forms of violence and not only focus on children and adolescents without considering family, community and social setting.¹⁷⁴ Exposure to violence contributes to children viewing it as normal in their interpersonal relations: when they witness harassment and violence in the family or social setting, it becomes more likely that, in the future, children and adolescents will exercise violence against their partners thus reproducing the patterns of interaction they have witnessed.¹⁷⁵

5. Standards Relating to the Principle of the Best Interest of the Child

129. Article 3.1 of the CDC establishes the best interest of the child as the fundamental criterion or parameter in making decisions that affect the rights of children and adolescents, and both organs of the Inter-American system have also recognized this principle, linking it to Article 19 of the ACHR and Article VII of the ADRDM. The Committee on the Rights of the Child has determined that Article 3.1 sets forth one of the four fundamental principles on which and from which the whole CRC, the interpretation and implementation thereof, is based and draws inspiration; and that the aim of the notion of the best interest of the child is to ensure the full and effective enjoyment of all rights recognized by the Convention and the holistic development of the child.¹⁷⁶ Thus, in all measures concerning children and adolescents, whether

¹⁷² IACHR. Press Release No. 26/04: [Comunicado de prensa No. 26/04: CIDH y UNICEF expresan preocupación por la situación de los niños, niñas y adolescentes vinculados a pandillas o maras en El Salvador, Guatemala y Honduras](#). Press Release No. 26/04; IACHR and UNICEF express concern over the situation of boys, girls and adolescents involved with gangs in El Salvador, Guatemala, and Honduras. December 4, 2004.

¹⁷³ IACHR. [Violence, Children and Organized Crime](#). OEA/Ser.L/V/II. Doc. 40/15. 2015, par. 130.

¹⁷⁴ IACHR. [Violence, Children and Organized Crime](#). OEA/Ser.L/V/II. Doc. 40/15. 2015, par. 127.

¹⁷⁵ Human Rights Council. [Informe anual de la Representante Especial del Secretario General sobre la violencia contra los niños](#). Annual Report of the Special Representative of the Secretary General on violence against children. A/HRC/34/45. 2017, pars. 98 and 99.

¹⁷⁶ Committee on the Rights of the Child. [Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial \(artículo 3, párr.1\)](#). General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration (Article 3, par. 1). CRC/C/GC/14. 2013, par. 4; and Committee on the Rights of the Child. [Observación General No. 7 sobre la realización de los derechos del niño](#)

of a legislative, administrative, judicial, budgetary or any other nature, the best interest of the child must be a primary consideration. This does not mean to the exclusion of the rights of others, but rather that priority must be given to interventions supporting the realization of children's and adolescents' rights.

130. The principle of the best interests of the child means that children's and adolescents' holistic development and full enjoyment of all their rights must be considered as guiding principles to establish and apply provisions pertaining to all aspects of children's lives.¹⁷⁷ This principle has a direct impact on the adoption of public policies, as well as on the type, quality and timeliness of the programs and services that are provided to children and adolescents and gives priority in the allocation of public resources to such programs and services. This principle gives the child the right to have his or her best interest assessed and taken into account as primary consideration in all actions and decisions that concern him or her, both in the public and the private sphere, and it must be applied as a dynamic concept requiring an assessment appropriate to the specific context.¹⁷⁸
131. According to the Committee on the Rights of the Child, the child's best interests is a threefold concept: a substantive right; a fundamental, interpretative legal principle; and a rule of procedure.¹⁷⁹ The first dimension encompasses the right of the child to have his or her best interest assessed and taken as a primary consideration when different interests are being weighed in decision-making concerning him or her. It is applicable both when the decision affects an individual child and a group of specific children or children in general. It is self-executing, that is, it takes immediate effect and can be pleaded before the courts. The second dimension, a fundamental interpretive principle, means that when a legal provision lends itself to more than one interpretation, the interpretation that most effectively serves the best interest of the child will prevail, taking into consideration all the rights provided for in the CRC.
132. Lastly, with regard to the third dimension as a rule of procedure, assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account and was not arbitrary or subjective. As part of the procedure, the decision must explicitly set forth how the best interest of the child was taken into account, on what criteria has the decision been based and how have the child's interests been weighed against other considerations.

en la primera infancia. General Comment No. 7 on the implementation of child rights in early childhood. CRC/C/GC/7/Rev.1. 2006, pars. 1 and 4.

¹⁷⁷ IA Court of HR. Condición jurídica y derechos humanos del niño. Opinión Consultiva OC-17/02. Juridical Condition and Human rights of the Child. 2002. Series A No. 17, pars. 53 and 137.2.

¹⁷⁸ Committee on the Rights of the Child. Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial (artículo 3, pár.1). General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration (Article 3, par. 1). CRC/C/GC/14. 2013, par. 1.

¹⁷⁹ Committee on the Rights of the Child. Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial (artículo 3, pár.1). General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration (Article 3, par. 1). CRC/C/GC/14. 2013, par. 6.

133. Consequently, whenever a decision must be made concerning children and adolescents, whether in the context of administrative or judicial proceedings or in the adoption of laws, policies, strategies, programs, plans, budgets and guidelines, the decision-making process must take into account potential (positive or negative) impacts on the child or children concerned.¹⁸⁰ Likewise, the State has the obligation to ensure that the interest of the child are assessed in decisions and actions taken by child service providers, in both the public sector or private sector, in addition to adhering to the rules governing the operation thereof.¹⁸¹
134. As was noted by the Committee on the Rights of the Child, this includes measures directly concerning children (for example, health care services, daycare systems or schools, as well as measures that indirectly impact children (such as the environment, housing or transportation). According to the Committee, this does not mean that every action taken by the State needs to incorporate a full and formal process of assessing and determining the best interest of the child. However, whenever a decision will have a major impact on a child or children, a greater level of protection and detailed procedures to consider their best interests is appropriate.¹⁸²

6. Recommendations Aimed at Compliance with Promotion of the Principle of the Best Interest of the Child

135. The State should review and, where necessary, amend domestic legislation and other sources of law so as to introduce the best interest of the child. Legislation must explicitly include the best interest as a guiding principle, as well as establishing a procedure for the determination thereof. In addition, the State should provide information and training on the principle of the best interest, and the effective application thereof, to all those making decisions concerning children, including professionals and other people working for and with children.¹⁸³ There must also be a continual process of assessment of the effects on the rights of the child, to predict

¹⁸⁰ Committee on the Rights of the Child. [Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial \(artículo 3, párr.1\)](#). General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration (Article 3, par. 1). CRC/C/GC/14. 2013, pars. 10, 13 and 14.

¹⁸¹ Committee on the Rights of the Child. [Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial \(artículo 3, párr.1\)](#). General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration (Article 3, par. 1). CRC/C/GC/14. 2013, pars. 14.c) and 25.

¹⁸² Committee on the Rights of the Child. [Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial \(artículo 3, párr.1\)](#). General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration (Article 3, par. 1). CRC/C/GC/14. 2013, pars. 19 and 20.

¹⁸³ Committee on the Rights of the Child. [Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial \(artículo 3, párr.1\)](#). General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration (Article 3, par. 1). CRC/C/GC/14. 2013, pars. 15.a) and f).

the actual impact of implementation and to make recommendations to introduce the necessary changes.¹⁸⁴

136. The realization of the best interest of the child is closely related to recognition of progressive autonomy and the child's right to be heard and to have his or her opinion taken into account in all matters concerning him or her, thus having the ability to influence these decisions. In assessing the best interest, the opinions of the child concerned must be taken into account, in keeping with his or her stage of development as to ability to comprehend and maturity level. As the child matures, his or her opinions must be given increasingly more weight in the determination of his or her best interest. If, as an exception, the solution chosen is not in the best interests of the child, the grounds for this must be set forth in order to show that the child's best interests were a primary consideration despite the result. It is not sufficient to state in general terms that other considerations override the best interest of the child; all considerations must be explicitly specified in relation to the case at hand, and the reason why they carry greater weight in the particular case must be explained.¹⁸⁵

7. Standards Relating to the Participation of Children and Adolescents in Matters Concerning Them

137. As the Committee on the Rights of the Child has stated, Article 12 of the Convention on the Rights of the Child is an unprecedented provision in a human rights treaty. It addresses the juridical and social status of children who, on the one hand, lack full autonomy from adults but, on the other, are subjects of rights. In paragraph 1 of Article 12 of the CRC, it lays out that every child, who is capable of forming his or her own views, is ensured the right to express those views freely in all matters affecting the child, giving due weight to the views in accordance with the age and maturity of the child. Paragraph 2 of the same article recognizes, in particular, that the child shall be afforded the opportunity to be heard in any judicial or administrative proceeding affecting him or her.¹⁸⁶
138. The right of all children and adolescents to be heard and taken seriously is "one of four general principles of the Convention on the Rights of the Child, [...] which

¹⁸⁴ Committee on the Rights of the Child. [Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial \(artículo 3, párr.1\)](#). [General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration \(Article 3, par. 1\)](#). CRC/C/GC/14. 2013, par.35; and Committee on the Rights of the Child. [Observación General No. 5 sobre Medidas generales de aplicación de la Convención de los Derechos del Niño \(artículos 4 y 42 y párr.6 del artículo 44\)](#). [General Comment No. 5 on General measures of implementation of the Convention on the Rights of the Child](#). CRC/GC/2003/5. 2003, pars. 35 and 45.

¹⁸⁵ Committee on the Rights of the Child. [Observación General No. 14 sobre el derecho del niño a que su interés superior sea una consideración primordial \(artículo 3, párr.1\)](#). [General Comment No. 14 on the right of the child to his or her best interest taken as primary consideration \(Article 3, par. 1\)](#). CRC/C/GC/14. 2013, par. 97, also see 38 and 39.

¹⁸⁶ Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). [General Comment No. 12 on the right of the child to be heard](#). CRC/C/2009.

highlights the fact that this article establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights.” In the view of the Committee, “Article 12 as a general principle provides that States parties should strive to ensure that the interpretation and implementation of all other rights incorporated in the Convention are guided by it.” Furthermore, the Committee has expressly addressed the relationship between the determination of the best interest of the child and the right of the child to be heard.¹⁸⁷

8. Recommendations Relating to Compliance and Promotion of the Participation of the Child in Matters Affecting Him or Her

139. The State must adopt effective and adapted measures to ensure the right of children and adolescents to express their views, by facilitating the mechanisms and means for this purpose in accordance with their development level, and make sure that these views are taken seriously, for example, in policies and decisions relating to their education, health, sexuality, security, culture, family life, and judicial and administrative proceedings, among other ones. This principle extends to everywhere children and adolescents are found, such as family, school, community, political, administrative and judicial settings, and in the context of the services provided to them.¹⁸⁸
140. The IACHR stresses that participation does not mean of just any type, but meaningful and central involvement. It encompasses the ability to freely express views and to be heard by those who make decisions affecting their rights, development and the course of their lives. It also means that the State must make sure that children and adolescents receive all the necessary information and advice to be able to form their own view and make an informed decision on their own that serves their best interest.
141. In addition, it means that laws must ensure and promote, at a minimum: adequate and adapted opportunities for children and adolescents to exercise their right to participate and be heard; sustainable and stable procedures and mechanisms for this purpose; support for children and adolescents in these processes; mechanisms to guarantee that said views are being heard and will be taken seriously in decision-making; and, the duty to explain how the views of children and adolescents were considered in the final decision, as well as conveying the results to the children and adolescents. Tokenistic actions that do not provide for actual capacity to shape the discussion and the decision-making should be avoided. It is important, as recommended by the Committee on the Rights of the Child, for States to establish a direct relationship with children, and not just a link through civil society

¹⁸⁷ Committee on the Rights of the Child. *Observación General No. 12 sobre el derecho del niño a ser escuchado*. General Comment No. 12 on the right of the child to be heard. CRC/C/2009, pars. 2 and 17.

¹⁸⁸ Committee on the Rights of the Child. *Observación General No. 12 sobre el derecho del niño a ser escuchado*. General Comment No. 12 on the right of the child to be heard. CRC/C/GC/12. 2009, par. 19.

organizations.¹⁸⁹ Furthermore, States must take into account that on-line media and new technologies offer many novel opportunities to step up and expand the participation of children and adolescents, though it should not be confined to this means alone.¹⁹⁰

142. As was mentioned above, views expressed by children and adolescents can provide very useful perspectives and experiences when assessing the overall situation of children in the country or municipality.¹⁹¹ It is also important to learn the views of particular groups of children and adolescents regarding specific issues: such as, the opinion of adolescents, who have had experience in the criminal juvenile justice system, about proposed changes in laws applying to this sphere; or the opinion of children and adolescents who were adopted, about adoption laws and policies; or migrant children and adolescents, about migration laws, policies and practices; or children and adolescents that were under an alternative care measure, about amendments to laws and practices regarding children and adolescents without parental care, among others.
143. The IACHR has found, when combined with other sources, self-perception and victimization surveys to be advantageous, as they provide first-hand information about the circumstances in which children and adolescents live as well as the challenges they face in exercising their rights, prevalence rates of particular phenomena, and about potentially more effective policies and actions that could be adopted as prevention measures and responses.¹⁹² But it is important that information collected is seriously used to inform public policy formulation and evaluation. Consultations and forums carried out during the national children's policy formulation process, or when that policy undergoes evaluation, are also valuable stages to gather the views of a high number of children and adolescents and capture the variety of realities they experience.
144. Complementarily, the State should invest in measures to help children and adolescents to understand and exercise their rights. As was noted earlier, schools play a crucial role in instilling in children and adolescents knowledge about their rights, developing their life skills and their engagement as responsible citizens.¹⁹³

¹⁸⁹ Also see, Committee on the Rights of the Child. [Observación General No. 5 sobre Medidas generales de aplicación de la Convención de los Derechos del Niño \(artículos 4 y 42 y pár.6 del artículo 44\)](#). [General Comment No. 5 on General measures of implementation of the Convention on the Rights of the Child. \(Articles 4 and 42 and par. 6 of Article 44\)](#). CRC/GC/2003/5. 2003, par. 12; and Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). [General Comment No. 12 on the right of the child to be heard](#). CRC/C/GC/12. 2009, pars. 3 and 13.

¹⁹⁰ In this regard, see recommendations in Committee on the Rights of the Child. [Observación General No 20 sobre la efectividad de los derechos del niño durante la adolescencia](#). [General Comment No. 20 on the implementation of the rights of the child during adolescence](#). CRC/C/GC/20. 2016, pars. 48 and 49.

¹⁹¹ Also see, Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). [General Comment No. 12 on the right of the child to be heard](#). CRC/C/GC/12. 2009, pars. 12 and 27.

¹⁹² IACHR. [Violence, Children and Organized Crime](#). OEA/Ser.L/V/II. Doc. 40/15. 2015, pars. 510 to 512.

¹⁹³ See Convention on the Rights of the Child, Articles 28 and 29; and Committee on the Rights of the Child. [Observación General No. 1 sobre el pár.1 del artículo 29: Propósitos de la Educación](#). [General Comment No. 1 on par. 1 of Article 29: Aims of Education](#). CRC/GC/2001/1. 2001.

By the same token, it is important for adults to understand and become aware of children’s and adolescents’ right to participation for the enjoyment of this right. Accordingly, the IACHR encourages States to invest in training and awareness-raising on aspects concerning child-adolescent participation, particularly, for parents and other caregivers, professionals working with and for children and adolescents, policy-makers and decision-makers on matters relating to children.¹⁹⁴

145. The Committee on the Rights of the Child has emphasized that Article 12 of the CRC imposes no age limit on children’s and adolescents’ right to express their views, and discourages States from introducing age limits either in law or practice, which would restrict their right to be heard in all matters affecting them.¹⁹⁵ Furthermore, States “cannot begin with the assumption that a child is incapable of expressing her or his own views;” on the contrary, States should coordinate adequate measures to encourage and support participation, without discrimination.¹⁹⁶ The child, however, has the right not to exercise this right; expressing views is a choice for the child not an obligation.¹⁹⁷
146. It should be taken into consideration that some groups of children and adolescents, such as small children, those with disabilities, migrants or those who belong to marginalized and disadvantaged groups and to ethnic, cultural and linguistic minorities, experience greater difficulties and obstacles to exercising their right to participate. For instance, children with disabilities should be equipped with, and enabled to use any mode of communication necessary to facilitate expression of their views. Efforts must also be made to recognize the right to expression of views for minority, indigenous and migrant children and other children who do not speak the majority language or small children, through specialized personnel.¹⁹⁸ The spaces must be safe and conducive for children and adolescents to freely express themselves without fear of repression or of ridicule, or feeling intimidated or influenced or manipulated by third persons.
147. Likewise, and consistent with the objective of promoting effective and serious participation, the law should provide that decision-makers at different levels (national and sub-national) must inform children and adolescents about how their

¹⁹⁴ Committee on the Rights of the Child. [Observación General No 20 sobre la efectividad de los derechos del niño durante la adolescencia](#). General Comment No. 20 on the implementation of the rights of the child during adolescence. CRC/C/GC/20. 2016, par. 25; IACHR. [Informe sobre el Derecho del niño y la niña a la familia. Cuidado alternativo. Poniendo fin a la institucionalización en las Américas. Report on Boys’ and Girls’ Right to a Family. Alternative Care. Ending Institutionalization in the Americas](#). OEA/Ser.L/V/II. Doc.54/13. 2013, par. 254.

¹⁹⁵ Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). General Comment No. 12 on the right of the child to be heard. CRC/C/GC/12-2009, par.21.

¹⁹⁶ Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). General Comment No. 12 on the right of the child to be heard. CRC/C/GC/12-2009, pars. 20 and 21.

¹⁹⁷ Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). General Comment No. 12 on the right of the child to be heard. CRC/C/GC/12-2009, par. 16.

¹⁹⁸ Committee on the Rights of the Child. [Observación General No. 12 sobre el derecho del niño a ser escuchado](#). General Comment No. 12 on the right of the child to be heard. CRC/C/GC/12-2009, pars. 20 and 21; [Observación General No. 9 sobre los derechos de los niños con discapacidad](#). General Comment No. 9 on the rights of children with disabilities. CRC/C/GC/9-2007, par. 32.

view has been assessed and taken into consideration. The IACHR recommends that directives, guidelines and handbooks also be adopted on the topic of children's and adolescents' participation in order to promote and adequately ensure this right and create the conditions for doing so, in keeping with the procedures described above. In short, participation is a right and a process that enables children and adolescents to be actors in their own personal and social development.

148. This right is closely linked to other articles of the CRC, that facilitate the guarantee thereof: Article 13 of the CRC on freedom of expression, which in turn includes freedom to seek, receive and disseminate information; Article 14, which provides for freedom of thought, conscience and of religion; Article 15, which recognizes the right to freedom of association; Article 17, which ensures access to information and to national and international media; and, lastly, Article 31, which addresses recognition of the right to participate freely and fully in cultural life and in the arts.