GENERAL OVERVIEW OF THE COMMUNICATIONS ADDRESSED TO LATIN AMERICAN COUNTRIES DURING THE 37TH SESSION OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL

Communications Report of Special Procedures
A/HRC/37/80
1 June 2017 – 31 January 2018

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GENERAL OVERVIEW OF THE COMMUNICATIONS ADDRESSED TO LATIN AMERICAN COUNTRIES DURING HRC 37.

The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights. The system of Special Procedures covers all human rights: civil, political, economic, social and cultural. There are currently 44 thematic and 12 country mandates. These experts send communications to States in which they bring alleged violations or abuses to their attention.

Since 2011 the Special Procedures have been submitting joint reports during each regular session of the HRC on their communications to States. Unfortunately, these reports only index the number of sent and received answers, without condensing, country-specific, all the communications. Therefore, they do not represent an actual report with useful and useable information and statistics that would outline clear trends, patterns and key issues emerging from the large number of sent and received communications.

Therefore, this report intends to fill in the gaps of the report published by the Special Procedures and aims to outline clear trends and provide country-specific analysis for the Latin American region.

This report focuses on communications discussed at the 37th Session of the HRC, which includes communications sent between 1 June and 30 November 2017 and the replies received between 1 August 2017 and 31 January 2018 to Latin American countries.

Number of communications sent to Latin American countries and replies received

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Between 1 June 2017 and 30 November 2017, the Special Procedures sent 46 communications to 20 countries, out of which only 19 were answered, and 27 left unanswered, which represents a response rate of 41%.

Several countries did not reply to any of the communications: Brazil, Chile, Costa Rica, Paraguay, Peru, Trinidad and Tobago, Uruguay, Guyana and Haiti.

Mexico, followed by Venezuela, Brazil, Peru and Honduras, received the most communications.

Issues raised in the communications

Among all communications, almost half regard alleged violations and abuses against human rights defenders, freedom of peaceful assembly and association, and freedom of opinion and expression; and roughly 1/3 refers to alleged executions.

Other recurrent themes concerning roughly 15% of the communications are alleged violations and abuses in the field of women in law and practice, arbitrary detention and health.
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<td>Internally displaced persons</td>
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<td>Education</td>
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COUNTRY ANALYSIS

This section summarises the communications and replies of each country, and when they were mentioned and not hidden, the name of the victims and the associations affected. All the links to the communications can be found in footnotes.

❖ Argentina

1. Application of laws benefitting person guilty of crimes against humanity, 15 June 2017, ARG 3/2017

The communication refers to the decision of the Corte Suprema de Justicia de la Nación Argentina (CSJN) related to the enforcement of law 24.390 (named law 2x1) in cases of crimes against humanity and the enforcement of the law 27.362 that establishes that dispositions of the law 24.390 are not applicable in cases of crimes against humanity, genocide or war crimes.

On May 3rd 2017, the CSJN applied article 7 of the law 24.390 in favour of Luis Muiña convicted for abductions and torture of 5 persons, one of whom remained disappeared. Those facts were qualified as crimes against humanity. The Court decision in Muiña’s case appears very concerning as it benefited a person found guilty and sentenced to jail for her crimes against humanity. It should be carefully implemented so not to be used in favour of impunity, nor to affect the right to truth, justice and reparation for victims of the last dictatorship in Argentina.

Reply 11 August 2017

The State of Argentina merely acknowledged the communication.

❖ Bolivia

1. Harassment and disqualification against CEDIB, 4 September 2017, BOL 2/2017

The communication refers to different acts of disqualification and harassment from several state and university authorities against members and facilities of the Centro de Documentación e Información Bolivia (CEDIB) (which has its facilities in the University Mayor San Simón) which resulted in the forced eviction of the CEDIB’s facilities. It is alarming that these actions seem to take place in a wider hostile environment and context of harassment against human rights defenders in Bolivia and especially against those who articulate criticisms against the government.

Reply 15 November 2017

The government of Bolivia declared that the facts were isolated, did not represent a systematic harassment and were not promoted by the government. According to the government, the CEDIB did not comply with its obligation regarding the agreement in force

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4 http://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=71673
5 http://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=23321
6 http://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=71787
with the University, which led to the aforementioned eviction. The latter was not perceived as an act of intimidation by the government and neither politically motivated, but was the result of legal reasons only.

❖ Brazil

Brazil did not respond to any of the communications.

1. **Killing of 11 human rights defenders, 3 August 2017, BRA 6/2017** - no reply

The government did not reply to the alleged killings of 11 human rights defenders, among whom Mr. *Rosenildo Pereira de Almeida* who is one of the leaders of the Santa Lúcia settlement, as well as the killings of 10 other land rights defenders, Mr. *Antônio Pereira Milhomem*, Mr. *Bruno Henrique Pereira Gomes*, Mr. *Hecules Santos de Oliveira*, Ms. *Jane Julia de Oliveira*, Mr. *Nelson Souza Milhomem*, Mr. *Ozeir Rodrigues da Silva*, Mr. *Regivaldo Pereira da Silva*, Mr. *Ronaldo Pereira de Souza*, Mr. *Weldson Pereira da Silva*, and Mr. *Weclebson Pereira Milhomem*, by unidentified assailants in Rio Maria Pará on 7 July 2017.

On May 24th 2017, a group of 25 land rights defenders and landless workers attempted to peacefully reoccupy the Santa Lúcia farm, located in the municipality of Pau D'Arco. They were quickly chased by the police who opened the fire on the unarmed group and eventually killed 11 of them. The Federal Police investigated the case and the Prosecution Office reported that the killings were premeditated, which led to the arrest of 11 police officers. Mr. Pereira de Almeida was killed a month after the shooting, after having allegedly received multiple threats as a result of his work, with the number of threats reportedly increasing following the killings of the other land rights defenders, who, like him, were also members of the Santa Lúcia settlement.

General concern is expressed at the increasingly restrictive environment for land rights defenders in Brazil, the alarmingly increasing number of incidents of violence and killings against land rights defenders which have been recorded as well the abolition of several state institutions which may have contributed towards these negative developments.

2. **Human Rights violations in Cracolândia, 28 August 2017, BRA 8/2017** - no reply

The government did not reply to multiple alleged human rights violations committed during and after a police intervention against residents of the neighbourhood known as ‘Cracolândia’, located in the centre of São Paulo. The situation in Cracolândia was the subject of a communication sent on 11 April 2012 (BR 3/2012), which was left without reply. In May 2017, without prior warning, 900 officers of the state of São Paulo police forces dispersed residents, business owners, and others in the Cracolândia area. The intervention was reportedly undertaken to combat drug trafficking in the area. The police detained all those who resisted and 38 people were arrested.

Local pensions in the Cracolândia were forcefully closed by the police and their residents and people living in the streets around the area were evicted without prior notice or any court order, street tents were destroyed by tractors and buildings sealed off with concrete, while

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residents’ belongings were still inside. One building was destroyed with residents still inside, which caused the injury of three individuals sleeping inside. The disproportionate use of force in the process of displacing drug users and residents from Cracolândia by São Paulo police forces is deeply concerning, as well as the use of weapons and mass compulsory body searches.

3. **Extrajudicial killings of children, 30 August 2017, BRA 7/2017** - no reply

The government did not reply to alleged extrajudicial killings of children in favelas of Rio de Janeiro in the context of police anti-drugs operations. Five kids between 10 and 17 years old were killed by the Military Police between March and July 2017.

4. **Approval of Ministerial order 1129, 30 October 2017, BRA 9/2017** - no reply

The government did not reply to the communication mentioning the approval of the Ministerial Order N° 1129 issued on 13 October 2017, which presents a significantly restricted definition of slavery, that excludes situations that could be defined as contemporary forms of slavery under international law. The communication refers as well to broader restrictions on efforts to eradicate contemporary forms of slavery in Brazil.

5. **Intimidation and threats against human rights defenders, 20 November 2017 BRA 10/2017** - no reply

The government did not respond to alleged acts of intimidation and threats against human right defenders Mr **Elias de Souza**, Mrs **Vanessa Rosa dos Santos**, Mr **Reginaldo Rosa dos Santos**; Mr **Lúcio Guerra Júnior**, Mrs **Patrícia Generoso**, and Mr **Lúcio da Silva Pimenta**, as well as their families, allegedly in relation to having brought legal proceedings to question the legality of a public hearing for the expansion of the mining project Minas-Rio, and ultimately suspending the hearing.

Mr. de Souza, Ms. and Mr. Rosa dos Santos, Mr. Guerra, Ms. Generoso and Mr. da Silva Pimenta have denounced these acts before the state police and have sought protective measures by the Protection Programme for Human Rights Defenders of the State of Minas Gerais (PPDDH), which have been granted to some of the applicants. According to the information received, there are multiple connections between different officers of the Minas Gerais State Police and Anglo American, which may compromise the security of human rights defenders involved in activism against the mining activities of the company.

❖ **Chile**

*Chile did not respond to any of the communications.*

1. **Delay in approval of draft bill to legalise abortion, 28 July 2017, CHL 1/2017**

The government did not reply to a communication referring to the delay in the approval of the draft bill that would allow for an abortion in specific cases. On 31 January 2015, a draft bill was presented to the Deputy chamber which would allow a voluntary termination of
pregnancy in cases of rape, when the mother’s life is endangered, and in case of foetal impairment. However, the project remained blocked since July 2017, waiting to be discussed by a mixed commission of senators and deputies.

2. **Stigmatisation of transgender persons, 23 August 2017, CHL 2/2017**

The government did not reply to a communication referring to the new draft bill entitled ‘The right to gender identity’ approved at the first constitutional stage by the Senate on 14 June 2017. Compared with the initial draft-bill, the adopted bill includes discriminatory dispositions that perpetuate the stigmatisation of the transgender person. It does not provide any gender legal recognition. This omission is an attempt against the rights of transgender and intersexual children and teenagers. It also leads to an arbitrary interference to the right to privacy and family especially regarding the disposition that impose the cancellation of the marriage for transgender applicants that have a current marriage bond.

3. **Application of the Law 18314, 4 October 2017, CHL 3/2017**

The communication refers to the continuous application of the Anti-terrorist act “Law 18314” against 23 members of the Mapuche indigenous community. On 23 September 2017 during a police operation named ‘Huracán’, 8 Mapuche leaders and traditional authorities were charged and convicted for the offense of setting a fire and for illegal terrorist association. The arrest was not written and disproportionate violence was used against the arrested persons and their families. In three cases, children were present. In June 2016, Alfredo Tralca and the brothers Ariel, Benito and Pablo Trongol, all members of the Mapuche people were arrested and convicted for the offense of setting a fire of a terrorist nature. The detainees were in preventive jail during 15 months. In March 2016, 10 Mapuche co-proprietors and the traditional authority (Machi) Francisca Linconao were charged of terrorism and convicted of 18 months of jail for the presumed crime of setting a fire that resulted in the death of the couple Luchsinger and Mackay in 2013. The accusation was allegedly based on the declaration of a convict who admitted his participation and the other’s participation, but who later on declared it to be false and being the result of pressure and harassment from the police. The Public ministry requested a life sentence for 10 of them.

**Colombia**

1. **Brutal repression of protest in Buenaventura, 15 June 2017, COL 2/2017**

The communication refers to the alleged use of force, arrest of protesters and use of tear gas in the civil strike happening in the mostly Afro-Colombian city of Buenaventura since May 16th 2017. The indiscriminate use of tear gas by ESMAD forces resulted in severe injuries including for afro-descendant and children. The protestation aimed at asking for the right to water, health services and public education, among other things. On 19 may 2017, 200 persons were arrested, among whom 45 faced criminal charges. It must be recalled that the social situation in Buenaventura was already the subject of a communication sent on 11 March 2016 (COL 2/2016).

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14 [https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23161](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23161)
Reply 27 June 2017

The government’s answers mentioned that after 40 hours of dialogue, the National Government and social leaders of Buenaventura reached an agreement that allowed the municipality to come back to a normal life after 21 days of civil strike. Within the framework of the negotiation, 10 round tables were created addressing different themes. The government implemented a 10-year plan for the district of Buenaventura. He contested this decision and sent at least 7 communications to governmental agencies.

2. Murder and death threats against members of AFRODES, 20 June 2017, COL 3/2017

The communication refers to the murder of Mr Bernardo Cuero Bravo, human rights defender and member of the management board of the Asociación de Afrocolombianos Desplazados (AFRODES), and the death threats against several members of AFRODES, among whom Mrs Erlendy Cuero Bravo, niece of Mr Bernardo Cuero Bravo.

Mr Bernardo Cuero Bravo, Afro-Colombian leader, was killed by two armed men in his house on 7 June 2017. He has been allegedly victim of threats and attempts to his life since 2000. Since 13 September 2013 until 30 November 2016, he benefited from the Programa de Protección de Víctimas de la Unidad Nacional de Protección (UNP). During this period of time, his situation was reviewed several times by the UNP who declared him to be in normal risk. Despite his communications and efforts to be considered in danger, he was refused relevant protection and was eventually killed a few months after the last evaluation by the UNP. At the end of May 2017, the office AFRODES in Cali received death threats against its members, including Mrs Erlendy Cuero Bravo, from the Autodefensas Gaitanistas de Colombia. She was granted precautionary measures by the Inter-American Court of Human Rights but had yet not received anything at the time of the communication.

Reply 19 July 2017

The government of Colombia replied that several assessments of the level of risks existed in favour of Mr Bernardo Cuero Bravo. However, despite acknowledging the existence of a risk, it was attributed to a conflict with a neighbour and considered to be individualised.

3. Critical situation of Human Rights defenders, 19 October 2017, COL 4/2017– no reply

The government did not answer to a communication referring to the deteriorating situation of human rights defenders in Colombia, as well as the increase number of attacks, intimidation and harassment against them in 2017, affecting more especially social leaders, peasants, and supporters of the peace process. The communication refers as well to the increase number of attacks from post-demobilisation groups as well as groups with criminal interests, related, among other things, to the weak presence of the State, especially in areas left by the FARC and high level of multidimensional poverty.

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The following organisations are mentioned: La Corporación para la Paz y el Desarrollo Social, la Corporación Regional para la Defensa de los Derechos Humanos and la Asociación Nacional de Ayuda Solidaria, who were victims of several threats and attacks against their members and their families.

❖ Costa Rica

Costa Rica did not respond to any of the communications.

1. Unconstitutionality of article 181 of Criminal Procedure Code, 23 October 2017 CRI 1/2017\(^{19}\) – no reply

The government did not reply to a communication referring to the Article 181 of the Criminal Procedure Code of Costa Rica, which is presumed unconstitutional in regard to the international standards of the prohibition of torture.

❖ Cuba

1. Harassment against Mrs Leticia Ramos Herrería, 19 October 2017, CUB 1/2017\(^{20}\)

The communication refers to alleged intimidations acts, physical assaults and judicial procedures against Mrs Leticia Ramos Herrería, member of the Damas de Blanco linked with her critical position towards the Cuban government as well as her activities as human rights defender. She was already the object of a communication sent on 8 July 2016\(^ {21}\) (CUB2/2016).

On 9 August 2016, she was victim of a car accident caused by people blocking her way on the road. On 20 August 2017, a similar event happened when a car with security officials blocked her way causing her an accident. She was afterwards arrested, accused of disobedience. She was also accused of incitement of offenses for having participated to a peaceful demonstration on 25 April 2016.

The surveillance activities, intimidation acts, physical assaults and judicial proceedings against Mrs Ramos Herrería due to her activities as human rights defender are very concerning, in particular since her participation to the 157\(^{th}\) period of ordinary session of the CIDH in Washington D.C.

Reply to CUB1/2017, 15 December 2017\(^ {22}\)

The government rejects categorically the allegations mentioned by Mrs Ramos Herrería considered politically motivated against the Cuban people and denies the implication of security officials in the aforementioned car accidents. The governments declared she was brought to the police station on 25 April 2016 for having obstructed the car transit and disturbed public order.

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\(^{22}\)https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23378
1. **Death threats and harassment against members of Participación Ciudadana, 24 July 2017, ECU 1/2017**

Within the context of the presidential elections in Ecuador in April 2017, several members of Participación Ciudadana were victims of death threats and harassment, among whom Mrs Ruth Hidalgo, Director of the association, and her family. The threats came namely from public officials, accusing them to destabilise the country after the association published its own vote counting before the official results were published.

*Reply 25 July 2017* and *22 September 2017*

The government accused the association of using extra official sources therefore not respecting the principles of transparency and impartiality, creating confusion within the population. In addition, the government declared that no complaint had been brought in front of official authorities which is necessary and required to comply with legal procedures.

2. **Intimidation and murder of indigenous peoples rights defenders, 3 November 2017, ECU 2/2017**

The communication refers to alleged judicial proceedings, intimidation and surveillance against Mrs Gloria Hilda Ushigua as well as the murder of her sister-in-law, Mrs Casiela Dahua Cuji, which seems to be linked to their activity against the oil exploitation in the territories of the indigenous people Sápara, in Pastaza Province.

Mrs Ushigua is a human rights defender of indigenous people and President of the Asociación de Mujeres Sápara Ashiñwaka. She was already the subject of a communication on 17 September 2007 (ECU 4/2007). She has been victim of several attacks and intimidation acts in the past years. In 2013, she was charged for terrorism and was victim of racist remarks and violent acts for having protested against an oil exploitation project. In 2015, her house was raided and she was victim of mistreatment with tear gas from members of the police.

In 2016, the Sápara people expressed their opinion against an oil project and claimed for their right for a free, previous and informed consultation which the government failed to implement beforehand. In 2016, Mrs Casiela Dahua Cuji was assassinated presumably for a confusion of identity.

*Reply 16 November 2017* and *3 January 2018*

The government denied all the facts throughout a very long reply of 24 pages.

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**El Salvador**

1. **Death threats against journalists, 27 September 2017, SLV 3/2017**

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28 [https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=71828](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=71828);

[https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=71842](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=71842)
The communication refers to death threats against journalists of Revista Factum and El Faro: Cesar Castro Fagoaga, Juan Martínez D’aubisson and Bryan Alexander Avelar Rodríguez after the publication of an article online denouncing violence against human rights presumably from the Salvadorian police. They received death threats allegedly from members of the police, namely on social networks, Twitter and Facebook.

Reply 7 November 2017

The government declared being in a stage of investigation regarding the aforementioned facts.

❖ Guatemala

1. Forced eviction of the community of Laguna Larga, Guatemala 10 July 2017 GTM 5/2017

The communication refers to displacement, threats of eviction and houses’ destruction of the entire community of Laguna Larga, which represents around 107 families in a humanitarian emergency situation at the border with México. In 1989, roughly 30 years after the community was formed, a law amendment declared the area as protected, not considering the people living there which resulted in their forced eviction by the military.

Reply 11 August 2017 - MANY

The government replied throughout 10 long communications and documents that everything had been done according to the law and that communities had been integrated in several discussions with the government.

2. Alleged threats and intimidation against Colonel Rubio Castañeda, 12 July 2017, GTM 4/2017 - no reply

The government did not reply to a communication referring to the verdict of the Junta de Honor del Ejército de Guatemala, that recommended the cancellation of military offices and

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the discharge of the military service of the Colonel of Infantry Edgar Rolando Rubio Castañeda after the publication of the book ‘Desde el Cuartel; Otra Visión de Guatemala’. The communication refers to the alleged intimidations and threats against the Colonel and his family related to this publication.

3. **Criminal charges against Mr Xitumul Morales, 30 November 2017, GTM 6/2017**

The communication refers to the criminal charges against Mr **Jerson Xitumul Morales**, related to his work as journalist and that could represent reprisal measures for his collaboration with the UN-OHCHR in Guatemala. Mr Xitumul Morales was arrested related to protests organised in May 2017 by fishermen in El Estor protesting against the contamination provoked by mining activities in the Compañía Guatemalteca de Níquel.

**Reply 15 January 2018**

According to the government, Mr Xitumul Morales and other people arrived armed at the Mining Company on 3 May 2017 threatening the workers and ordering them to leave their machines before detaining them for a couple of hours. For this reason, they were charged for the offense of threats and illegal detention. The government affirmed having done everything according to the law.

❖ **Guyana – NO REPLY**

**Guyana did not respond to any of the communications.**

1. **Human rights violation against afro-descendent person, 18 October 2017, GUY 1/2017**

The government of Guyana did not reply to a communication from experts on African Descent, related to alleged threats received by Mr **Easton Stapleton** from prison authorities and guards in Lusignan Prison. He was allegedly threatened after meeting up with the Working Group of Experts.

❖ **Haiti – NO REPLY**

**Haiti did not respond to any of the communications.**

1. **Adoption of bills going against Human Rights, 22 September 2017, HTI 4/2017**

The government did not reply to a communication regarding the adoption of bills presumably going against human rights, including in regard to the principle of non-discrimination, the presumption of innocence, the right to a fair trial, the right to privacy, freedom of expression, the rights to liberty of peaceful meeting and association and the rights for the protection against arrest and arbitrary detention. One of them, the draft bill on ‘réputation et le certificat

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34 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23490](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23490)

35 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=71839](https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=71839)

36 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23403](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23403)

37 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23330](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23330)
de bonnes vie et mœurs’ stigmatises severely homosexuality, criminalising it at the same level as child pornography and incest.
The draft bill modifying parts of the Code civil related to marriage and family protection discriminates homosexuality and transgender people.

❖ Honduras

1. **Intimidation acts against Hedme Castro, 7 June 2017, HND 3/2017**

Human rights defender, **Hedme Castro**, was allegedly victim of intimidation acts linked to her activities as general coordinator of the **Asociación para una Ciudadanía Participativa (ACIPARTICIPA)**. In September 2015, unlawful interference occurred in the institutional electronic mail service of the association, which resulted in the loss of all contacts, documents and emails registered in the latter. In march 2017, Mrs Castro was held for 30 minutes in the airport of Toncontín on her way to the HRC in Geneva. She was interrogated regarding her activities and her belongings were registered. In April 2017, her car was damaged and later in the month she was victim of death threat and other members of the organisation were intimidated as well. In May 2017, several members of the organisation were harassed by members of the Trade Union of MINDOSA for their activities related to the presence of MINDOSA in Azaculpa.

**Reply 29 June 2017**

The government mentioned that they were proceeding to the investigation.

2. **Murder of Ms Montoya, Honduras 10 July 2017 HND 5/2017**

**Sherlyn Montoya**, transsexual woman and activist for LGBTI people’s rights for the organisation **Arcoíris** was murdered in April 2017. Her body presented alleged marks of torture. The government did not reply. This is highly preoccupying within the Ecuadorian context of severe violence, abuses and murders against LGBTI persons and LGBTI rights defenders in Honduras.

3. **Assassination attempt against Mr Valle Castillo, 3 August 2017, HND 6/2017**

**Mr Osmin David Valle Castillo** was victim of an assassination attempt in Tegucigalpa in July 2017, despite benefiting from precautionary measures since April. He is the manager of the **Programa de Participación y Ciudadanía LGBTI del Centro para el Desarrollo y la Cooperación LGBTI** (“**Somos CDC**” - anteriormente conocido como “**Asociación de Jóvenes en Movimiento**”). According to CDC, the number of attacks rose against the organisation’s members since they started to provide trainings for LGBTI communities. The inadequate protection measures granted from the government, and the constant attacks against LGBTI people’s rights defenders are highly preoccupying.

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38[https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23121](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23121)
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40[https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=76595](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=76595)
41[https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23157](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23157)
42[https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23257](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23257)
The government did a follow-up of the measures implemented in favour of Mr Valle Castillo and new ones had to be implemented. In addition, the government said it was leading an investigation on the assassination attempt.

4. **Criminalisation of university students, 11 August 2017, HND 7/2017**

The communication refers to the alleged criminalisation of university students that were charged of usurpation and deprivation of liberty for taking part in a public protest, as well as the intimidation acts and threats from private security companies and National Police aiming to disperse pacific student protest. As a result, the following students were charged for criminal proceedings: **Cesario Alejandro Padilla Figueroa, Moisés David Cáceres Velásquez y Sergio Luis Ulloa Rivera**. They were eventually found guilty for usurpation against the UNAH.

In addition, the communication is highly concerning regarding the disqualification from university and governmental senior officials of **Ismael Moreno**’s work, a human rights defender and Jesuit priest who was accused of destabilising the country and promoting anarchy among students, for a post he did on Facebook against the UNAH.

The Universidad Nacional Autónoma de Honduras (UNAH) was already the subject of a communication in April 2011 (HND 4/2011). In addition, Mr Moreno was already the subject of a communication in May 2017 (HND 2/2017) related to his work as Director of the Radio Progreso broadcast, which was left unanswered.

Reply 24 November 2017

Half of the answer given by the government has a confidential character and therefore cannot be read. The other half does not bring any information on the communication.

❖ **Mexico**

1. **Alleged use of surveillance technologies against human rights defenders, 14 July 2017, MEX 4/2017**

The communication refers to the alleged use of surveillance technologies through the software Pegasus, by state agencies against members of the **Grupo Interdisciplinario de Expertos Independientes de la Comisión Interamericana de Derechos Humanos** (GIEI), among whom members of the **Centro de Derechos Humanos Miguel Agustín Pro Juárez (Centro Prodh)** and other members of civil society in México; as well as the discourse of the Mexican President requesting investigations against whom designated the Mexican Government as author of these acts.

On 19 August 2016, a previous communication was sent for interventions of private communications against members of the Centro Prodh and other human rights defenders (AL MEX 8/2016).

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42 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=76711](https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=76711)
43 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23263](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23263)
44 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=76714](https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=76714)
45 [https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23207](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23207)
The communication accused the government of intruding the cell phones of these person
through a link sent by SMS that could be used to then control the cameras and data of the
concerned cell phones. Those infiltration attempts were every time linked to publications,
preparations of reports, meetings, or other key moments for the NGOs in regard to human
rights violations.

Reply 23 November 2017

The government said the Fiscalía Especializada para la Investigación de Delitos contra la
Libertad de Expresión was leading an investigation on the activities. The government invited
the members of the Centro Prodh to register to the Mecanismo de Protección para Personas
Defensoras de Derechos Humanos y Periodistas, for which the government did not receive
any answer. In addition, the government requested the computing equipment of the alleged
victims in order to lead an investigation.

2. Unconstitutionality of the Ley Estatal sobre el Uso de la Fuerza, 16 October 2017,
MEX 5/2017 - no reply

The government did not reply to the communication referring to several dispositions of the
law controlling the use of public force in the State of México, currently under review, which
if not modified, could be against the international norms and standards related to freedom of
peaceful assembly (Ley Estatal sobre el Uso de la Fuerza). The law was accepted after a
three-month process during which civil society could scarcely participate. Two human rights
commissions sent communications to the state to mention the unconstitutionality of the law
but did not produce any impact.

3. Torture of human rights defenders, 20 October 2017, MEX 6/2017 - no reply

The government did not reply to allegations of torture concerning Mrs Sofía Viridiana
Sánchez Guerra, Verónica Razo Casales, Corina de Jesús Utrera Domínguez, Denise
Blanco Lobato, Guillermina Martínez Torres, Gloria Elena Bautista Gómez, Vianey
Cedillo Trejo, Brenda Quevedo Cruz and Taylin Narda Meylin Clotet Wang.
According to the allegations received, these persons were physically, sexually and
psychologically tortured by members of the Attorney General’s office, at national or federal
level, or by members of the Secretary of the Navy (SEMAR). All of them were charged with
organised crime or abductions and 9 of them were deprived of liberty.

4. Detention of Mr Moreno Rutowski, 17 November 2017, MEX 8/2017 - no reply

The communication refers to the detention of Mr John Joseph Moreno Rutowski during 3
months and to the existence of several open judicial processes against him, allegedly linked to
his activities as human rights defender in the State of Baja California Sur. In 2012, Mr
Moreno Rutowski started an information campaign and public protests against the social and
environmental impact of two megaprojects that were to be built in Baja California. Following
his activities, the office of the Attorney general of the state of Baja California started several
judicial processes against him as well as delegitimisation and intimidation acts.

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48 https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23383
49 https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23446
5. **Lack of consultation of Yaqui people, 22 November 2017, MEX 7/2017** - no reply

The government did not reply to the alleged lack of appropriate and lawful consultative process with the Yaqui indigenous community people in regard to the project of the aqueduct Independencia and the pipeline Aguaprieta, as well as with the lack of compliance with the judicial derogations of the latter. The lack of precautionary measures for the Yaqui leaders that were threatened for their opposition to the projects is very concerning. This topic was already the subject of a communication sent in 2015 (MEX 10/2015) which was already left without answer.

6. **Murder of the President of the Comisión Estatal de Derechos Humanos, 23 November 2017, MEX 9/2017**

The communication refers to the murder of the President of the Comisión Estatal de Derechos Humanos de Baja California Sur (CEDHBCS), Sr. Silvestre de la Toba Camacho, as well as the murder of his son and the severe injuries caused to his wife and daughter in the same attack. As President, he issued recommendations in favour of the vulnerable groups such as agricultural labourers and people with incapacities and minors. He also denounced the abuses committed by municipal and state police. It his highly concerning the level of vulnerability in which the human rights defenders in México currently find themselves, including those working for national and federal institutions, as well as the risk for those attacks, to remain unpunished.

**Reply 2 January 2018**

The information related to the current investigation on the attack are not available. Regarding the protection of human rights defenders, the government stated that it implemented a Mechanism in 2012, the Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas and that it was to implement measures to improve the mechanism.

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**Paraguay**

*Paraguay did not respond to any of the communications.*

1. **Delay in ratification of a bill against abuses of identity, 25 September 2017, PRY 1/2017** - no reply

The government of Paraguay did not reply to a communication referring to the draft bill of August 2016 for the "Regulación de la Activación del Servicio de Telefonía Móvil". The bill aimed to avoid abuses of identity and fraud to obtain phone numbers but is still waiting to be ratified.
Peru did not respond to any of the communications.

1. **Lack of consultative process**, 12 July 2017, PER 5/2017\(^{54}\) - no reply

The communication requested for a new consultation process before a new contract of licence of exploration and exploitation was granted for a period of time of 30 years, of the so-called Lote 192 in the Department of Loreto.

2. **Criminal investigations against Ms Pinares Ochoa**, 14 July 2017, PER 4/2017\(^{55}\) - no reply

The communication refers to the criminal investigations against Mrs Virginia Pinares Ochoa allegedly linked to her work as human rights and environment defender regarding the mining project Las Bambas in the province of Cotabambas and Grau. Between April 2015 and February 2016, state authorities authorised various modifications to the original mining project without consulting the affected communities. Civil society organisations sent several communications to the government asking to remove these modifications and proceed to a consultation. As they did not receive any reply, these organisations started a strike, which led after three days to the use of fire weapons by the government, leading to 3 deaths and more than 30 injured.

Ms Pinares Ochoa as well as 98 other persons were charged of coercion, usurpation, attempts against public peace, among other things.

3. **Criminal investigations against Ms Moore and Mr Dougherty**, 2 August 2017, PER 6/2017\(^{56}\) - no reply

The government did not reply to alleged criminal accusations, violation of due process and defamation campaigns in the medias against human rights defenders Jennifer Moore and John Dougherty.

It is very preoccupying the criminal charges against Ms Moore and Mr Dougherty which are linked to their activity as human rights defenders, to the projection of the documentary Flin Flon Flim Flam, and to their participation in the social and environmental movement opposing the human rights violations resulting of the activities of the mining industry Hubday Minerals in Peru. In addition, the lack of due process in their judicial proceedings and the defamation against them in the media are equally alarming.

4. **Constitutional accusation process**, 13 October 2017, PER 7/2017\(^{57}\) - no reply

The government did not reply to the communication referring to the constitutional accusation process against Mr Manuel Miranda Canales, President of the Tribunal Constitucional, Ms Marianella Ledesma Narváez, Vicepresidente of the Tribunal Constitucional, and Mr Carlos Ramos Núñez and Eloy Espinosa-Saldaña Barrera, Magistrates of this same

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Tribunal, for emitting a process correcting a mistake affecting a material mistake in a sentence of 2013 related to the case known as El Frontón.

❖ Suriname

1. **Delay to the President’s trial, 10 August 2017, SUR 1/2017**<sup>58</sup>

The communication refers to delays to the trial of the President of Suriname, Mr **Desiré Delano Bouterse**, accused of crimes involving unlawful killings. The trial started in 2007 and charged Mr Bouterse of the murder of thirteen civilians and two military personnel in 1982. Mr Bouterse became President in 2010, and in 2012, the Parliament passed a law granting amnesty to the incumbent President Bouterse. In 2016, the Military Court found the Amnesty law unconstitutional and ordered the proceedings to resume. Following many delays, in June 2017, Suriname’s Prosecutor urged the Court to impose a 20-year sentence on Mr Bouterse. The facts are concerning regarding the apparent interference of the executive and legislative branches in the independence of the judiciary, in contradiction to the fundamental principle of the separation of powers and international human rights standards. In particular, concern is expressed at the amendment of the Amnesty Law in 2012 and at other attempts by the executive branch to halt the prosecution of those accused of murders that allegedly took place in 1982.

**Reply 30 August 2017**<sup>59</sup>

The government answered in a very long reply of 21 pages that it took offense at the communication which they consider as a ‘serious violation of the principles of non-interference and non-intervention in the internal affairs of a Sovereign state’. They stated that ‘the biased and incorrect alleged infringement of the Government of the Republic (…) is vehemently rejected’. The government criticised the sources of the communication perceived as ‘unverified’ and ‘incorrect information’. The government denied all accusations included in the communication.

❖ Trinidad and Tobago

*Trinidad and Tobago did not respond to any of the communications.*

1. **Deprivation of liberty of Mr Seepersad, 21 July 2017, TTO 2/2017**<sup>60</sup> - no reply

The government did not reply to the alleged deprivation of liberty of Mr **Zaheer Seepersad** in St Ann’s Psychiatric Asylum, as well as that of other individuals, under allegations of having a psychosocial disability. This deprivation of liberty happened in alleged violation of the law as patients are supposed to receive a medical certificate justifying their condition and need to be interned, which allegedly was not respected in the communication’s case. It is worrying that Mr Seepersad’s case represents a common practice in St Ann’s Psychiatric Asylum.

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<sup>59</sup>https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=71699  
<sup>60</sup>https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23215
❖ Uruguay

Uruguay did not respond to any of the communications.

1. Issues in the Article 15 of the Ley de Rendición de Cuentas y Balance de Ejecución Presupuestal, 30 November 2017, URY 2/2017⁶¹ - no reply

The government of Uruguay did not reply to the communication notifying several issues in regard to Article 15 of the Ley de Rendición de Cuentas y Balance de Ejecución Presupuestal, that holds the execution of certain judicial condemnatory judgements against the government to the decision of other power of the State, disrupting the principle of the separation of powers and affecting the independence of the judiciary in Uruguay.

❖ Venezuela


The Venezuelan State did not respond to the alleged use of violence from armed groups against opposing protestors on July 4th, and especially against the human rights defender and journalist Melanio Escobar and his family. During a pacific protest, around 30-40 armed men intimidated and assaulted the protesters. Several persons ended up injured. Mr Escobar was allegedly attacked for his activism. People intended to contact the Policía Nacional Venezolana and the Guardia Nacional Bolivariana but did not receive any answer.

2. Criminalisation of protests, July 2017, VEN 4/2017⁶³

The communication refers to the criminalisation of the protests that happened in Venezuela since April 2017, the excessive use of force and the submission of the citizens arrested under the military jurisdiction in 9 States and in the Federal District. Systematic and generalised arrests occurred, 4’072 persons have been arbitrarily deprived of liberty from April 1 to July 19 2017. In addition, the people arrested were usually left without means of communication and remained disappeared temporarily. Article 44.2 of the Constitution was violated regarding the impossibility to communicate with family members or lawyers. In violation of article 49 of the Constitution, the rights of defence and judicial assistance have been systematically violated preventing lawyers to exercise and to reunite with the detainees. Among the 4’072 persons released, 257 were released without being presented in front of a tribunal. 1’007 persons are currently under arrest for their participation in the protests, waiting to be presented to a Tribunal and remain in prison.

454 detainees were released with precautionary measures such as the periodic presentation to a tribunal and the prohibition to leave the country. It is alleged that there exist no valid legal motives in any case to justify preventive imprisonment. Many detainees denounced torture, cruel, inhuman and degrading treatments.

⁶¹https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23494
⁶²https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23239
⁶³https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23244
The government replied throughout 30 pages that its use of force was the necessary response to violent actions from groups of power disseminating a wrong and manipulated image within the media aiming to incriminate the State of Venezuela. The government also emphasised that these groups were not keen on engaging in dialogue with the government and on looking for pacific solutions. The government denied being responsible for the high number of deaths and accidents and accused anti-governmental groups to have used fire weapons and other types of weapons or barricades. According to the government, 42% of the deaths were due to protestors, and only 13% were due to the excessive use of force by the government, which according to the latter, cannot lead to an accusation of systemic repression or human rights violation from the government. The government declared that the accusations were aiming to promote a foreign intervention in Venezuela and to delegitimise the sovereignty of the Venezuelan people expressed in the past elections of 2013.

3. **Deterioration of the health system, 16 August 2017, VEN 5/2017** - no reply

The government did not reply to the alleged deterioration of the health system in Venezuela, including the shortage in contraception, which would affect severely the right to enjoy the highest level of physical and mental health, especially for women and indigenous peoples. These categories are unequally affected by the increase and extreme poverty. The lack of access to contraception is directly linked to the increase number of pregnancies and to insecure abortion associated with non-desired pregnancy. In addition, there is an inequality in accessing contraception between rural areas comprising Mestiza and indigenous peoples, and urban areas. Moreover, the shortage of contraception coincides with the increasing of teenage pregnancies, which contributes to the high number of insecure abortions and has a negative and direct impact on the health and well-being of teenage girls. The lack of contraception and other medical supplies and the lack of medical attention provoked an increased rate of maternal mortality, which is even more significant among indigenous women.

4. **Criminalisation of protests, 17 August 2017, VEN 6/2017**

This communication is the follow-up of VEN 4/2017, dated of 28 April 2017, concerning the 4’072 persons arrested in the context of protests in Venezuela.

**Reply 16 October 2017**

The government’s response is a summary of the previous communication’s response. The government declared that the protesters used various means of high fatality levels and that their actions generated a violation of human rights for many others, including 121 fatalities and 1’958 persons injured, requiring an action from the government to guarantee public order.

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67 https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=76710
5. **Criminalisation of adultery and discrimination against women, 28 November 2017, VEN 7/2017**

The communication refers to the problematic criminalisation of adultery and its discriminating aspect against women, according to articles 396 and 397 of the Penal Code of 2000.

**Reply 24 January 2018**

According to the government, the aforementioned articles were cancelled in 2016 and are therefore not applicable.

**CONCLUSION**

Firstly, **the lack of reply by States highly is highly concerning**, especially for México, which replied to only 2 out of 6, Brazil, that replied to none out of 5, Chile that replied to none out of 3, Peru that replied to none out of 4, and Venezuela that replied to only 3 out of 5.

However, the fact that States **reply to communications is not necessarily something positive**. As could be seen in a transversal way throughout all countries’ communications, governments often merely **acknowledge the communications**, or reply with extreme length to say just a little, which is unfortunately more than often, irrelevant, and used to deny all the facts, presenting them under a different and biased light than the one exposed in the communication.

This highlights the hypocrisy of the States not to comply adequately with the Special Procedures mechanism of the United Nations.

Secondly, the very high number of cases concerning violations against **human rights defenders, freedom of peaceful assembly and association**, and **freedom of opinion and expression** is highly concerning.

- The issues of human rights defenders concern 11 countries out of 20 (Mexico, Honduras, Colombia, Peru, Ecuador, Venezuela, Brazil, Bolivia, Guatemala, Cuba, El Salvador).
- Violations against freedom of peaceful assembly and association and violations of freedom of opinion and expression concern 13 countries out of 20 (Honduras, Colombia, Guatemala, Bolivia, Brazil, Peru, Venezuela, Ecuador, Mexico, Cuba, El Salvador, Paraguay, Haiti).

Thirdly, there is a general trend regarding the **lack of adequate precautionary measures** towards human rights defenders, civil society leaders, and other persons affected by risk of human rights violations, who, despite being sometimes granted some form of precautionary measures, eventually are victim of assassination attempts, discrimination, intimidation acts, harassment, and other forms of human rights violations. This trend represents a lack of implementation of adequate measures, and a lack of preventive measures to protect people claiming protection.

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68 [https://spcommreports.ohchr.org/TMRResultsBase/DownloadPublicCommunicationFile?gId=23497](https://spcommreports.ohchr.org/TMRResultsBase/DownloadPublicCommunicationFile?gId=23497)

69 [https://spcommreports.ohchr.org/TMRResultsBase/DownloadFile?gId=76809](https://spcommreports.ohchr.org/TMRResultsBase/DownloadFile?gId=76809)
A general trend of all Latin-American countries’ communications would be irrelevant as situations are very different in each country. However, this report aimed at highlighting the general issues aforementioned concerning namely the lack of adequate reply by governments, and emphasising the main human rights violations present in Latin American countries, in order to allow for a better use of the Special Procedures’ communications system.