GENERAL OVERVIEW OF THE COMMUNICATIONS ADDRESSED TO LATIN AMERICAN COUNTRIES DURING THE 38TH SESSION OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL

Communications Report of Special Procedures
A/HRC/38/54
1 December 2017 – 30 April 2018

Melba Sanchez Fernandez
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GENERAL OVERVIEW OF THE COMMUNICATIONS ADDRESSED TO LATIN AMERICAN COUNTRIES DURING HRC 38

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 the communications that they have sent to States. Unfortunately, these reports only index the number of communications sent and answers received, without condensing, country-specific, all the communications. Therefore, they do not represent a report with analytical and functional information and statistics that would clearly outline trends, patterns and key issues emerging in certain States from the large number of communications sent and the replies to these.

Therefore, this report intends to fill in the gaps of the report published by the Special Procedures¹ and aims to outline clear trends and provide country-specific analysis for the Latin American region. This report focuses on communications discussed at the 38th Session of the HRC, which include communications sent between 1 December 2017 and 28 February 2018 and the replies received between 1 February and 30 April 2018 to all Latin American countries.

### NUMBER OF COMMUNICATIONS SENT TO LATIN AMERICAN COUNTRIES AND REPLIES RECEIVED

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<th>Country</th>
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Between 1 December 2017 and 28 February 2018, the Special Procedures sent 26 communications to 13 countries, out of which 16 were answered, and 10 left unanswered, which represents a

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response rate of 61.5%. The previous session’s report included 46 communications to 20 countries and had a response rate of 41%.

Several countries did not reply to any of the communications: Bahamas, Brazil*, Ecuador, and Paraguay.

Mexico, followed by Colombia, Guatemala, Peru and Venezuela, received the most communications once again.

The countries of Bolivia, Chile, Costa Rica, El Salvador, Guyana, Suriname, Trinidad & Tobago, Uruguay did not receive any communications within this period of time.

**TYPES OF COMMUNICATIONS AND ISSUES RAISED**

Among the total amount of category types raised within the communications (23 categories, 67 total), over half (50.7%) concern violations against human rights defenders, freedom of opinion and expression, executions, and indigenous peoples. Following these are: arbitrary detention, health, truth, justice, reparation, guarantees of non-recurrence and torture.

Since the last report, the same two categories of communications remain the highest but there were now more communications sent about executions than freedom of peaceful assembly and association, which were not present during this time.
COUNTRY ANALYSIS

This section summarizes 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 of the links to the communications are available².

❖ Argentina

1. Rejection of entry visas and accreditations to representatives of civil society, 11 December 2017, ARG 4/2017³

The communication refers to the denial and revocation of entry visas to representatives of civil society organizations to participate in the 11th Ministerial Conference of the World Trade Organization (WTO) that was scheduled December 10 to 13 in Buenos Aires (Argentina), excluding around sixty people of different nationalities, whose organizations would have complied with the requirements for WTO accreditation. On 2 December 2017, the Ministry of Foreign Affairs confirmed that the decision had been taken since some participants had allegedly expressed possible manifestation of violence through social media, even though many of those who were denied authorization were researchers and experts with long histories in the fields of negotiations and international trade, resulting in unjustified restrictions on the right to freedom of expression and peaceful assembly and limiting the representation of civil society in a multilateral event.

(freedom of opinion and expression, human rights defenders)

Reply 11 January 2018⁴ ⁵ ⁶

The government of Argentina sent three different replies on the same day detailing how they claim that they did not exclude the participation of civil society organizations from participating in the conference but instead put into practice precautionary migratory control that was respectful of the standards of international regulations, in agreement with the outlined criteria of necessity and proportionality.

❖ Bahamas

Bahamas did not respond to any of the communications.

2. Ill-treatment of migrants by excessive police force, 2 January 2018, BHS 1/2018⁷-no reply

The government did not reply to a communication referring to the crackdown, detention and deportation of irregular migrants, including through police’s excessive use of force, which was the source of a previous communication (A/HRC/30/27, case no. BHS 1/2015) that also never received a reply. On 11 October 2017, the Prime Minister Hubert Minnis announced that by the end of the year, all migrants who were there illegally had to leave the country, prompting an aggressive crackdown of mainly Haitian migrants, who were held in detention centers for long periods of time under inadequate conditions and expelled in large numbers without the possibility to appeal against their deportation order.

² All of the communications and reports can also be found on the OHCHR Communications database website: https://spcommreports.ohchr.org/
Brazil did not respond to any of the communications. *

1. **Amendment of law that would allow use of electric shock weapons in juvenile detention centers**, 8 January 2018, BRA 12/2017\(^8\) - no reply

The communication refers to the current proposed bill PL-6433/16. The bill seeks to amend article 125 of Law No. 8,069 of 13 July 1990, which would allow for the use of electric shock weapons, riot control equipment and armed escorts during the transfer of detainees in juvenile detention centers in Brazil. Concerns were stressed that the proposed amendments could place adolescents deprived of their liberty in an extremely vulnerable position and create an environment conducive to cruel, inhuman or degrading treatment, in violation of Brazil’s obligations to prevent such acts under Article 16 of the UN Convention against torture.

   *(torture)*

2. **Dismantling of contaminated ship with hazardous substances owned in part by Brazilian company**, 31 January 2018, BRA 1/2018\(^9\)

The communication refers to the alleged transboundary movement of an end-of-life ship owned by a partnership between a Danish and a Brazilian company and containing hazardous substances and wastes, which arrived in August 2016 in Chittagong, Bangladesh for dismantling. Non-governmental organizations raised serious concerns with regard to the polluting effect of the vessel structure by dangerous chemicals, oil and gases, as well as radioactive material. A report on the ship’s condition was released in June 2017 indicating the presence of radioactive residues and noting the need for further surveys on the whole ship. At the yard where the North Sea Producer was supposed to be dismantled, ship-breaking is done without workers having access to the necessary safety equipment, as well as use of proper safety procedures, and the beach area where dismantling takes place is also not adequately protected from pollution, as hazardous materials are in direct contact with the soil and sea.

   *(business, hazardous substances)*

**Reply 4 April 2018\(^10\)**

The government of replied that Brazilian Ministry of Environment (MMA) was not aware of the North Sea Producer case until receipt of the communication and no link has been found between the two in their files, stating that perhaps it could be accredited to someone having used false information to evade the law.

*Although the Human Rights Council’s Communications Report of Special Procedures states that the government of Brazil had not responded to any of their communications, through our research of their database, we found that on 4 April 2018, the Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva had sent a response in relation to the Specials Procedures branch regarding the communication sent. This communication is connected, and was also sent, to various other country’s governments, perhaps explaining why their response was not considered as such.*
Colombia

1. Lack of questions regarding populations with disabilities in National Census, 21 December 2017, COL 5/2017

The communication refers to the National Population and Housing Census 2018, scheduled for the first semester of 2018, which excludes questions meant to gather information on the population with disabilities. In November 2017, the Director of DANE, responsible for implementing said census, informed the Minister of Health and Social Protection that, due to fiscal restrictions and budgetary measures, DANE would limit itself to basic and astute inquiries and would not be able to collect and update information on persons with disabilities. These would go against Article 31 of the Convention on Rights of Persons with Disabilities which was ratified by Colombia on 10 May 2011.

Reply 26 March 2018

The government replied that in January 2018, DANE communicated that they would include questions about disabilities in the next census and reiterated their commitment to the Convention on Rights of Persons with Disabilities.

2. Intimidation and threats against Mr. Germán Graciano Posso by paramilitary groups, 1 February 2018, COL 1/2018 – no reply

The communication refers to death threats and attacks by paramilitary groups against Mr. Germán Graciano Posso, member of the Peace Community of San José de Apartadó, allegedly related to his work as a defender of human rights and his participation in the United Nations Forum on Business and Human Rights of the UN in 2017, which may constitute as retaliations under resolutions 12/2, 22/6 and 24/24 of the Human Rights Council. This had been the source of a previous communication in 20 August 2015 (UA COL 4/2015), and while the government answered the communication, no concrete action had been taken to protect Mr. Graciano Posso and no information had been sent regarding disciplinary proceedings of the allegations made, as had been agreed to in their reply. On 29 December 2017, after weeks of progressive intensification of threats against the community in general, and in particular against Mr. Graciano Posso, five paramilitaries broke into a warehouse with the alleged intention to kill him. Three of the attackers managed to flee, while others two were captured and delivered by the community to government authorities, whom released them 24 hours later. The government did not answer to this and other communications referring to the long-standing deteriorating situation of human rights defenders in Colombia, as well as the increased number of attacks, intimidation and harassment that affect social leaders, peasants, and supporters of the peace process in particular.

(business, executions, freedom of opinion and expression, human rights defenders)


This communication refers to the murder of human rights defender Temístocles Machado, an act allegedly linked to his work for the defense of the territory and the community of Isla de la Paz, in
the Commune No. 6 of the port of Buenaventura, presumably perpetrated by armed groups operating in the city. On 27 January 2018, while at a location at the port of Buenaventura, Mr. Machado was attacked by two unidentified people and shot from a motorcycle, later passing away at a local clinic in the wake of the injuries. Mr. Machado received threats related to his work as a defender of human rights in the past, which led to the National Protection Unit of the Ministry of Interior granting him measures of protection in the allocation of a personal escort, that was nevertheless was removed in 2017 when Mr. Machado demanded protection not just for himself but for all the community. The communication once again reiterated the pressing concerns related to the safety of human rights defenders in Colombia and urged for immediate action regarding investigations to those responsible for these attacks and further measures to enforce and guarantee the protection of defenders against paramilitaries and armed post-demobilization groups in the context of the implementation of the Peace Accords.

(executions, freedom of opinion and expression, human rights defenders)

Reply 6 April 2018

The government confirmed that their National Protection Agency conducted a study to assess the risk of human rights defenders in Buenavista, which Mr. Machado was a part of and withdrew his participation on the basis of requesting protection for the entire community. They provided limited information about any other follow-up investigations they have conducted as to Mr. Machado’s case or to ameliorate the situation for human rights defenders.

❖ Cuba

1. Threats against lawyers and defenders Rigoberto González Vigo and José Ernesto Morales Estrada, 9 February 2018, CUB 1/2018

The communication refers to allegations of interrogations and threats against human rights lawyers and defenders Rigoberto González Vigoa and José Ernesto Morales Estrada, following their recent participation in UN Sessions and in various other occasions. Both Mr. González Vigoa and Mr. Morales Estrada are lawyers and members of the non-governmental organization Legal Counseling and Civic Instruction (CJIC). On 18 December 2017, while both of them were in Cuba, they were summoned to appear before the local police in the city of Pinar del Río. Once there, they received threats and were told that from that day on, they were forbidden from traveling outside of Cuba and that the meetings and training in human rights organized by CJIC, as well as their interaction with UN bodies, would no longer be allowed. General concern is expressed in the face of an increase in the number of cases of Cuban human rights defenders who are subject to reprisals after interactions with UN bodies or who participate in international or regional forums.

(freedom of opinion and expression, human rights defenders)

Reply 6 April 2018

The government replied that they do not accept the allegations and reject the use of the Special Procedures system by the Human Rights Council, claiming that the statements made were false and/or do not violate any human rights. They stated that Mr. González Vigoa and Mr. Morales Estrada
were not held against their will nor interrogated and have traveled freely to other human rights sessions and for leisurely purposes since the allegations were made. The government also claims that both men are not human rights defenders but instead have the objective to subvert the legitimately established order, which they state is a crime in any country. They emphasized that they do not detain, persecute, harass or intimidate individuals for peacefully exercising their rights and that Cuban laws include extensive guarantees for the promotion and protection of human rights.

❖ Ecuador

Ecuador did not respond to any of the communications

1. Allegations of presumed violation of the principles of judicial independence and separation of powers in constitutional procedures, 24 January 2018, ECU 1/201818 – no reply

The government did not reply to a communication referring to the alleged risk of affecting the principles of judicial independence and separation of powers in accordance to article 14 in the International Covenant on Civil and Political Rights in two cases: first, the expedition of Decrees 229 and 330, without the respective revision of the Constitutional Court and second, the apparent violation of the separation of powers in the creation of the Citizen Participation Council.

(independence of judges and lawyers)

❖ Guatemala

1. Murder of Tomás Francisco Ochoa Salazar, 13 December 2017, GTM 7/201719

The communication refers to the assassination of Mr. Tomás Francisco Ochoa Salazar, a Guatemalan trade unionist, and the attempted murder against one of his colleagues during the same attack. Mr. Ochoa Salazar was the conflict secretary of the Workers’ Union of Processed Meat, S.A. (SITRABREMEN) which advises in cases of suspensions and harassment against workers, and alerts about possible retaliation related to collective bargaining with the company. Two unidentified people attacked both men, fatally shooting Mr. Ochoa Salazar, making him the 87th trade unionist to be killed in Guatemala since 2004. Concern was expressed in the wider context of constant violence and intimidation of union members, leaders, and defenders of labor rights in Guatemala.

(executions, freedom of opinion and expression, human rights defenders)

Reply 15 February 201820

The government stated that it protects the freedom and the right to organize of workers and continues to implement protective measures for cases in which the integrity and life of members of any union are at a possible risk, through protocols of immediate and preventive action based on research and information provided by the people. Information provided about the specific attack remained confidential, yet they reiterated their commitment to the rights of union members.

2. Murder of Ronal David Barillas Díaz, 1 February 2018, GTM 1/201821

The communication refers to the murder of Mr. Ronal David Barillas Díaz, rights defender of the indigenous Xinka People and member of the coordination of communities affected by the activity of
the sugarcane agro-industry in the areas of Escuintla, Santa Rosa and Jutiapa. Mr. Barillas Díaz was a human rights defender who worked for the protection of the environment and for the right to consultation in extractive industry projects within Guatemala, such as the mining activities by the Canadian company Tahoe Resources Inc. (Minera San Rafael S.A.). On January 9, 2018, Mr. Barillas Díaz was killed in the municipality of Taxisco, Santa Rosa, purportedly shot six times in the chest by two unknown persons traveling in a white car. If confirmed, the allegations would be framed in a larger context of violence and constant intimidation of human rights defenders of indigenous and environmental rights in Guatemala.

(environment, executions, human rights defenders, indigenous peoples)

Reply 9 April 2018

The government manifested their concerns for the murder of Mr. Barillas Díaz and reiterated its commitment to carrying out the relevant investigations to find out the circumstances in which the murder took place, as well as those responsible. They stated that they have held workshops, along with other human rights defenders, in order to advance in their investigation and to protect his family members and others involved against death threats and warnings they have received.

They also noted that they have created two new main mechanisms to guarantee the protection of Guatemalans through preventative and immediate attention, including The Protocol for the Implementation of Immediate and Preventive Security Measures in favor of Human Rights Defenders, which is activated in a preventive manner or when there are indications of possible violations of fundamental rights, and the Instance of Analysis of Attacks Against Rights of Human Rights, that methodologically analyzes, keeps track of, and strengthens investigation material and mechanisms for the protection of human rights defenders.

2. Detention and criminal charges against María Magdalena Cuc Choc, 14 February 2018, GTM 2/2018 - no reply

The communication refers to the detention for two days and the prosecution of the indigenous leader María Magdalena Cuc Choc for the crimes of "aggravated usurpation", "threats" and "illegal detention", in relation to her activism in the case of the eviction of 56 families from the indigenous community of Chabilchoch, a property disputed with the company Lisbal S.A., in the area of Izabal. On 17 January 2018, Mrs. Cuc Choc was arrested without warrants in Puerto Barrios by agents of the National Civil Police and after transferred to the Preventive Detention Center for Men and Women despite not having been linked to a process until Friday, January 19, where she was then provisionally released after paying 5,000 quetzales. The charges were lodged by the company Lisbal S.A., in relation to the entry of members of the indigenous community of Chabilchoch on 19 December 2016 to the property known as “Finca Santa Isabel”, in which they had historically lived in and were once again evicted from on 30 October 2017.

It is alleged that the evictions of indigenous communities in Guatemala have increased in recent times, which reflect the situation of lack of security in land tenure and the limited recognition of property rights of indigenous peoples based on their traditional use and occupation. Concern is expressed over the arbitrary detention, prosecution, and seemingly disproportional charges filed
against Ms. Cuc Choc, and also about the pattern of criminalization of defenders of human rights observed in Guatemala in order to intimidate and immobilize them.

(freedom of opinion and expression, human rights defenders, indigenous peoples)

❖ Haiti

1. Inhuman conditions and treatment of detainees in the National Prison in Port-au-Prince, 12 January 2018, HTI 5/2017

The communication refers to the human rights situation and conditions of detentions at the civil prison of Port-au-Prince (National Penitentiary). The accusations include extreme overcrowding (operating at over 980.48% maximum capacity based on numbers from October 2017), pre-trial detention and other instances of arbitrary or unlawful detention (a cause for part of the overcrowding as 87% of inmates would be in pre-trial detention, with an average stay of 1,100 days, 91% detained illegally and without being informed of legal assistance offices), inadequate food, drinking water, and hygiene situations (problems of malnutrition and undernutrition as a result of the precarious and unsanitary feeding conditions, lack of clean water, toilets, showers, and personal hygiene devices, creating further vulnerability to the spread of diseases and death in detention), lack of health and medical care, and insecurity and death in prisons (73 prisoner deaths between January and August of 2017 due to the reasons mentioned above).

(arbitrary detention, executions, food, health, torture, water and sanitation)

Reply 31 January 2018

The government acknowledged receipt of the communication and stated that it will be transmitted to Mr. Antonio Rodrigue, Minister for Foreign Affairs and Worship.

❖ Honduras

1. Violation of human rights relating to presidential elections, 15 December 2017, HND 8/2017

This communication was issued jointly with the IACHR’s Special Rapporteur on freedom of expression and refers to allegations of illegitimate restriction of human rights by state authorities during post-presidential elections on 3 December 2017. The citizens of Honduras received no official information on the results of the presidential election held on 26 November 2017 by the Electoral Supreme Court, which led to widespread discontent and protests in cities such as Tegucigalpa, Ceiba, and San Pedro Sula. National human rights organizations have documented the use of firearms by the military police against groups of demonstrators, which resulted in the death of 12 protesters and 2 members of the police, 51 people injured and 7 people seriously injured, the arrest of at least 844 people, of which 127 would be protesters, and it is alleged that in 3 cases, protesters were accused of the crime of terrorism. Arrests and attacks against journalists have also been reported during protest coverage.

On 1 December, the government decreed a state of emergency and ordered a curfew (Decree No. PCM 084- 2017) and on 5 December 2017, the Executive Powers again decreed the suspension of the right of movement for a period of six days (Decree No. PCM/085/2017). More than a hundred people have since been arrested in the main cities of the country, many of them transferred to military
installations, where they registered cases of excessive use of force at the time of arrest and transfer, and relatives and human rights organizations have reported the isolation of the detainees. Radio Progreso also denounced the sabotage of its tower and antenna resulting in the loss of signal in the central area of the country on 9 and 10 December, which was also previously targeted and suspended by military forces during the 2009 coup d’état. Profound concern is expressed about the facts denounced that indicate illegitimate restrictions of several fundamental human rights in the context of protests and deem that it is essential that, at times like the one that Honduras is going through, the authorities strictly comply with their obligations to respect and guarantee the rights to life, personal integrity and security, as well as political rights, the right to peaceful assembly and the rights to freedom of association and of expression of all persons under its jurisdiction.

(freedom of opinion and expression, human rights defenders)

Reply 16 of February 2018

The government replied that the Secretary of State requested information from all competent bodies, and according to those institutions who have responded, they stated that special teams were created to investigate the deaths that occurred during the post-electoral period and that the total numbers are still being determined in order to follow up on their investigation, that the journalists who were purportedly deported to Cuba originally had their passports rejected because of inconsistencies, and that the cause of the destruction of the radio tower was still being investigated. The government claims that prior to the election period, there were various manifestations with criminal acts, leading to the State of Emergency decrees that were within their legal right to pacify the situation, that the delay in the results of the presidential election were a cause of technical problems with new systems introduced before the elections, and that the military in post-election period also acted within their legal obligations and accusations of ill-treatment and torture were false.

2. Withdrawal of security protection of members of anti-corruption organizations, 23 February 2018, HND 2/2018—no reply

The government did not reply to a communication referring to the recent withdrawal of security measures for Mr. Julio César Arbizu González, as well as other officials of the Mission Against Corruption and Impunity in Honduras (MACCIH) of the Organization of American States (OAS), that they as officials of international organization were given because of the sensitive nature of the activities of combating corruption within the country. Mr. Arbizu had worked on serious cases of corruption that allegedly involved representatives of the legislative and executive power, as well as on cases of corruption linked to the murders of human rights defenders, and as a result was a victim of harassment and death threats. He and other members of the mission resigned their positions on 16 February 2018 and had the security measures that they counted on during their work in the country removed permanently. Mr. Arbizu returned to Honduras on 24 February and feared for his integrity and that of his colleagues, particularly in the light of threats received by a member of the mission and the delicate nature of their activities.

(human rights defenders)
1. **Concerns of possibility of further human rights violations stemming from the “Ley de Seguridad Interior”, 11 December 2017, MEX 10/2017**

The communication refers to the legislative process underway for the eventual approval of an "Internal Security Law", directed, among other issues, to regulate the participation of the Armed Forces in security tasks. The law was adopted by the Chamber of Deputies on 30 November and has been sent to the Senate for debate and adoption. Among the concerns is the possibility that this legislation could expand the role of the Armed Forces in citizen security and exacerbate the already high level of violence that exists in different parts of the country.

It is particularly worrisome that the Armed Forces may carry out tasks that do not pertain to them and for which they have not been trained for, questioning their capacity for effective action in the tasks of citizen security and combating crime, which could lead to further serious human rights violations as has been the case in the past 11 years that have included accusations of extrajudicial executions, forced disappearances and torture. Between 2006 and 31 October 2017, the National Human Rights Commission received 10,917 complaints against the Secretary of National Defense and issued 125 recommendations. It also received 2,802 complaints and issued 41 recommendations with regards to the Navy, with noticeable growth in complaints filed with respect to the previous period. According to information from academic sources, there is a correlation between the intervention of the Armed Forces in a territory, and the subsequent increase of homicides in the same, and a high level of lethality when members of the Armed Forces are involved, thus questioning the effectiveness of the military intervention model to provide security. The bill also lacks the necessary mechanisms for the monitoring and control of the use of force so that it can be evaluated effectively, and furthermore, uses ambiguous definitions to refer to the circumstances in which it could be allowed, such as during "acts of resistance", giving rise to possible arbitrary uses of force.

*(arbitrary detention, disappearances, executions, freedom of opinion and expression, human rights defenders, privacy, truth, justice, reparation and guarantees of non-recurrence)*

**Replies 13 December 2017** and **7 March 2018**

The government answered through two replies that contrary to what is indicated in the communication, the bill is aimed at regulating and limiting the temporal assistance actions by the Armed Forces, seeking in turn to strengthen the local civilian police bodies, which allows them to assume their responsibility in matters of public security. They stated that the bill not only makes clear and safeguards respect for human rights as a constitutional and conventional duty, but also seeks to facilitate responses at local and federal levels (primarily by civil society organizations), limiting the role of the armed forces to situations which are justified through procedures foreseen in the project draft.

2. **Concerns over Mental Health Law, 19 December 2017, MEX 12/2017**
This communication is in reference to the decree draft that would create the Mental Health Law that is currently in the Chamber of Deputies. According to the justification of the proposed text, the objective of the law is to ensure the right to protection of the mental health of the population, promote free public services and guarantee full enjoyment of human rights of people with psychosocial disabilities (referred to in the Law as “personas con trastornos mentales”). However, it is noted with concern that several of the proposed articles contradict international standards, established in the Convention on the Rights of Persons with Disabilities, to which Mexico agreed on 17 December 2007, and other international instruments of human rights, particularly those related to the care model, treatment regulations, and involuntary confinement.

(disability, health)

Reply 19 February 2018

The government of Mexico replied that they agreed with the concerns raised in the communication on the rights of persons with disabilities and that the Ministry of Health stated their commitment to improving the legislation to help resolve the problems and challenges of mental health care in accordance to the Convention on the Rights of Persons with Disabilities and to international law on human rights, mental health and disability. They had observed that the main concern of the proposals contained in the bill could accommodate interment and/or involuntary confinement and, therefore, the second version of the project was considered to eliminate any article or allusion to it.

2. Forced displacement of indigenous communities, 22 December 2017, MEX 11/2017

This communication refers to the situation of internal forced displacement of indigenous peoples in the communities of Chalchihuitán and Chenalhó in Chiapas. According to the information received, on 8 November 2017 at around 7:30 a.m., several people from the Tsotsil indigenous community of Chenalhó, Chiapas, heard the sound of an explosion that allegedly came from an area where many families of Tsotsil origin had been displaced.

These peoples are members of the community Tsotsil de Kanalumtic of the municipality of Chalchihuitán and the community of Majumpepentínc, of the municipality of Chenalhó. There were no reports of injured people. Allegedly, groups of people from the community of Chenalhó would have entered the lands of the community of Chalchihuitán, which agitated the land conflict between both communities, and could have caused the forced displacement of dozens of families of both communities. It was also reported that the same day, around 9 houses of residents of the Chalchihuitán community were burned down by an armed group of Chelnalhó that harassed the inhabitants of the area.

(indigenous peoples, internally displaced peoples)

Reply 26 January 2018

The government replied through an 87-page document that detailed the history and record of the conflict between these communities and the steps that they have taken towards attempting to resolve the issues raised and support provided for these communities.
3. **Arbitrary detention and torture of brothers Juan Carlos and Fernando Octavo de Alba Valle,**

5 February 2018, MEX 1/2018

The government did not answer to a communication in relation to alleged acts of torture and other violations of the right to personal integrity against Mr. Juan Carlos de Alba Valle and Mr. Fernando Octavio de Alba Valle, during their detention in the state of Querétaro, Mexico, carried out by judicial police officers. Both men were detailed, held against their will and then transferred to the building of the Attorney General's Office where they were then forced to sign a declaration self-incriminating themselves in a crime of kidnapping, without being able to read it, by being tortured, beat, receiving threats against their family, asphyxiated, and forced to ingest numbing pills, among others acts. They were thereafter deprived of their liberty for 8 more years and, despite having sufficient evidence, the judge of the case has not ordered an investigation into the accusations of their torture. Serious concerns are expressed about the allegations of arbitrary detention, torture, ill-treatment, and failure to investigate such events, as well as the allegations that said torture and mistreatment had the purpose of extracting forced and pre-fabricated confessions used in the trial against both individuals.

(arbitrary detention, torture)

❖ **Paraguay**

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

1. **Lack of representation and violation of rights of indigenous communities and leaders,** 29 January 2018, PRY 1/2018

The government did not respond to a communication that related to the lack of recognition of representative of the Avá Guaraní community of Sauce, area of Alto Paraná, and also in relation to new pressures from third parties to enter the lands of the Mbyá Guaraní community of Makutinga, located in the district of San Rafael del Paraná, area of Itaipú. In September 2016, members of the community of Sauce were violently evicted from the lands they were traditionally occupying as a result of the construction of the hydroelectric dam of Itaipu, returning in 2015 to the parts that were not flooded by the dam. In October 2016, the Government of Paraguay established a dialogue table in attempts to solve the precarious situation the community found itself in after the violent eviction, but in August 2017 the representatives of the community of Salsa decided to leave the dialogue, as according to the allegations the Government had not fulfilled any of the commitments they had reached, including humanitarian support to the community, recognition of Juan Cristóbal Martínez as the representative authority of the community, and the concession of alternative lands for their settlement. This forced displacement and refusal of official recognition was the source of a previous communication (AL PRY 2/2016) that had also remained unanswered.

On 6 December 2017, Justice of the Peace Carlos Antonio López and other members of the security forces, arrived in the territory of the Mbyá Guarani de Makutinga community with orders that allowed the entry of Mr. Antoliano Sánchez, Javier Zavala Serrati and Plinio Pereira in compliance with Official Letter 592/17, which allegedly authorized them to enter the soy plantation in the lands occupied by the community. Through its recognized authority, the community indicated that they would not authorize the entry of third parties or machinery in their lands. Concern was expressed
considering the repeated attacks that the Makutinga community has suffered in the past (such as in 2010-2013 and 2015) in similar circumstances, urged the government to make sure that similar events are not repeated and to take all necessary measures to ensure the recognition and respect of the rights of the Makutinga community over their lands and resources.

(indigenous peoples)

❖ Peru

1. **Criminal charges against Mr. Walter Aduviri, 7 December 2017, PER 9/2017**

   The communication refers to the seven-year prison sentence and charge of two million Peruvian Soles against Mr. Walter Aduviri, issued in July 2017 and currently under appeal, for the crime of riots in the context of social protests demanding transparency and his participation in processes of granting of mining concessions in the Puno region in 2011, situation that was object of a previous communication (PER 2/2011). As an Aymara indigenous leader and human rights defender, Mr. Walter Aduviri participated in some of the protests in May 2011 for the demand of prior consultation, right to a healthy environment and water in the context of mining exploitation in the region, and in particular by demanding suspension of the Santa Ana Mining project granted to the Canadian company Bear Creek Mining Co. During the protests, different violent acts occurred, including the burning and looting of government offices. The Prosecutor’s Office opened criminal proceedings against 32 people and Aymara leaders, including Mr. Aduviri, for the crimes of aggravated extortion, disturbances and obstruction of public services, and claimed that he had control over the will of the demonstrators and therefore could be considered an author of the crimes committed. The legal procedure used in this instance had only been applied to crimes committed by individuals in high positions in the government and its use in trials against social leaders in the context of violence aroused in acts of protest is new and would have created concern among organizations of civil society and human rights defenders

   (human rights defenders, indigenous peoples)

   **Reply 23 February 2018**

   The government replied with detailed accounts of the charges against Mr. Aduviri along with nine other and stated that while they removed the charge of obstruction to the operation of public services, they stand with the other charges and stated that Mr. Aduviri could have taken less violent, legal steps. They annexed their draft for a National Plan for Human Rights Defenders 2018-2021 (SIMEDH) that was approved on the 1 February 2018, which they claimed is meant to provide a culture of peace and protection for the human rights of all Peruvian citizens.

2. **Pardon of former President Alberto Fujimori, 8 December 2017, PER 8/2017**

   The communication refers to the possible adoption of a presidential pardon in favor of former President Alberto Fujimori, who was sentenced in 2009 to 25 years in prison for serious human rights
violations and his responsibility in the crimes of treachery and murder against 25 people in the Cases Barrios Altos and La Cantuta (which count with condemnatory sentences of the Inter-American Court of Human Rights against the Peruvian State, being that these qualified as enforced disappearances and extrajudicial executions), as well as aggravated kidnapping of a journalist and businessman. The criminal proceedings against Mr. Fujimori were once considered a great achievement in the fight against impunity.

On 20 May 2017, the majorly Fujimorista congressmen publicly endorsed a final habeas corpus petition out of many previous attempts, presented by the leader of the Fujimorist party and daughter of Mr. Fujimori, Mrs. Keiko Fujimori. The order was rejected by the Judiciary, and is currently before the Constitutional Court, whose decision will be final. Yet, it is reported that the President of the Republic, Mr. Pedro Pablo Kuczynski, has added to the statements in favor of Mr. Fujimori's release and on 6 October 2017, the Ministry of Justice and Human Rights made official a new conformation of the Presidential Pardon Commission, that unlike the previous ones, does not include representatives of organizations of the civil society or of the Peruvian Episcopal Conference. On 25 October 2017, the High Commissioner for Human Rights of United Nations visited the country and expressed concern about the possibility of the pardon, stating that the international community must be involved in this important issue and that the repeal of the sentence against Mr. Fujimori would constitute a heavy blow for justice and the rule of law in Peru and worldwide.

(disappearances, executions, truth, justice, reparation and guarantees of non-recurrence)

Reply 13 December 2017

The government of Peru replied in a one-page document that their right to a presidential pardon is within their constitution, exclusively the responsibility of the Presidency of the Republic and solely an internal matter.

3. Adoption of bill that affects indigenous communities, 18 December 2017, PER 10/2017

This communication refers to the adoption on 7 December 2017 of the bill number 1123/2016-CR, a "law that declares the priority of construction of roads and the maintenance of the truck paths in national interest in the border areas and in the Ucayali Region." There are serious concerns that the application of this law could have irreversible consequences for the survival of indigenous peoples in isolation and initial contact that inhabit, transit and use their traditional territories in the region where the road will be built. The bill could affect the six protected areas declared by the Peruvian State in said region (National Parks of Alto Purús, Cordillera Azul, Sierra del Divisor; communal reserves of Purús and El Sira, and the Imiria regional conservation area), in addition to three indigenous reservations (Murunahua, Iscohuanua, and Mashco Piro), a territorial reserve for indigenous peoples in isolation and initial contact (Kugapakori Nahua Nanti) and would be adopted with the sole opinion of the Commission of Transports and Communications, without counting on the opinions of other relevant state bodies. It has been pointed out that said project should be revised, given its impact in these areas, by the Commission of Indigenous Peoples, the Ministry of Culture, the National Service of Protected Areas (SERNAP) and the Ministries of Environment and Health.
Reply 27 December 2017

The government simply replied that before making any decision on the bill, the previously mentioned groups have been contacted to send their technical opinion on the matter.

Venezuela

1. Deteriorating state of the living conditions of Venezuelan population, 11 December 2017, VEN 8/2017

The communication refers to and details out the systematic deterioration of living conditions and the increase of poverty and extreme poverty of the Venezuelan population. These include the access to basic human rights, and signal in particular the failure of housing programs, the increase in forced evictions in the country, the scarcity of food and severe malnutrition of some groups of the population in situations of greater vulnerability such as children, older adults and people with chronic disease, as well as the shortage of medicines, medical supplies and incessant deterioration of the health infrastructure, many of which have been the source of various previous communications sent (VEN 10/2016, 10/2015, 1/2016, 11/2016, and 5/2017).

   (housing, food, health, poverty, water and sanitation)

Reply 11 January 2018

The government responded by detailing how according to their numbers, the situation of housing, poverty, nutrition and health are better than they have been in the past as a result of their social programs and any negative incidences have been mainly a result of environmental damages or economic sanctions by other countries.

2. Concerns over the application of the bill “Ley Contra el Odio,” 11 January 2018, VEN 9/2017

The government did not reply to a communication related to the Law against Hate, for Peaceful Coexistence and Tolerance ("Ley contra el Odio"), approved on 8 November 2017 by the National Constituent Assembly, whose application could facilitate the censorship of debates on matters of legitimate public interest, public demonstrations, or exclude the participation of associations and political parties, violating the rights to freedom of opinion and expression, as well as of assembly and association. The bill was presented after several months of anti-government protests in Venezuela, characterized by the abusive use of force, arrests and criminal charges against members of opposition parties, journalists and protesters. When presenting the bill, the President of the Republic, indicated that "everyone who goes out to the streets to expressing intolerance and hatred will be captured, judged and punished with severe penalties from 15 to 25 years in prison" and stated that his goal was "to counteract the campaign of hate, terror and violence that has been promoted by extremist sectors of the opposition.”

   (freedom of opinion and expression)
3. **Execution of Mr. Óscar Pérez and others through excessive use of force, illegal detention, 28 February 2018, VEN 1/2018**

This communication refers to incident that occurred on 15 January 2018 during a security operation in the El Junquito area, in which 9 people died, another 8 were injured, and more 6 were arrested at the time. According to the allegations, Mr. Óscar Pérez was among the victims, a former official of the Scientific, Criminal and Criminalistics Research Institute (CICPC), who was being sought after by officials of State security. The other victims were Abraham Israel Agostini, Abraham Lugo Ramos, Daniel Soto Torres, Jairo Lugo Ramos, José Alejandro Diaz Pimentel and Lizbeth Ramirez. During the operation, shots were fired indiscriminately, as well as rocket-propelled grenades, where Mr. Pérez was found along with other individuals. He and the 6 other victims died from a gunshot wound. Since this event, more than 30 people have been arrested for their supposed connection to Mr. Pérez and other members of the group or who showed their support through social networks. The arrests were made through violent raids, without judicial order and with excessive use of the force.

* (executions, terrorism, arbitrary detention)

**Reply 9 April 2018**

The government replied through an 81-page document that Mr. Pérez was part of an organized crime group that had acted out through terrorist-like acts against the Bolivarian National Guard, and against the “public tranquility, institutions, and democratic order in Venezuela.” They also stated that their operation to capture Mr. Pérez was in accordance with the provisions of international instruments and with the respect of human rights.
CONCLUSIONS

First, there have been less communications in this time period and for less countries than the last sessions. Yet, the lack of replies by some of the States is still highly concerning, especially for countries such as Brazil* – which did not reply to any of the 2 communications sent – and the Bahamas, Ecuador, and Paraguay, which did not reply to the one communication that each country was sent. The States of Colombia, Guatemala, Honduras, Mexico and Venezuela answered all but one of the communications they received, and Argentina, Haiti, Cuba, and Peru answered all.

However, the fact that States reply to communications is not necessarily a positive stride towards the respect for human rights. As can be observed through some of the country’s replies, often governments merely acknowledge the communications, or reply with extensive documentation that tell in a redundant way the empty actions that they have taken towards solving the situation or ameliorating the problems presented. More than often, these replies contain information that is irrelevant or used to deny all allegations that the Special Procedures have presented before them, or simply state that there have already been special organizations or bodies created with regards to certain reoccurring issues but provide little precise steps or further actions taken to resolve the issues or follow-up on their effectiveness. This tends to highlight the insincerity or, at times, unwillingness of the States to adequately comply with the Special Procedures mechanism of the United Nations. Some countries even express their offence to the accusations and dismiss the entire procedures as meant to discredit their legitimacy and sovereignty.

Secondly, the very high number of cases concerning violations against human right defenders, freedom of opinion and expression, and executions is cause for alarm and tends to portray the problems that are often present within Latin America.

- The types of communications regarding human rights defenders concern 7 countries out of 13 (Argentina, Colombia, Cuba, Guatemala, Honduras, Mexico, and Peru).
- Out of these, all of Colombia, Guatemala, and Honduras’ communications had to do with violations against human right defenders. Guatemala’s 3 communications regard human rights defenders, making it the highest number of communications concerning the same topic.
- 7 out of 13 countries also have communications regarding the freedom of opinion and expression (Argentina, Colombia, Cuba, Guatemala, Honduras, Mexico, and Venezuela) and 6 out of 13 country’s communications concern executions.

Thirdly, there continues to be a general trend regarding the lack of adequate precautionary measures for protecting human rights defenders, civil society leaders, and other persons affected by risk of human rights violations. Despite being at times granted some form of precautionary measures, often they eventually become victims of assassination attempts, discrimination, acts of intimidation, harassment, and other forms of human rights violations. This trend represents a lack of implementation of adequate preventative measures to those who demand and require protection.

Since all Latin-American countries have different social and political situations, a general trend of all of the communications presented is difficult to accomplish accurately. However, this report is aimed at highlighting the general issues aforementioned concerning mainly the lack of adequate replies by governments, and emphasizing the main human rights violations present in the region, in order to allow for a better use of the Special Procedures’ communications system.