

## COVERAGE OF THE 144<sup>TH</sup> PERIOD OF SESSIONS OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

### SITUATION OF MISSING MIGRANTS AND UNIDENTIFIED REMAINS IN MEXICO

In 2010, Mexican authorities found seventy-two bodies laying in a mass grave in San Fernando de Tamaulipas, Mexico. More graves were found in 2011, totaling 600 sets of human remains across four states in Mexico. The bodies belonged to migrants from Central and South America on their way to the United States of America.

On March 23, 2012, the Inter-American Commission on Human Rights (IACHR) held a thematic hearing on missing migrants and unidentified remains in Mexico. Petitioners *Equipo Argentino de Antropología Forense* (EAAF) indicated that, in the last six years, 47,000 migrants have died in Mexico, and 8,800 of them have not been identified. *Comité de Familiares de Migrantes Desaparecidos de El Progreso, Honduras* (COFAMIPRO) told the stories of the families of missing migrants and their struggle to find them. They related how in some instances, Mexican authorities wrongly identified remains, did not allow relatives to see the remains, and sent bags of sand and non-human remains to the families instead of the bodies of their missing relatives. They further alleged that Mexican authorities were intentionally discarding the bodies of missing migrants. *Fundación para la Justicia y el Estado Democrático de Derecho* listed the main problems they perceive with the identification of remains. These problems include a lack of homogeneous criteria to store, catalogue and share forensic information; absence of clear data on the number missing migrants; unwillingness of the authorities to investigate cases regarding the marginalized and the poor; and lack of coordination with other States in the region.

Based on the right to access to justice and truth, Petitioners made four requests to the Mexican State and IACHR. First, they requested that the Mexican State immediately form an independent committee of international forensic experts and civil society representatives to lead efforts to identify remains. Second, Petitioners

requested that the State preserve remains recovered between 2010 and 2011 until they are identified. Third, they requested that Mexico establish a national mechanism to facilitate the exchange of information on unidentified remains that later should be incorporated into a similar regional mechanism. Fourth, they requested that the IACHR and the UN High Commissioner for Human Rights join the effort to establish and maintain the database and the forensic committee.

The representatives for the Mexican State included Max Diener Sala, Undersecretary for Legal Affairs and Human Rights at Mexico's Interior Ministry; Ambassador Joel Hernández García, Permanent Representative of Mexico to the Organization of American States; Ambassador Alejandro Negrin Muñoz, Foreign Ministry's Director General of Human Rights and Democracy; and officials from other Mexican Ministries. Undersecretary Diener Sala recognized that this is an important and complex situation, and declared that the State is open and committed to finding a solution. To address the issue, the Mexican Government approved the *Ley del Registro Nacional de Personas Extraviadas o Desaparecidas*, which creates a national database that allows the coordination of federal and state authorities dealing with missing persons. As to the allegations of improper conduct by government officials, Undersecretary Diener Sala stated that the Mexican Government does not tolerate such acts, and will prosecute what he called "traitors to the system." In addition, a forensic expert, Isabel Pérez Torres, detailed the process and techniques used in Mexican Government forensic laboratories to identify human remains.

Commissioner Felipe González, who is also the Special Rapporteur on the Rights of Migrant Workers and their Families, asked if Mexico would consider establishing a committee like the one petitioners request, pointing out that similar committees have been established between other States with support of the Organization of American States. Commissioner Rosa María Ortíz

joined Commissioner González's question adding that it will be beneficial to Mexico to collaborate with other States and organizations that have experience dealing with forced disappearances and identification of remains.

In response to the commissioners' question, representatives from the Mexican State agreed that the State would consider the proposal to create an independent committee, but that they could not make a decision at this time, since it was a complex proposition. Undersecretary Diener Sala added that any effort moving forward, including any committee, must be based on the current efforts from the Mexican Government in creating a national database.

Petitioners thanked the Mexican State for their expressed commitment to addressing the issue and their disposition to consider their petition. COFAMIPRO also wished to stress that theirs was a "search for life, but they have to go through the sad process of identifying remains for clues in their search."

*Veronica Gonzalez covered this hearing for the Human Rights Brief.*

### ATTACKS ON WOMEN HUMAN RIGHTS DEFENDERS IN CUBA

On Friday, March 23, 2012, during the Inter-American Commission on Human Rights' (IACHR) 144th session, three Cuban women served as petitioners, opposing a silent bench with empty chairs. The women, Sylvia Iriondo, Janisset Rivero, and Laida Carro, represented *Madres y Mujeres Anti-Represión en Cuba*, *Directorio Democrático Cubano*, and *Coalición de Mujeres Cubano Americano*. The state of Cuba does not recognize the IACHR's jurisdiction nor has it ratified the American Convention on Human Rights and was therefore not present at the hearing. The three women, representing different human rights organizations, all shared information about human rights abuse against women human rights defenders in Cuba.

Petitioner Sylvia Iriondo began by stressing the importance of recognizing

the human rights abuses against women human rights defenders in Cuba. She pointed out that all eyes are on Cuba because of Pope Benedict XVI's visit to the country during the upcoming weekend. Already, there were reports of beatings, arbitrary arrests, and women being seized in their homes. During the previous weekend, there were 104 detentions when the Ladies in White, an opposition movement comprised of the female relatives of those in jail, celebrated its ninth anniversary, protesting on the streets of Havana in the name of human rights. Iriondo ended her argument by showing a video about women human rights defenders in Cuba. As the video projected images and stories of women human rights defenders who had been subjected to violence, threats, and sexual abuse, the video noted that "Human rights are Cuban Rights" and that over 50% of detainees in Cuba are women who have been fighting for their rights.

Petitioner Janisset Rivero spoke about the increasing sexual violence and abuse to which women human rights defenders are now subjected. There have been cases of women being stripped down in their underwear, forced into the streets, abused verbally, and threatened by state officials and paramilitary groups. Petitioner Laida Carro stated that the Cuban government has ignored all human rights reports. She also noted that activists have nowhere to meet and that their right to freedom of expression has been severely violated. She ended her argument by stressing, "brave Cuban women's lives are in jeopardy."

Commissioner Felipe González asked what mechanisms there are to bring a claim and whether any claims are currently being brought. Rivero, referring to the report submitted to the Commission by the groups on Friday, answered that every time violations had been committed they had been reported. She continued to say that rape, arbitrary arrest, and physical abuse had all been referred to administrative authorities with the names of many of the perpetrators. So far, they had received no response from the Cuban authorities. Iriondo stressed, "Our main task is to be the voice of all the cases referred to in the report submitted today."

Commissioner Tracy Robinson asked the petitioners for more detailed information on the offenders: "Do you know who the biggest violators are?" Carro answered that they are policemen to paramilitary

groups and state agents. She directed attention to and stressed the importance of the Commission's awareness of the "plain clothes agents," who are well-trained secret agents working for the government. Iriondo explained that these are state security agents dressed as citizens who "beat and drag the women to project the belief that it is the normal Cuban people reacting to support the regime." She concluded that the three of them attended the hearing to make a request to the Commission on behalf of the women inside Cuba to stop the human rights abuses.

*Sabina Petersen covered this hearing for the Human Rights Brief.*

### **SEXUAL VIOLENCE AGAINST ADOLESCENT GIRLS IN BOLIVIA**

On March 28, 2012 a group of petitioners urged the Inter-American Commission on Human Rights (IACHR) to investigate and take a stand against the abuse of adolescent girls in Bolivia. Petitioners included representatives from the American University Washington College of Law's International Human Rights Law Clinic, the Child and Family Advocacy Clinic at Rutgers School of Law, the Centro una Brisa de Esperanza based in Bolivia, and La Oficina Juridica para la Mujer also based in Bolivia. The petitioners brought the Commission's attention to the prevalence of sexual violence against adolescent girls, a widespread practice that has been conducted with relative impunity. They stated that Bolivia's failure to protect adolescent girls from sexual violence is a violation of its international human rights obligations under Article 5, 19, and 24 of the American Convention on Human Rights.

The petitioners first presented shocking data about sexual violence. Almost 44 percent of adolescent girls aged fifteen to nineteen in Bolivia have been victims of physical violence, at least seventy percent of women in Bolivia have suffered from sexual violence or other abuse, and only .05 percent of men accused of sexual violence in front of a court of law have been found guilty of abuse. The petitioners outlined several root causes for such the persistence of such violence, among them: legislative gaps, lack of enforcement by the state, the judicial system, and societal attitudes.

The petitioners continued, explaining that crimes of sexual violence are reported

to designated official bodies that are not trained to deal with the sensitivities of the crime. They ask victims to repeat their stories several times and question the veracity of their complaints. Furthermore, the legal system is organized such that victims have to pay for their own forensic exams. There are not enough judges to deal with all the cases brought to court and the petitioners expressed concern with the loss of more judges during an upcoming transition.

The petitioners requested that the Commission to do three things: (1) issue a report addressing the legal shortcomings of laws relating to sexual violence in Bolivia (2) coordinate communications with the special rapporteurs on women and children on this issue, and (3) begin periodic visits to Bolivia to investigate the issue.

The Commissioners expressed their gratitude to the petitioners for bringing their attention to the issue. All of the Commissioners asked the petitioners to explain what the Bolivian government has already done on this issue. Commissioner Felipe Gonzalez Morales asked if there was a debate in the legislature regarding reforming relevant laws. Commissioner Rodrigo Escobar Gil emphasized that they needed all relevant information in order to address the issue at its source. The petitioners responded that progress by the state has been slow. They pointed out that while there have been some recognition of the rights of adolescent girls, no agreement or coordination has helped protect those rights. The petitioners also said that legislative debate has been limited to the issue of punishment for those who are already convicted of sexual abuse. The debate has not touched on the root of the problem.

The Commission concluded by thanking the petitioners and stating that they would take the petitioner's reports and concerns into consideration. They assured the petitioners that they would relay the conversation to the Bolivian state which was notably absent.

*Shubra Ohri covered this hearing for the Human Rights Brief.*

### **LAND RIGHTS OF THE KALIÑA AND LOKONO INDIGENOUS PEOPLES OF SURINAME**

On March 27, 2012, the Inter-American Commission held a hearing on Case 12.639, regarding the Kaliña and Lokono indigenous peoples of Suriname and their

land rights. This case arises from petitioners' claims that the indigenous property rights of the Lower Marowijne Peoples are neither recognized nor respected in the laws of Suriname. Petitioners claim that the State's laws, in violation of the American Convention on Human Rights (Convention), vest ownership of all untitled lands and natural resources in the State, fail to provide adequate remedies for protection of indigenous property rights, and do not recognize the juridical personality of the Lower Marowijne Peoples for the purpose of holding land titles or seeking protection for their communal rights. Representing the petitioners were Captain Richard Pené, village Chief, and Fergus MacKay, Senior Counsel of the Forest Peoples Programme. Representing the State were Kenneth Johan Amoksi, Counselor/Alternate representative at the Permanent Mission of the Republic of Suriname, and Sachi Ramlala-Soekhoe, First Secretary/Alternate Representative of the Republic of Suriname to the OAS. Commissioners Rose-Marie Belle Antoine, Dinah Shelton, Rosa María Ortiz, and Assistant Executive Secretary Elizabeth Abi-Mershed were present.

With respect to alleged violations of Article 3 (Right to Juridical Personality), Article 21 (Right to Property), and Article 25 (Right to Judicial Protection) of the Convention, the Commission declared the petition admissible on October 15, 2007 in Report Number 76/07.

Petitioners contend that the rights of the Kaliña and Lokono have been violated by the State in several respects. Between 1976 and 2006, approximately 20 land titles were issued by the State to non-indigenous persons over lands in four of the villages of the Lower Marowijne Peoples. Additionally, Petitioners point to the three

nature reserves established within the territory of the Lower Marowijne Peoples without the knowledge or consent of the inhabitants. According to Captain Richard Pené, these reserves have granted animals land rights over people's land rights. However, concessions have been granted by Suriname for mining, logging, and oil exploration within the same nature preserves where the indigenous people are not permitted to "pick a flower." In 1976, state claims that these villages were not actually indigenous communities but suburbs of a nearby town resulted in the subdivision of indigenous villages and issuance of title to private landowners.

Similar issues were brought before the Commission and ultimately the Inter-American Court on Human Rights in the case regarding the Twelve Saramaka clans. In the Saramaka case, the Commission requested that Suriname suspend logging and mining concessions in indigenous Saramaka Maroon territory. In its unanimous decision the Court stated that Suriname shall adopt measures to ensure that free prior informed consent where necessary to meet the rights of the Saramaka people, that all environmental and social impact assessments are conducted and published, and that damages be paid to a community development fund to benefit the Saramaka people.

After Petitioners' presentation, representatives of the State shared with the Commission the laws in place that it claimed protected the rights of indigenous people. The State discussed the application procedure for land rights, the procedure for applying for concessions, and the various requirements taken into consideration when establishing communal forests. Ultimately, the State contends that indigenous people are recognized by the state.

As Special Rapporteur for Suriname and on Indigenous People, Commissioner Shelton identified the main problem in this situation as the State's designation of traditionally indigenous lands as "state owned lands." This is inconsistent with the Inter-American System where, for the security of tenure, the lands are to be titled to the indigenous people. Commissioner Shelton asked the State whether there are specific problems in passing legislation permitting titles to be granted and what the State is doing to comply with the judgments of the Saramaka Case. Commissioner Antione requested that the State provide an explanation as to how it defines and assesses what the public interest is (in relation to establishing environmental and nature programs) and Commissioner Ortiz asked whether any efforts have been made by Suriname to ratify International Labor Organization Convention 169 (dealing specifically with the rights of indigenous and tribal people).

Petitioners stated that the indigenous peoples needs are never considered when the public interest assessments are made because the rights of the indigenous people have never been recognized by the State. Petitioners noted the jurisprudence of the Inter-American Court's decisions go beyond what is stated in ILO Convention 169, and therefore, the State has existing and more extensive obligations than required by the Convention. The State informed the Commission that responses to the questions would be provided in writing after consulting with the headquarters. Commissioner Shelton concluded the hearing by offering to visit Suriname when appropriate.

*Molly M. Hofsommer covered this hearing for the Human Rights Brief.*