

FINAL REPORT OF THE INDEPENDENT PANEL OF EXPERTS FOR  
THE EVALUATION OF CANDIDATES FOR ELECTION TO  
THE INTER-AMERICAN COURT OF AND COMMISSION ON  
HUMAN RIGHTS

October 1, 2021

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## PRESENTATION

The Independent Panel of Experts<sup>1</sup> for the evaluation of candidates to the Inter-American Court of Human Rights (hereinafter IACtHR) and the Inter-American Commission on Human Rights (hereinafter IACHR), is pleased to present this report, the result of seven months of intense work, which aims to strengthen the system of nominations and elections in the Inter-American Human Rights System (IAHRS).

In this iteration, the Independent Panel (hereinafter the Panel) is composed of six experts internationally recognized for their professional trajectory dedicated to human rights: Carlos Ayala, Mariclaire Acosta, Magdalena Cervantes, Juan E. Méndez, Elizabeth Salmón and Judith Schönsteiner<sup>2</sup> Their biographies can be found in Annex A of this Report. This is the third consecutive iteration in which the Center for Human Rights & Humanitarian Law at American University Washington College of Law (CHR&HL) has served as the Secretariat of the Panel<sup>3</sup> Both the American Convention on Human Rights (hereinafter ACHR) and the respective statutes of the Inter-American bodies establish a series of essential requirements that candidates sa-1 (es)-51 (i)

Justice Initiative (OSJI), the Center for Justice and International Law (CEJIL), and the Due Process of Law Foundation (DPLF). The Panel's initial objective was to review the nomination and election processes, evaluate the qualifications of the nominees and make recommendations on how to improve future nominations and elections.

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Panel—as an academic institution—with greater guarantees of independence and impartiality, vis-à-vis States and civil society organizations.

This year's selections are extremely important for the IAHRs due to the number of vacancies to be filled in each of the bodies: four

and 2019 independent expert panel reports<sup>10</sup> in the report “Strengthening from Within”<sup>11</sup> produced by the International Commission of Jurists and Open Society Justice Initiative, as well as in the report “Dialogues for Transparency: The Nomination and Election Processes for Commissioners and Judges to the Inter-American Court and Commission on Human Rights and the Experience of the Independent Expert Panel”<sup>12</sup> prepared by the American University Washington College of Law.

The first part of this report describes the Panel’s work methodology and the evaluation criteria it used. The Panel’s recommendations are presented below and are based on international standards and, from a comparative perspective, are in line with other models of international courts and tribunals. In Part III, the report presents an informed, objective, and independent evaluation of each of the nominees and, in its final section, includes a series of annexes with relevant information from the evaluation process.

For this year’s selection, the persons nominated to serve as judges of the IACtHR for the 2022-2027 period are: Rodrigo de Bittencourt Mudrovitsch (nominated by Brazil), Verónica Gómez (nominated by Argentina), Nancy Hernández López (nominated by Costa Rica), César Landa Arroyo (nominated by Peru), Miryam Josefina Peña Candián (nominated by Paraguay), Patricia Pérez Goldberg (nominated by Chile), and Maytrie Vydia Kuldip Singh (nominated by Suriname). The persons nominated to serve as commissioners of the IACHR for the 2022-2025 period are: Carlos Bernal Pulido (nominated by Colombia), Roberta Clarke (nominated by Barbados), Joel Hernández García (nominated by Mexico for reelection), Alexandra Huneus

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national nomination procedures more transparent, participatory, and merit-based as



## ACKNOWLEDGMENTS

The Panel would like to thank all those who have collaborated in this process, contributing to the development of a transparent and participatory practice. It wishes to thank the candidates for their collaboration and willingness in sharing information about their backgrounds and skills, responding to the questionnaires, and participating in the interviews with the Panel. We are also grateful for the valuable participation of the organizations and institutions in the region that have convened, supported, and actively contributed to the work of the Panel by sending information and sharing their work.

## PART I

On the independence of the Panel, its working methodology, and evaluation criteria

### PANEL INDEPENDENCE

The members of the Panel have acted independently of civil society organizations as well as the States and any other entity. They did not receive nor will they receive any financial contribution for their work,

a) Publicity of the Panel, its members

d) Involvement of civil society, academia, and other stakeholders

To ensure the participation of civil society, academia, and other stakeholders a form was developed and disseminated through social networks and email (see Annex C). The form contained the following information:

“The Independent Panel of Experts that will evaluate the nominees to the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights appreciates your collaboration. The information that you provide in this form will be evaluated according to its relevance. If possible, attach all documents and hyperlinks to sources that support the information. The Panel may share the information with the candidates and give them the opportunity to respond. The Panel will not consider any information from anonymous sources. If you are willing to provide information related to more than one candidate please complete one form per candidate. By submitting the below form, you will have the opportunity to share information about the candidates with the Independent Panel of Experts. Please note that a Gmail account must be used in order to attach documents. In case you do not have access to a Gmail account, please contact María Julia Dellasoppa at [mjdella@american.edu](mailto:mjdella@american.edu) and/or Christian Finsterbusch at [chrisfin@american.edu](mailto:chrisfin@american.edu). The deadline to send information is April 4, 2014 at 4:00 PM (ET/PT).”

g) Decisions

All decisions made by the Panel were by consensus.

h) Recusals

In order to preserve the impartiality

In addition, the Panel has referred to the *Guidelines on the Independence and Impartiality of Members of Human Rights Treaty Bodies (the Addis Ababa Guidelines)*,<sup>20</sup> which apply to the expert staff of the United Nations human rights treaty bodies.

The Panel also analyzed the potential contribution of the nominees to the diverse composition of the IAHRS bodies, as it reaffirms the importance of promoting diverse, plural, representative memberships, thus following the successive recommendations of the OAS General Assembly to the States. Finally, the Panel examined the nature of national nomination processes in light of standards of transparency and participation.

#### a) High moral authority and recognized competence in human rights issues

Both the ACHR and the Statute of the IACtHR present the minimum requirements that nominees must meet to serve as judges of that body. The requirements demand that they be “jurists of the highest moral authority, of recognized competence in the field of human rights, who possess the qualifications required for appointment to the highest judicial offices under the law of the country of which they are nationals or of the State which nominates them as candidates”<sup>21</sup>

Similar requirements are outlined for the positions of commissioners, whose members must be persons of “high moral authority and recognized expertise in the field of human rights”<sup>22</sup>

With respect to high moral authority, the Bangalore Principles elaborate on the values of integrity and propriety. Performing with integrity means ensuring that one's own conduct is above reproach under the criteria of a reasonable observer.<sup>23</sup> The Principles link this value to public trust and the importance of fair decision making and clear processes.<sup>24</sup> In this regard, impropriety and the appearance of impropriety should be avoided in all activities.<sup>25</sup>

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notwithstanding other obligations and commitments<sup>29</sup> Likewise, the Bangalore Prnding .



of its office in the Commission<sup>38</sup>.” The Rules of Procedure add that: “[a]t the time of assuming their functions, members shall undertake not to represent victims or their relatives, or States, in precautionary measures, petitions and individual cases before the IACHR, for a period of two years, counted from the end of their mandate as members of the Commission”<sup>39</sup>

The Bangalore Principles elaborate on this concept and state that being independent implies being “free from outside influence, inducement, pressure, threats or interference, direct or indirect, from whatever source and for whatever reason”<sup>40</sup> Independence implies not only being free from inappropriate connections or pressure but also having “the appearance of being free from them in the eyes of a reasonable observer”<sup>41</sup> To be impartial, on the other hand, is to perform one's

c) Contribution to the balanced and representative composition of the organization

The contribution of candidates to a balanced composition of the organization in terms of gender, geographic representation, population groups, and legal systems is a criterion that has been established and maintained in the resolutions of the General Assembly in recent years.<sup>47</sup>

From the initiative's inception, the 2015 Panel noted that it would take into consideration "whether the candidate would contribute to a balance within the Commission in terms of area of expertise, gender and other forms of diversity."<sup>48</sup> Similarly, the 2017 and 2018 Panels referred to the resolution of the OAS General Assembly regarding the need to promote "gender balanced and geographically representative integration of the different legal systems" within the IAHR bodies.<sup>49</sup> In 2018 and 2019, the OAS General Assembly approved new resolutions along the same lines.<sup>50</sup> In October 2020, the OAS General Assembly issued a resolution on the "Promotion and Protection of Human Rights"<sup>51</sup> by which it resolved: "To urge member states, in the nomination and selection processes for judges of the Inter-American Court of Human Rights, to seek to achieve parity in the composition of the Court, encouraging more nominations of women candidates, and also to consolidate regional gender ( )Tj -0.0

processes by allowing civil society, academia and other stakeholders to participate<sup>52</sup> Thus, although they do not prevent the existence of reciprocal political agreements (“exchange of votes”),<sup>53</sup> which the different panels have strongly opposed, it promotes a greater guarantee of independence, impartiality, knowledge and experience.

In this regard, the Panel endorses the words of the previous Panels and holds that “the affirmation and enforcement of the principles of competence, independence and impartiality in the IAHRs are intimately related to the process of choosing the appropriate members for the Commission and the Court. After the nomination of candidates at the national level, the election process at the OAS General Assembly is the second and final stage where these values can be firmly and resolutely endorsed”<sup>54</sup>

The Panel welcomes the fact that States, in comparison with previous election periods, are submitting a greater number of nominations to the bodies of the Inter-American Human Rights System. It also considers it extremely positive that the majority of the nominees are women and that in both the IACtHR and the IACHR, candidates from the Caribbean are being presented. However, the diversity and representativeness of the composition of the System's bodies still presents challenges and efforts must be made to include people belonging to all historically disadvantaged groups.

Following the practice of the independent panels that have been convened previously, this Panel presents in Part II of the Report, a series of recommendations aimed at improving the current procedures for nominations at the national level and elections before the OAS General Assembly.

### Evaluation of the above elements and drawing of conclusions

At this point, the Panel maintains the practice of previous panels<sup>55</sup> that, for each candidate, there is an analysis of whether or not he/she meets the requirements for the position.

The Panel considers independence and impartiality, on the one hand, and high moral authority and recognized expertise in human rights, on the other, with the scopes set forth above, as the fundamental criteria of assessment. The Panel also believes that States should ensure that both nominees and appointees meet high standards of both independence and suitability. Thus, for example, if a candidate meets the necessary suitability requirements but does not present himself or herself as sufficiently independent and impartial, then that

the case of persons who present themselves as independent and impartial, but who do not demonstrate the recognized expertise in human rights required by legal standards.

The contribution of the individual to the balanced and representative composition of the body is a crucial criterion that the Panel analyzes in each case because it must be taken into account by the States at the time of nomination and election, in compliance with the mandate of the General Assembly. In this regard, the Panel considers that in a situation in which two individuals meet equally high standards of independence and suitability, States should favor the one who contributes to the diversity of the organization. However, in no case should promoting the creation of more representative and pluralistic bodies take precedence over the obligation to integrate them with suitable persons who are and appear to be independent and impartial in the eyes of a reasonable observer.

With respect to nomination processes at the national level, the Panel believes that the existence of internal selection processes in the States is crucial to improving nominations and elections at the OAS level. However, the non-existence of such processes does not invalidate the nominee, nor does having gone through such a process automatically establish him/her as suitable.

As it has done in previous periods, the Panel consulted with States and candidates on the characteristics of the nomination processes developed at the national level. The Panel has taken note of some positive practices implemented by States that, in their development of the nomination process, have used prior selection criteria in consultation with civil society. In this process, the vacancy was published and disseminated among members of civil society, non-governmental organizations, and academia that, in turn, published the announcement and issued their recommendations. The nominations and recommendations were analyzed by a panel of experts in the field who ranked the candidates according to nine selection criteria. The practice included the development of interviews with the best qualified individuals for the position and a recommendation was subsequently made and submitted for approval by the State authorities. The Panel highlights this nomination process of candidates and urges States to replicate similar practices in future elections.

The Panel also received information on States that have carried out pre-selection procedures organized by specialized bodies of their respective executive branches to identify those persons with profiles that are suitable based on their background, interviews, and engagement with representatives of civil society and academia. In this regard, the Panel welcomes this participation by civil society and recommends that in the future, these practices be formalized and that public, regulated, and transparent processes be established and involve the greatest number of civil society groups, particularly those with less access to political participation.

## Part II: Recommendations

The quality of Inter-American human rights standards depends directly on the qualities and capacities of the judges and commissioners who make up the bodies of the system. The characteristics of the nomination and selection processes for these positions necessarily influence the quality of the decisions and the perception of the legitimacy of these bodies. Therefore, the nomination and selection processes at the national level must be transparent, participatory, and based on the merit of the participants.

The current systems for nominating and electing commissioners and judges to IAHRS bodies have a number of shortcomings in terms of transparency and participation. The Panel has pointed out these deficiencies throughout its various activities.

It is important to reiterate that Inter-American legal instruments are silent on how nominations should be developed at the national level and “there are no OAS guidelines establishing minimum standards or requirements for member states to consider when selecting candidates for the court or commission, nor is any OAS body empowered to review the process or the qualification of candidates once states submit their candidates.”<sup>56</sup>

Without clear and uniform rules, these processes are mostly controlled by the States and are exempt from being officially audited by other actors. The information provided to the Panel by the candidates and by the States themselves confirms that, in general, nominations are made through a discretionary appointment by an executive entity, usually through the Ministry of Foreign Affairs.

The practice of “vote exchange” has historically dominated these processes. States exchange promises of political support for votes in other elections, and this practice often ignores the capabilities and suitability of the candidates. The previous Panels have made detailed criticisms of these practices, which are also reiterated by civil society organizations at the regional<sup>57</sup> and global levels. This in ins

characterized as “...a destructive practice that is practiced as a matter of course in other international institutions [and] is opposed to the fair and effective functioning of international justice and should be avoided altogether at the ICC. For this reason, we promote informed and merit-based choices. This type of situation, vote trading or other forms of politicization, cannot happen when it comes to electing those who will lead the Rome Statute's international justice system.”<sup>59</sup>”

Throughout its four iterations, the Panel has made a series of recommendations with the objective of adjusting national nomination processes for candidates and the selection process at the OAS to international standards with respect to other successful experiences of similar bodies, such as the International Criminal Court and the European Court of Human Rights. The shortcomings of current processes and best practices developed in other international institutions have guided the Panel in developing its own recommendations. Many of the recommendations that the Panel has issued in the past are still in effect and will be discussed later in this section.

Both the International Criminal Court and the European Court of Human Rights are bodies that present similar characteristics to the Inter-American bodies and have formalized evaluation mechanisms for national level to

humanrights record. This body, ideally, should be representative of different constituencies within the State and sectors of society (academic, professional, human rights, among others). It should be permanent or convened with time in advance of the next election.<sup>60</sup>

Thoughtful analysis in a

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potentially qualified for the position<sup>63</sup> It is also indicated that the announcement of the call for the



former in the eyes of a reasonable observer<sup>67</sup>.” The values of independence and impartiality are at the core of the Addis Ababa Guidelines<sup>68</sup>, which stipulate that members of these bodies, in addition to being independent and impartial, should appear to be so in the judgment of a reasonable observer. In addition to these guidelines, they provide that those working for the treaty bodies shall not be subject to any kind of influence or pressure from the State of which they are nationals, or from any other State or its agencies, and shall not seek or accept instructions from anyone in connection with the performance of their duties.<sup>69</sup>

v) Applicants should be asked to provide information on the activities they plan to carry out simultaneously with their work as commissioners or judges

In the spirit of Article 71 of the Convention, the Panel also recommends that States refrain from proposing persons who occupy—simultaneously to their performance in the IACHR or IACtHR, but also at the time of being proposed—positions of authority and responsibility in any of the areas of government or the diplomatic corps of their country that could give rise to a conflict of interest that would prejudice the real or apparent independence and impartiality that every judicial body should have. The Panel recognizes that this does not explicitly

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At the ECtHR level, it has been accepted that individuals extend written commitments to take intensive language classes if elected. This practice could be applied in the Inter-American case in the situation where there is a candidate who fully complies with all the requirements but does not master more than one official language of the OAS.<sup>71</sup>

vii) Interviews should be an essential part of the selection process

Once the nomination period is over, the national selection body should call individuals for an interview to assess their qualifications. There should be pre-established rules to allow representatives of the most representative national non-governmental human rights organizations to be present at the interviews. Interviews should be conducted based on a model template that guarantees equal conditions for interviewees and their evaluation. The questionnaire attached in Annex B may provide an idea of the type of questions that could be asked of applicants. The decisions of the body should not be binding, but the political

achieved, the number of candidates is higher than in previous periods. It should also be noted that of these seven candidates for the IACtHR, five of them are women and of the five candidates for the IACHR, three of them are women.

(ix) States should seek to nominate individuals who, in addition to meeting the conditions of recognized human rights expertise/competence and independence and impartiality, contribute to a diverse and representative composition of the body.

the The Commission should also take into account the needs of groups, especially in the context of minorities or disadvantaged groups in the region, such as indigenous peoples, Afro-descendants, people with disabilities, members of sexual minorities, among others.

Likewise, given that both the IACtHR and IACHR face a broad thematic spectrum of issues

Regarding the professional profiles of the candidates for the IACHR, there were diverse profiles with work experience in international organizations, the diplomatic corps, legal advising to prosecutive bodies, and various positions within executive branches related to human rights issues. Likewise, candidates had experience in academia, including in teaching, research and institutional management.

#### b) Recommendations for the selection process at the OAS

In this current iteration, the 2021 Panel endorses the conclusions reached by previous panels, in their full context. In this regard, it recommends that:

i) The OAS should establish an Advisory Committee without State representation in order to ensure the suitability of persons nominated to be commissioners of the IACHR or judges of the IACtHR.

Throughout its various iterations, the Panel has accumulated valuable experience in the development of its methodology and process of evaluating candidates. This evaluation process should be institutionalized within the OAS. The Panel recommends that an Advisory Committee have a diverse composition with independent members, including representatives from civil society, academia and individual civil servants and officials as independent experts, with equal number of male and female representatives. The OAS could also invite the Inter-American Juridical Committee to assist the Advisory Committee in its work, in accordance with Article 99 of the OAS Charter, which states that the Juridical Committee exists to serve the Organization as a consultative body on legal matters.

the Assembly of States Parties<sup>78</sup> The Advisory Committee for the evaluation of candidatures is composed of nine members with high moral consideration, competence and experience in criminal or international law. Members must be nationals of the States Parties but act independently of the interests of the State of which they are nationals. They should reflect the world's major legal systems and ensure an equitable and balanced geographical representation of both genders.<sup>79</sup>

ii) The terms of reference of the Advisory Committee should include evaluating and assessing nominees with respect to their suitability for their term of office as commissioner, commissioner, judge or justice.

“The Committee would be empowered to meet with these individuals, compile independent information about them, and conduct public panels to provide them with the opportunity to present themselves to States as well as to both regional and national civil society associations. The Advisory Committee would also be able to access information gathered on each applicant at the national level and in the eventual selection process used at the local level. The Committee should evaluate their suitability not only on the basis of criteria of professional suitability for election, but also on personal qualities of independence, impartiality, integrity, decency, competence, diligence, equanimity, and empathy. Finally, its evaluation should take into account the diversity of the candidates in its recommendations.”<sup>80</sup>

(iii) The OAS should publish and widely disseminate the names and curricula vitae of the candidates well in advance.

“In order for institutions, civil society organizations and any interested persons to adequately prepare to participate and contribute to the selection process, in accordance with their possibilities, it is necessary for the OAS to announce who will stand for election at least 90 days before the General Assembly.”

v) The Panel recommends that the Advisory Committee make a final written report to the OAS regarding the evaluation of the applicants and that the States take this report into account when casting their votes.

The Committee's report would provide guidance and advice through independent evaluations that States could use in selecting the most qualified individuals. The Committee's task would not be to endorse or

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## Part III: Individual evaluations

### Nominations to the Inter -American Commission on Human Rights

#### 1. CARLOS BERNAL PULIDO

Proceedings before the Panel: Carlos Bernal was contacted by the Panel on April 6, 2021. He responded to the questionnaire and sent it in on April 26, 2021. Subsequently he excused himself from participating in the interview stage of the Panel to be held on May 20, 2021, as a result of a controversy that arose from a misunderstanding, as he reported in an email to the Secretariat of the Panel on May 18, 2021. Notwithstanding the foregoing, through e-mails and telephone calls that were not answered by him, the Panel again offered its availability to interview him.<sup>83</sup> Carlos Bernal was the only candidate from the Court and the Commission who did not participate in the interview stage.

The Panel received no letters of support for his nomination and received three letters from civil society organizations opposing his nomination.

#### 1. High moral authority

In the questionnaire sent to the Panel by candidate Bernal, he stated that he had never been disciplined for professional misconduct. The Panel received no information to the contrary. There is nothing in his record to indicate any type of sanction, ethical t 1.18 mnt 1.55 Tw 8.004- T

Australia (for two terms: from 2009 to 2013 as Associate Professor and from 2013 to 2017 as tenured professor).

He also served as legal advisor to various institutions in Colombia and abroad, including, among others, the National Army of Colombia, Empresa Pública de Medellín, the Supreme Court of Justice of Mexico, and the Ministry of Public Administration of Bangladesh.

He was appointed as Magistrate of the Constitutional Court of Colombia by the Senate of the Republic for a period of eight years, a position from which he resigned three years after his appointment, for professional and family reasons<sup>85</sup>

As a magistrate of the Constitutional Court of Colombia, Carlos Bernal actively participated in a large number and variety of rulings, including several relevant rulings on human rights. In this regard, the Panel received information that the candidate cast some votes that could be contrary to the rights of certain groups that have historically experienced discrimination. The fact that candidate Bernal did not participate in the interview with the Panel or in any procedure of exchange of information and ideas with it, prevented dialogue with him about the Inter-American standards related to these same matters, in the sense of knowing how he would resolve similar situations by applying the legal sources of the IAHRs. From an analysis of the indicated decisions, the Panel has



As for his particular areas of knowledge relevant to the exercise of the position for which he is running, based on the sources that were analyzed in preparation of this report, his knowledge in various areas of human rights philosophy, and constitutional law stands out.

Candidate Bernal is a prolific author in the production of legal and philosophical publications in scientific journals in various countries, writing mainly on constitutional law, tort liability of the State, democracy, institutionalism, the principle of proportionality, fundamental rights, transitional justice and environmental law, among other topics.

*Knowledge of IAHR challenges*

Regarding his dedication, if he were to be elected as Commissioner the candidate explained that he would continue to undertake his activities as a law professor at the University of Dayton (in Ohio) and the University of La Sabana (in Colombia). He said that the administrations of both universities have expressed their support for his candidacy and their willingness to provide him with

## 6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that Carlos Bernal meets some of the qualifications he

## 2. ROBERTA CLARKE

Proceedings before the Panel: Roberta Clarke was contacted by the Panel on April 11, 2021. She responded to the questionnaire and submitted it on May 4, 2021. She met with the Panel on May 19, 2021. The Panel received one letter of support for her candidacy<sup>88</sup>

### 1. High moral authority

Candidate Clarke indicated in her response to the questionnaire that she has not been disciplined for professional misconduct. The Panel has not received any information to the contrary. There is nothing in her record to indicate any type of sanction, ethical misconduct or professional impropriety.

### 2. Recognized expertise in human rights

#### *Academic background and professional experience*

Roberta Clarke holds a Bachelor of Arts degree in Sociology from the University of the West Indies and a Master of Arts degree in Sociology from York University (Canada). She also holds an LLB degree from the University of the West Indies and graduated as an attorney-at-law in 1989 (Bar Association of Trinidad and Tobago). She also completed a Master's degree in







## 6. Conclusion

After analyzing various sources used to prepare this report, the Panel has concluded that Roberta Clark meets the requirements to be elected as a commissioner. The Panel also believes that, if elected, she would contribute to the work of the IACHR by virtue of her knowledge and experience.

On the requirement of high moral authority, the Panel highlights the candidate's international career dedicated to activism and the

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### 3. JOEL HERNÁNDEZ GARCÍA (reelection)

Proceedings before the Panel: Joel Hernandez Garcia was contacted by the Panel on April 7, 2021. He responded to the questionnaire and submitted it on April 28, 2021. He met with the Panel on May 11, 2021. The Panel did not receive any information from civil society or other interested parties.

Commissioner for Human Rights in order to contribute to the protection of human rights defenders in the Americas through monitoring and advocacy actions.

Prior to his role at the IACHR, Mr. Hernández had a career as a diplomat in the Mexican Foreign Ministry, having joined the Foreign Service in 1992 and



Finally, he is of the opinion that the universality of the IACHR continues to be a pending task, indicating that it “(...) requires leadership, not only from the IACHR, the political bodies of the OAS and the States, but also from the commissioners themselves.”

Regarding his contribution to the challenges detected, he proposed working to continue to implement the measures adopted by the IACHR in the 2017-2021 Strategic Plan to address the procedural backlog and simultaneously address those emblematic cases that allow progress in the development of Inter-American standards in the most serious and urgent cases. He added that the Commission should continue with the country portfolio review exercise together with the interested Member States to identify cases that can be resolved through amicable solutions or that can be archived.

Secondly, he indicated that the policy of closing cases due to procedural inactivity has been effective and progress should be made in closing cases that have lost their validity, so long as the petitioning party is given the opportunity to respond in order to continue with a case. Third, he added that the Commission should make greater use of the prioritization criteria established in Article 29.2 of its Rules of Procedure.

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#### 5. National nomination process

The candidate said that when he learned that the IACHR would have three vacancies, he expressed his interest in running for reelection to the Mexican Ministry of Foreign Affairs. He indicated that the internal procedure was developed within the Secretariat and added that he is unaware of the consultations that were carried out.

The candidate is of the opinion that all states should conduct selection processes in a more rigorous manner. He indicated his concern for the inertia of the states and because the nominations do not respond in many cases to an internal process of selection of suitable people with a dialogue with civil society.

#### 6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that Joel Hernández García meets the requirements to be elected as a commissioner. The Panel also believes that, if elected, he would contribute to the work of the IACHR by virtue of his knowledge and experience.

Regarding the requirement of high moral authority, the Panel believes that his long career in the diplomatic service of his country, having reached the rank of Ambassador, corroborates his moral authority. This is reaffirmed by the fact that he has served for the last three years as commissioner of the IACHR, occupying its

various positions in the Mexican Foreign Ministry, a diplomatic career which he resigned once he was proposed as a candidate in the first election to the IACHR. In addition, at the international level, he has promoted human rights through his collaboration with different United Nations and OAS organizations.

#### 4. ALEXANDRA HUNEEUS

Proceedings before the Panel: Alexandra Huneeus was contacted by the Panel on April 6, 2021. She responded to the questionnaire on April 26, 2021 and she met with the Panel on May 20, 2021.

##### 1. High moral authority

Candidate Huneeus stated that she has never been disciplined for professional misconduct. The Panel has not received any information to the contrary. There is nothing in her record to indicate any type of sanction, ethical misconduct, or professional impropriety.

The candidate has received several awards throughout her academic career, among them:

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Since 2018, she has served as the director of the University of Wisconsin's

tendencies. The external challenges described above are the ones that will guide, in her opinion, the work of the IACHR in the coming years.

Regarding her contribution to the challenges identified by her, she mainly indicated that from her experience in academia and research, she would contribute by providing knowledge about the System. She added that she would also bring her understanding of how best to communicate the work of the IACHR and work with the states to generate greater confidence in the IACHR. The candidate believes that efforts should be made to generate greater opportunities for dialogue between civil society, states and academia. In particular, she pointed out the need to work jointly with states to address the challenge of the procedural backlog.

She stressed the need for the IACHR to work for the most vulnerable groups of people and for the defense of democratic institutions. This involves working in the defense of political rights, as well as rights related to the provision of medicines without discrimination, access to information, the rights of women, Afro-descendants, indigenous peoples and people belonging to the LGBTQI+ population.

Another challenge pointed out by the candidate is related to the institutional aspects within the IACHR: the procedural backlog, the follow-up of recommendations and the working environment. Regarding the latter, the candidate indicated that she possesses interpersonal, leadership and administrative access to

this matter, there is a possibility that she would have to recuse herself in order to avoid any appearance of partiality.

4. Contribution to the balanced and representative composition of the organization

Regarding her contribution to the body, the candidate indicated that the IACHR currently has a composition of commissioners with professional experience mostly linked to the public sector in their countries. The candidate remarked that her professional profile in the academic area would contribute to the diversity of the organization's professional profiles. She also added that, due to her experience in charge of certain areas of the University where she works, she has administrative skills that would be very useful at the IACHR if selected. The candidate indicated that much of her academic career and research has focused on the study of the various political and justice systems in the IAHRS. As a result, she is knowledgeable about the functioning of the constitutional and criminal policy systems of various countries in the region, as well as the differences between civil law and common law legal systems.

5. National nomination process

In this regard, the candidate pointed out that the U.S. Department of State carried out a process through which prior selection criteria were established in accordance with previous processes and in consultation with civil society. The vacancy was published and disseminated among members of civil society.

should be noted that her experiences focused on the study of human rights issues, so she is perfectly familiar with

## 5. ANTONIA URREJOLA NOGUERA (reelection)

Proceedings before the Panel: Antonia Urrejola Noguera was contacted by the Panel on April 6, 2021. She responded to the questionnaire on April 27, 2021. She met with the Panel on May 14, 2021.

### 1. High moral authority

Candidate Urrejola stated that she has never been disciplined for professional misconduct. The Panel has not received any information to the contrary. There is nothing in her record to indicate any type of sanction, ethical misconduct, or professional impropriety.

Candidate Urrejola is running for reelection as a commissioner. She was elected as a commissioner by the OAS General Assembly for the 2018-2021 term. During 2021, she served as President of the IACHR.

### 2. Recognized expertise in human rights

- *Academic background and professional experience*

The candidate is a lawyer from the University of Chile and holds a postgraduate degree in “Human Rights and Democratization Processes.”

She currently serves as a commissioner of the IACHR and, since 2020, has been the director of the Diploma in Human Rights, Public Policy, and Strategic Litigation at the Law School of the Alberto Hurtado University (Chile).

Previously, between 2003 and 2005, she worked as Legislative and Human Rights Advisor to the Minister of the Interior. From 2006 to 2011, she worked at the OAS General Secretariat and, among other functions, was in charge of the General Secretariat's liaison with the bodies of the IAHRs—Commission, Court and Institute of Inter-American Human Rights. From 2012 to 2017, she worked as an Independent Consultant in Public



- *Knowledge about the challenges of the IAHRs*

In her answer to the questionnaire and in the interview with the Panel, the candidate demonstrated a clear knowledge of the IAHRs and the challenges in the immediate future for the IACtHR and the IACHR.

Among the challenges facing the regional system, the candidate highlighted four: first, the fulfillment by the IACHR of its main functions in a context of questioning of its authority by some States. The second related to the current context of COVID-19 and its impact on accentuating the continent's inequalities. The third focused on the internal work of the IACHR and the way in which the pandemic has influenced this work, thus establishing the need to incorporate new working methods, mainly virtual, and limiting the possibility of visits to territories and direct contact with the victims. Fourthly, the candidate mentioned the issue of the IACHR's budget, also in the context of the economic limitations that the pandemic has generated in the region.

At the same time, the candidate emphasized the advancement of authoritarianism on the continent and its impact on the human rights agenda. In light of this, she reflected on the difficulties of the

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Both aspects—full dedication and knowledge of two of the official languages of the OAS—allow the Panel to hold that she meets the additional skills requirement for the position of Commissioner.

3. Independence, impartiality and conflicts of interest

The candidate has experience as an advisor in different public agencies, under various governments of her country and with different degrees of responsibility. Her last position was as Human Rights Advisor to the Ministry of the Presidency of Chile, in charge of relations with Congress and the processing of bills. In this regard, the candidate expressed that *“The fact that I have had a relevant part of my professional career in the field of human rights from public agencies does not make me, per se, less autonomous with respect to the States.”*

The Panel has no information of any kind that would allow it to have any doubt as to

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re-elected, she would contribute significantly to the work of the IACHR, by virtue of her accumulated knowledge and experience.

The Panel believes that Mrs. Urrejola would enrich the work of the IACHR by providing continuity to the objectives set in previous years. The candidate would contribute her knowledge of the current challenges faced by the System and her ability to address them in conjunction with the various actors involved, States, civil society, and victims.

Regarding the requirement of high moral authority, her professional career directly related to the application of human rights standards from various positions of great responsibility attests to this. In addition, no sanctions, ethical misconduct, or professional impropriety are noted in her record.

With regard to the requirement of recognized expertise in human rights, the Panel believes that it is indisputable that candidate

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of indigenous peoples in a regional context of promotion of “development” projects that have an impact on such rights, and the other transitional justice. The Panel notes that the candidate has served as Country Rapporteur for Nicaragua and Colombia, both with very complicated contexts for the enforcement of human



He has dedicated his entire professional career as a criminal lawyer and constitutional lawyer, and as an academic, not having held a public position in the Brazilian government or been part of any civil society organization.

From 2013 to 2017, he held various academic positions at the University of Brasilia as a teaching assistant, volunteer lecturer, and, then, as a chaired professor teaching constitutional law, public policy, and fundamental rights. In recent years, together with other experts, he organized a study group on topics related to human rights and democracy called "Law in times of Covid-19," through which he organized several seminars on current issues. The candidate has actively participated *ad honorem* and by invitation in the study committees of the House of Representatives (Chamber of Deputies) and the National Council of Justice of Brazil, providing technical advice for the drafting of bills related to issues of criminal law, justice, democracy, and public safety.

The candidate is currently President of the Special Commission of Criminal Studies of the Brazilian Bar Association (OAB, in its Portuguese acronym), which aims to evaluate the compatibility of draft laws on criminal matters with fundamental criminal guarantees and human rights. He is also a consultant to the National Commission of Constitutional Studies of the OAB before the Supreme Federal Court of Brazil (STF) and a member of the Committee for the Defense of the Republic and Democracy of the OAB, which aims to "promote popular sovereignty and propose legal means to control the actions of the public authorities."

the candidate it was one of the reasons for the issuance of a new immigration law in Brazil, a law that was later highlighted by the IACHR.<sup>96</sup>

- *Knowledge of IAHR challenges*

In his answer to the questionnaire and in the interview with the Panel, the candidate referred to some issues regarding the challenges that may arise in the immediate future of the IACtHR and IACHR. Among other considerations, he pointed out that the first challenge was to increase the Court's presence in the Americas and bring its work closer to the legal realities of each State Party. He indicated, "*This challenge requires the formulation of solutions that include (i) the search for greater effectiveness of the Court's decisions, especially through dialogue, respecting the sovereignty of the countries, and (ii) the dissemination of the Court's work to make it better known at the continental level.*" He mentioned the case of Brazil as an example of the above, indicating, "*Despite being a country that has historically participated in the construction of the IAHR itself, the work of the Court is little known internally and its jurisprudence is not usually taken as a reference by the Brazilian judiciary*". He indicated that the same is happening in other countries and therefore work should be done to bring the IACtHR closer to the States and their legal systems, especially the Caribbean nations.

He added, "*the greater proximity of the [IACtHR] to the countries under its jurisdiction, especially*

- *Diligence and other relevant skills*

As for his dedication to the position in the event that he is elected to the post, he explains that he would continue his academic career and practice law in a manner compatible with his eventual performance as a judge.

Regarding his language skills, Portuguese is his native language and he is also fluent in Spanish and English.

### 3. Independence, impartiality and conflicts of interest

The candidate has dedicated his entire professional life to being a practicing lawyer and an academic. The Panel has no evidence that the candidate has held any political or decision-making positions in the spheres of government.

He was asked for his opinion on possible conflicts of interest as a trial lawyer before the Supreme Federal Court of Brazil. He indicated in his response to the questionnaire that “*If, however, any situation arose in which I might have a conflict of interest, I would certainly follow the procedure provided in the rules of the IAHRs and submit a justification acknowledging my impediment, in accordance with the terms of Article 19.2 of the Statute of the [IACtHR].*” In the interview, he reiterated that, “*I would not put the Court in any situation that could be considered as a possible conflict of interest*” and that he would only work as a trial lawyer before the Court in Brazil (not in other countries as he has been doing thus far) and only if it was compatible with the position of Judge. The Panel has no information to support a contrary conclusion.

### 4. Contribution to the balanced and representative composition of the organization

Regarding what his candidacy contributes to a balanced composition of the regional court, he indicated that, “*(...) the great diversity of activities with which I have been able to work has provided me with a significant amount of experience that I will be able to contribute to the [IACtHR].*” Regarding his contribution, in particular, he highlighted his training and work as a lawyer, adding that, “*(...) the [IACtHR] usually has a majority of public career judges,*

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International University (Ecuador), Ca'Foscari University (Italy), University of Sydney (Australia), Kathmandu Law School (Nepal), and the European Inter-University Centre (Italy).

Regarding her areas of

- *Knowledge of IAHR challenges*

In her answers to the questionnaire and in the interview with the Panel, the candidate evidenced a clear knowledge of the IAHR and understanding of the challenges that the IACtHR and IACHR will face in the immediate future.

As for the challenges facing the Inter-American human rights system, the candidate identified the structural socioeconomic inequalities as the root causes of poverty and the most serious human rights violations are the most pressing challenges, she added,

3. Independence, impartiality and conflicts of interest

The candidate has spent her entire professional life as an academic, researcher and legal advisor. No information was found that would allow the Panel to determine whether the candidate has held political or other decision-making positions in previous or current Argentinean government.

Regarding possible conflicts of interest, candidate Gómez indicated, *“It is unlikely that conflicts of interest will arise in the exercise of the position. Should this occur, I will proceed in accordance with Article 19.2 of the Statute of the Court.”* The Panel has no information that would allow it to affirm a contrary conclusion, considering that her time at the Commission was quite some time ago, and there is no longer any case on which she had worked, with the possibility of being sent to the Court. There is also no incompatibility in relation to her current activity.

4. Contribution to the balanced and representative composition of the organization

In this regard, the candidate indicated that the Court requires male and female judges with parity of representation. She also stated that she has extensive knowledge and experience in working with the legal systems of the OAS member states from the perspective of international human rights law. In addition, she has knowledge and contacts with legislative and judicial agencies and national human rights institutions through the design and implementation of programs for the exchange of best practices, especially in the Southern Cone and the And

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### 3. NANCY HERNÁNDEZ LÓPEZ

Proceedings before the Panel: Nancy Hernández López was contacted by the Panel on April 6, 2021. She responded to the questionnaire and submitted it on April 26, 2021. She met with the Panel on May 13, 2021. The Panel did not receive any information from civil society and stakeholders regarding her candidacy.

#### 1. High moral authority

Candidate Hernández stated that she has never been disciplined for professional misconduct. The Panel received no information to the contrary. There is nothing in her record to indicate any type of sanction, ethical misconduct, or professional misconduct.

Counsel to Justice Rodolfo Piza Escalante (1990-1992). Prior to her career in the Judicial Branch, she served as Legal Advisor to the Ministry of Justice of Costa



Regarding her

Commission will face in the

As for other relevant skills of the candidate it is worth mentioning the knowledge she possesses in the exercise of her jurisdictional activity of conventionality control, which she has applied in several rulings.

### 3. Independence, impartiality and conflicts of interest

The candidate has spent her entire professional life as a magistrate and academic. She has not held any political or other decision-making positions in governmental spheres. She clarified in the interview with the Panel the non-existence of any type of relationship with the Executive. She referred to the pressures (political, public) to which judges are subjected and how jurisdictional work requires an impervious attitude to these pressures in order to decide with full independence.

With respect to possible conflicts of interest, candidate Hernández indicated in her answer to the questionnaire that *“In the national legal system, there are instruments that regulate by law the regime of excuses, inhibitions, incompatibilities, and prohibitions that must be considered by every judge in the exercise of the jurisdictional function. In such a way that we judges are accustomed to not affecting the impartiality and objectivity to which we are bound,”* and she added that in the event of a possible conflict of interest, *“...whether real, potential or apparent, it is my obligation to abstain from knowing, processing, giving an opinion or advising on said matter and I must adequately handle the situation before the Court.”* The Panel has no information to support a contrary conclusion.

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### 4. Contribution to the balanced and representative composition of the organization

The candidate indicated that, if elected judge, her contribution would be positive and proactive. She added that she would contribute to the balanced and representative composition of the organization.

that she is familiar with the jurisprudence of the constitutional courts of the United

moral authority. There is nothing in her record to indicate any type of sanction, ethical misconduct, or professional impropriety.

With regard to the requirement of recognized competence in human rights, the Panel believes that it is indisputable that candidate Hernández has a solid academic and professional background in international human rights law, with expertise in the areas of justice and the rights of vulnerable groups and individuals.

Her +30 years of judicial experience in constitutional and human rights issues and 25 years as a university professor support the above. The candidate has issued relevant rulings on human rights using IAHRS sources, some of which have had an impact on the adequacy of regulations and public policies in Costa Rica. She has also participated in the drafting of important bills in favor of vulnerable populations, such as persons deprived of liberty and persons with HIV-AIDS, -

#### 4. MAYTRIE VYDIA KULDIP SINGH

Proceedings before the Panel: Maytrie Vydia Kuldip Singh was contacted by the Panel on April 22, 2021. She responded to the questionnaire on May 10, 2021 and met with the Panel on May 31, 2021.

##### 1. High moral authority

Candidate Kuldip Singh stated that she has never been disciplined for professional misconduct. The Panel has not received any information to the contrary. There is nothing in her record to indicate any type of sanction, ethical misconduct or professional impropriety. The candidate is a member of the Board of Directors of the Justice Studies Center of the Americas (JSCA).

##### 2. Recognized competence in human rights

- *Academic background and professional experience*

Maytrie Vydia Kuldip Singh holds a law degree from the University of Suriname and a Master of Law degree from the Anton de Kom University of Suriname. The candidate has worked for 17 years for her country's judiciary. She is currently a Judge of the Criminal Court of Appeals, specializing in corruption cases. The candidate also provides a 16P Tc 0.004 Tw 1.Tw 0.26 0 Td [(Th)

liberty; reasonable time for the resolution of trials; protection of persons under the Domestic Violence Act; cases of discrimination against women linked to the Asian Marriage Law; marriage under Muslim laws; and the right to family in the context of the COVID 19 pandemic.

Regarding other particular areas of knowledge relevant to the purposes of the

candidate stressed the need to innovate and expand upon the variety of reparation measures ordered by the IACtHR, so that they go beyond the most frequently ordered measures of symbolic reparation and financial compensation.

Sixth, the candidate mentioned that the System should provide for consequences for those States that do not comply with the resolutions emanating from the friendly settlement procedures. In this regard, she pointed out that the path of friendly settlement has been considered less valuable for the petitioners since it does not provide for referral to the IACtHR in case of non-compliance. Finally, she indicated that an effort should also be made to strengthen control, monitoring, and follow-up mechanisms. To this end, the OAS General Assembly should play a more reactive role by eventually applying sanctions of a political nature to the states that are most reluctant to comply.

- *Diligence and other relevant skills*

As for her dedication in the event that she is elected to the post, the candidate did not provide details regarding other positions and activities that she would pursue in parallel to her work as a judge of the IACtHR.

Regarding her language 1 Tf 0.002 Tc -0.40 Td ( ) 0.31em2 >>BDC -0.3 Tw 0.26 0 Td [( )Tj -0.0mJ 3.7



by English-speaking Caribbean countries in implementing the Court's rulings. In this regard, she stressed the need to increase communication and cooperation between courts in order to effectively implement human rights standards in Caribbean countries.

In addition, the candidate highlighted the importance of having people from small Caribbean states participate in human rights organizations and regional courts, in order to increase awareness and dissemination of human rights standards among the population. Likewise, if elected, the candidate indicated that she would contribute to minimize the isolation of her country in relation to the OAS bodies.

Finally, the candidate mentioned the need to promote greater specific participation of women from these countries, for whom it is very difficult to master the official languages of the IACtHR (Spanish, English and French).

#### Knowledge of other legal systems

Candidate Kuldip Singh mentioned that she has knowledge of the common law system that governs Caribbean communities. In this regard, she indicated that she participated in several CAJO (Caribbean Association of Judicial Officials) seminars. The candidate also has knowledge of the jurisprudence of the Caribbean Court of Justice.

The candidate indicated that she is currently an elected member of the Board of Directors of the Justice Studies Center of the Americas (JSCA), whose headquarters are in Chile, and that through the training that JSCA provides in the different OAS countries, she has had the opportunity to deepen her knowledge of the various legal systems.

#### 5. National nomination process

The candidate remarked that in Suriname it is the Minister of Foreign Affairs who receives the call and disseminates it among the various State bodies. In the case of candidate Kuldip Singh, her nomination for the position of judge to the IACtHR was supported by the President of the Court of Appeals and the Minister of Justice. The Suriname authorities believe that Maytrie Vydia Kuldip Singh, if elected as a judge of the IACtHR, would contribute to strengthening the country's ties with the Court and would contribute to the enforcement of its decisions.

#### 6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that Maytrie Vydia Kuldip Singh meets the requirements to be elected judge and that, if elected, she would contribute to the work of the IACtHR by virtue of her knowledge and experience.

Regarding the requirement of high moral authority, the candidate has an extensive trajectory in the judiciary of her country and her record does not show any type of sanction, ethical misconduct, or professional impropriety.

In relation to the requirement of recognized expertise in human rights, the PTJ -0.0hg

## 5. CÉSAR LANDA ARROYO

In 2003, he served as an ad hoc Judge of the IACtHR in the case of *De la Cruz Flores vs. Peru*.

2. Recognized competence in the field of human rights

- *Academic background and professional experience*

Mr. Landa Arroyo is a lawyer who completed doctoral studies in Spain and postdoctoral studies in Germany. He is currently a Senior Professor of Constitutional Law at the Pontificia Universidad Católica del Perú and at the Universidad Mayor de San Marcos. He has 30 years of experience in teaching. He also has the following international academic responsibilities:

Vice President of the International Association of Constitutional Law;

Member of the group of experts on fundamental rights and constitutional justice of the Rule of Law Program of the Konrad Adenauer Foundation;

Ordinary member of the Association of Constitutionalists of Spain;

Member of the Institute of Parliamentary Studies of the Universidad Complutense de Madrid;

Member of the network of constitutionalists and internationalists of the Ibero-American Colloquium of the Max-Planck Institut für ausländisches öffentliches Recht und Völkerrecht in Heidelberg (Germany);

Commissioner of the International Commission of Jurists.

He serves as a member of advisory boards and editorial committees of various legal, human rights, and constitutional law journals.

constitutional rank of human rights treaties, developing the control of conventionality and enforcing the judgments of the IACtHR through constitutional processes such as habeas corpus, amparo and unconstitutionality of laws.

Candidate Landa Arroyo stands out for having contributed to the protection of human rights through his participation in the case of the "El Frontón" massacre and in rulings on the right of reconstituted families, the right to sexual identity, the use of the morning after pill and the control of arbitrariness in detentions as well as in matters of the 21-02-2014 (016) 0.29-2 Te 4 (22) @B-10T@



## 5. National nomination process

The candidate pointed out that in Peru there is no formal mechanism through which the government submits nominations to bodies of the universal or Inter-American Human Rights System for consideration by other branches of government or civil society. On this point during the interview, the candidate added that he is aware of the recommendations for the nomination of candidates at the level of the international tribunals and the System itself, and that this is a pending task in Peru. He added that the guarantee of the independence of a tribunal or court also depends on the system of selection of its members.

## 6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that the candidate César Landa Arroyo meets the requirements to be a member of the Panel.

With respect to its independence and impartiality, the Panel does not have elements nor has it received information that would allow it to have doubts about it. The Panel believes that candidate Landa Arroyo is seen as independent and impartial in the eyes of a reasonable observer, capable of remaining free from outside influence and pressure.



6. MIRYAM JOSEFINA PEÑA CANDIA

Proceedings before the Panel: Miryam Peña

She also indicated that between 1994 and 2000, she represented Paraguay on the Board of Directors of the Inter-American Children's Institute (IIN), the OAS specialized agency for the protection of children and adolescents in the area of public policies.

Candidate

to her article *“Some considerations regarding the right to conscientious objection in Paraguay.”*

As mentioned at the beginning of this Report regarding the methodology for the evaluation of the candidates, the Panel considers information provided by civil society organizations which it contrasts with the candidate to whom it refers. In relation to candidate Peña, the Panel received a communication with endorsement from organizations mainly linked to

During the interview, the candidate also added the challenge of financing the activities of the IACtHR.

- *Diligence and other relevant skills*

As for her dedication if elected to the Tc -0.006 Tw 9.96 y( (et) f a c 4 ( a r ) 0 0 2 0 2 7 - c ) / T c j 0 . 6 3 0 T c d 6 0 4 T T

She indicated that the selection



From the overall review of the documentationsubmitted, the answersprovided in the questionnaireandtheinterview, thePanelbelievesthatthecandidateis an expertin thepublic, civil, andlaborlaw of hercountry. ThePanelhassomedoubtsregardingthecandidate'sspecific knowledgeof thejurisprudenceof theIACtHR andregionalhuman rightschallenges.

Thecandidatehasanoutstandingrackrecordin theJudiciaryandin teaching,with extensive knowledgeandhandlingof domestidaw. In thedecisionsandpapershatthecandidateshared, there are someisolatedquotationsfrom human rightsinstrumentshat are notaccompaniedby reasoningbasedon internationalhumanrights law. Nor was it possibleto verify a specific academicproductionon thesubjectof humanrights. ThePanel,therefore,js unableto find that candidatePeña Candia fully complies with the requirementof proven competencein internationalhuman rightslaw.







Regarding her particular areas of knowledge relevant to the position for which she is applying, her knowledge of the IAHR standards stands out. In this regard, the candidate indicated in her answers to the questionnaire that, during her experience in the Criminal Defense Office, she focused on the defense of the rights of persons deprived of liberty. She also indicated that throughout her professional career, she has addressed the issue of the condition and treatment of people with disabilities from different angles, mainly in family and labor law (through her work at the Legal Assistance Corporation) and then in criminal law, while she worked at the Public Defender's Office. The candidate expressed her interest in the issue of sexual diversity, which she has addressed since her work in the justice sector and in the implementation of appropriate prison policies. She also described that, in the area of criminal justice, she has worked on issues related to migrants, promoting non-discrimination by state agents, access to justice, and, in particular, effective access to consular assistance. The candidate also referred to her interest in access to justice and the need to bring legal services in civil, labor, family, and criminal matters closer to the community. In particular, she stressed the importance of the work of the public defender's office in guaranteeing access to justice for the most vulnerable people.

She also has numerous publications in the field of human rights. She has written in various legal journals, mainly on the topics of women's rights and the prison system. As Minister of Justice, she participated in the preparation of several publications, including those on penitentiary policy with a focus on international human rights law. She has also written numerous newspaper articles and opinion columns. Moreover, her doctoral thesis was entitled, "Women Deprived of Liberty and the Capabilities Approach" (2016-2020).

- *Qualification to exercise the highest judicial function*

Candidate Pérez Goldberg meets the requirements to be a judge of the Supreme Court of Justice of Chile in accordance with Article 78 of the Chilean Constitution.<sup>115</sup>

- *Knowledge of IAHR challenges*

In her answers to the questionnaire and in the interview with the Panel, the candidate demonstrated a clear knowledge of the IAHR and understanding of the challenges that the IACtHR and IACHR will face in the immediate future. Regarding the challenges facing the IAHR, the candidate referred to advancing its universality, taking into account ratifications of the ACHR, and the acceptance of the contentious jurisdiction of the IACtHR. She referred to the challenge of including English-speaking countries of the continent that have not yet accepted the jurisdiction of the Court, which makes the IAHR less diverse than the region.

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<sup>115</sup> Article 78 of the National Constitution "... five of the members of the Supreme Court must be lawyers from outside the administration of justice, have at least fifteen years of professional experience, have distinguished themselves in professional or university activity and meet the other requirements set forth in the respective constitutional organic law (...) In the case of filling a vacancy corresponding to lawyers from outside the administration of justice, the roster shall be formed exclusively, after a public background competition, with lawyers who meet the requirements set forth in the fourth paragraph...."



4. Contribution to the balanced and representative composition of the organization

Regarding her contribution to the composition of the Inter-American Court, the candidate explained that: “... [Her] work in the State in the direct execution of public policies (as a criminal defense attorney) and later in the design and implementation of those policies (as Undersecretary and Minister of Justice) and in their evaluation (as an academic), [has] given her the possibility of knowing, first-hand, the challenges that exist between the letter of the law and its implementation, but also to identify the opportunities that exist to implement the desired changes.”

Additionally, candidate Pérez Goldberg mentioned that from her work in the Public Defender's Office, she had the opportunity to participate in training activities with judges, prosecutors, public defenders and experts, both Spanish and English-speaking, which allowed her to learn about the similarities and differences that exist between a wide variety of constitutional and criminal systems in the Americas, Africa, and Europe. Likewise, when she worked in the Ministry of Justice, she had the opportunity to review a significant number of comparative experiences for the purpose of adopting administrative measures and promoting legal initiatives in different areas of law.

5. National nomination process

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internationally. In addition, the candidate has received various distinctions detailed above. There is nothing in her record to indicate any type of sanction, ethical misconduct, or professional impropriety.

In relation to the requirement of recognized expertise in human rights, the Panel believes that it is indisputable that candidate Pérez Goldbeg has a solid academic and professional background in international human rights law, with expertise in the areas of access to justice, rights of persons deprived of liberty and gender perspective persons with disabilities, and migrants. In the questionnaire sent to the Panel and in the interview, the candidate showed recognized competence in human rights in several ways: the protection of human rights as a personal cause, with a strong vocation to work in the defense of the rights of people in vulnerable situations; knowledge of international human rights law and its application in her professional career, and with respect to the specific issues of interest she has had in her work. As a specialist in criminal matters, she has also worked in favor of the rules of due process.

The candidate has a diverse professional background; she has worked as a legal advisor for the Public Criminal Defense Service, as Undersecretary of Justice and Minister of Justice. In these areas, she worked to create institutions in favor of human rights, in litigation, and in the promotion of public policies to improve the conditions of persons deprived of liberty.

## Annex A: Biographies of the Panel Members

Mariclaire Acosta: Mariclaire Acosta is currently the President of Transitional Justice Mexico (JTMX) and Oxfam-Mexico. She chaired Mexico's National Anti-Corruption System in 2018 and she is an academic and activist. She has held positions in public service and is internationally recognized as a human rights expert. Throughout her career, she has founded several human rights organizations and has held important positions. She was Director of Freedom House Mexico; Director for the Americas of the International Center for Transitional Justice; Special Advisor to the Secretary General of the Organization of American States for Civil Society Affairs; as well as, Undersecretary for Human Rights and Democracy at the Ministry of Foreign Affairs during the Fox administration. She was a collaborator for six years with the Office of the United Nations High Commissioner for Human Rights through the Committee of Trustees of the Voluntary Fund for Technical Cooperation. She was Counselor of the National Human Rights Commission from 2013 to 2019. She currently chairs the organization JTMX, a space for reflection on the possibilities of promoting a transitional justice process for Mexico. She is also President of Oxfam-Mexico, as well as President of the Consultative Assembly of the National Council to Prevent Discrimination.

Carlos Ayala: Carlos Ayala is an international jurist with extensive experience in human rights protection systems and a professor of international human rights law and constitutional law in undergraduate and graduate courses at different universities. He is also Vice President of the International Commission of Jurists and a member of the Board of Directors of the International Human Rights Institute (IHRI). He was president and a member of the Inter-American Commission on Human Rights and Rapporteur on the Rights of Indigenous Peoples of the Americas from 1996 to 1999. He was also a member of the Andean Commission of Jurists since 1992 and its president from 2003 to 2009. In 2005, he was appointed by the UN High Commissioner for Human Rights as a member of the International Commission of Overseers for the selection and appointment process of the Supreme Court of Justice of Ecuador. He was also a consultant to the UN for the appointment of the Supreme Court of Justice in Guatemala in 2009. Mr. Ayala has been the honorary president of the Venezuelan Association of Constitutional Law since 1998. Regarding his academic background, Carlos Ayala was a Professor of Constitutional Law at Universidad Católica Andrés Bello (UCAB) and Universidad Central de Venezuela (UCV) between 1983 and 2008. He has been head of the Constitutional Law Department at UCAB since 1992. He was Head of the Public Law Department at UCAB between 2004 and 2016. He has been a professor of International Protection of Human Rights in the Postgraduate Program in Human Rights at the UCV since 1992. He has also been a professor of human rights in the undergraduate law program at Universidad Metropolitana and UCAB since 2005 and a professor of constitutional law at UCAB since 2006.

2004 to present. He was also Professor of Human Rights (1995-2003) and Director of the Center for Constitutional Law at the Universidad Iberoamericana de México in 2003.

Magdalena Cervantes: Magdalena Cervantes holds a degree in Sociology from the Universidad Nacional Autónoma de México, completed a Master's degree in Latin American Studies at the same university, and holds a Master's degree in Human Rights and Democracy from the Facultad Latinoamericana de Ciencias Sociales, Mexico City. She worked at the Human de

Elizabeth Salmón: Elizabeth Salmón holds a Doctor of Law in International Law from the University of Seville and is a Senior Lecturer of International Law at the PUCP. She is executive director of the Institute of Democracy and Human Rights of the PUCP and a member of the Advisory Committee of the United Nations Human Rights Council, of which she was president during 2019. She is also a foreign legal expert to act as *Amicus Curiae* in the Special Jurisdiction for Peace in Colombia. She is the author of several publications on public international law, international human rights law, international criminal law, international humanitarian law and transitional justice. She has also served as the director of the Masters in Human Rights program at the PUCP, and a consultant to the Peruvian Ministries of Justice and Defense as well as to the Peruvian Truth and Reconciliation Commission, the United Nations and the International Committee of the Red Cross. She is also a visiting professor and teaches specialized courses at several universities.

Judith Schönsteiner: Judith Schönsteiner holds a Doctor of Law, LL.M. in International Human Rights Law from the University of Essex, M.A. in Political Science from the Johannes Gutenberg University of Mainz. She is an associate professor at the Faculty of Law of Universidad Diego Portales, Santiago, Chile, and a researcher at its Human Rights Center, which she also directed from 2012 to 2017. She specializes in human rights and business and she has conducted research on the Inter-American human rights system, as well as the incorporation of international human rights law into the domestic legal system. She was a member of the Independent Panel of Experts in 2019. She has trained officials off



## Annex B: Questionnaires sent to candidates

### Questionnaire for Candidates to the Inter-American Court of Human Rights

The Independent Panel of Experts has been convened to evaluate the nominees to integrate the Inter-American Court of Human Rights that will be elected during the General Assembly of the Organization of American States. In particular, the panel will:

- x Evaluate whether the candidate meets the criteria and fulfill the requirements established in the American Convention of Human Rights, the IACourtHR Statute, the relevant resolutions enacted by the OAS and the international standards established in the most important instruments about judicial independence and conduct.
- x Issue recommendations about the nomination processes at the national level following elections at the OAS General Assembly.

Similar practices have been developed around the world in which state representatives, independent experts, and/or civil society organizations have participated in nomination processes or evaluation of candidates to judicial or quasi-judicial bodies at the international level. The Caribbean Court of Justice, the International Court of Justice, the European Court of Human Rights, the Court of Justice of the European Union and the Economic Community of West African States Court of Justice constitute some of the most relevant examples of these practices. The realization of independent evaluations strengthens the transparency of selection procedures, as well as the legitimacy of institutions. For this reason, we cordially invite you to answer to this questionnaire. Unless objected, the Panel may make your answers public.

The questionnaire covers the following areas:

- (I) Background, recognized competence, and contribution to the diverse composition of the body,
- (II) Conflicts of interest, impartiality and non-discrimination,
- (III) Nomination processes.

I. Background, recognized competence, and contribution to the diverse composition of the Commission

1. Why do you want to be a judge of the Inter-American Court of Human Rights?
2. What are your specific areas of knowledge and work experience in the field of human rights?
3. What do you think are the greatest challenges that the American Human Rights System faces and how could they affect your work?
4. What are the most relevant contributions that the Inter-American Court of Human Rights has made in the past five years? What are the most relevant aspects of its jurisprudence and which other aspects should be modified or strengthened?
5. Given your professional development and the personal characteristics with which you identify, how would you assess your contribution to the Court and your potential to adequately complement the current composition of this body?
6. Do you think the Inter-American Court of Human Rights, according to its mandate, should modify any of the interpretations that IACHR has made of the American Convention on Human Rights or other Inter-American treaties? why?
7. Do you have knowledge or experience in working with legal systems other than that of your country?
8. Have you been a member of civil society movements in favor of human rights?
9. Have you served as a public servant? If so, in what capacity?
10. What are your specific language skills? Please, if possible, provide us with documents or links to corroborate your answer.
11. Provide us with links to your most significant papers, opinions, or advocacy in the area of human rights, *amicus curiae* declarations, or individual votes. Please, highlight those works that reflect a critical stance, based on human rights arguments, towards legal norms, administrative or judicial decisions, public policies, public or private institutions (maximum 4). Additionally, if to obtain your academic degree(s) you have submitted a thesis or dissertation related to international human rights law, please mention its title and indicate its main conclusion or hypothesis.
12. In your professional work, have you had the opportunity to use or apply the American Convention on Human Rights or other human rights or humanitarian law treaties, or the jurisprudence of the Inter-American Court of Human Rights? Please describe your experience and inform us about how to access documents where that application is

reflected.

13. Have you ever advocated for, or against, the adoption or implementation of human rights or international humanitarian law treaties or other instruments? Please describe your experience, referring in particular to activities meant to publicize, defend, or strengthen the Inter-American Human Rights system.
14. Have you ever advocated for, or against, the adoption or implementation of the Inter American Human Rights standards that are established in the jurisprudence of the Court? Please describe your experience, referring in particular to activities meant to publicize, defend, or strengthen the Inter-American Human Rights system.
15. Please enclose your CV.

## II. Conflicts of interest, impartiality, and non-discrimination.

16. Considering your professional history, under what conditions do you consider that some type of conflict of interest could arise that would affect your independence and impartiality in your work as a commissioner? How would you proceed in these circumstances?
17. During your possible term as a judge, what other professional posts or activities do you foresee developing?
18. Have you ever been sanctioned as a result of professional misconduct or as a Judge or public servant?
19. Do you disagree or have any difficulty with the following statement? "It is expected that a commissioner shall not, by words or conduct, manifest or appear to condone bias or prejudice based upon reasons such as age, race, creed, color, gender, sexual identity or orientation, religion, national origin, disability, political opinion, marital status, socioeconomic status, criminal background, alienage or citizenship status. A commissioner is also expected to demand that people under his or her direction and control refrain from issuing such words or conduct." Please provide any relevant information about your ability to meet this expectation.

## Questionnaire for Candidates to the Inter-American Commission on Human Rights

The Independent Panel of Experts has been convened to evaluate the nominees to integrate the Inter-American Commission on Human Rights that will be elected during the General Assembly of the Organization of American States. In particular, the panel will

- x Evaluate whether the candidate meets the criteria and fulfill the requirements established in the American Convention of Human Rights, the IACHR Statute, the relevant resolutions enacted by the OAS and the international standards established in the most important instruments about judicial independence and conduct.
- x Issue recommendations about the nomination processes at the national level and the following

1. What particular aspects of your professional background make you a qualified candidate to be elected as commissioner?
2. Why do you want to be a commissioner?
3. What are your specific areas of knowledge and work experience in the field of human rights?
- 4.

private institutions (maximum 4). Additionally, if to obtain your academic degree(s) you have submitted a thesis or dissertation related to international human rights law,

## Annex C: Form for the submission of information to the Panel of Independent Experts

The Independent Panel of Experts that will evaluate the nominees to the Inter-American Commission on Human Rights and the Inter-American Court of Human

duties with respect to the principle of non-discrimination?

Balanced and representative composition of the IACtHR and IACHR

Please provide information about the contribution of the candidate to the composition of the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights. In the years 2016, 2017, 2018, 2019 and 2020, the Organization of American States approved resolutions recommending that Member States nominate and elect candidates that would ensure the balanced composition of the bodies in terms of gender, geographical representation and population groups and legal systems of the hemisphere, guaranteeing that they meet the requirements of independence, impartiality, and recognized competence in human rights. Does the candidate contribute to a balanced and representative composition of the Inter-American Court or the Inter-American Commission on Human Rights?

Nomination process:

Please provide relevant information about the nomination process at the national level: What nomination process was used? Was a pre-established procedure followed? Was it publicly advertised? Did civil society, academic entities, and/or others play any role in the nomination process?

Documentary support:

Attach all supporting documents here:

Copy and paste here the links that support the information you provided:

Please indicate any other relevant information that the Panel should take into consideration: