

**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

Panel Members:

- Mariclaire Acosta
- Carlos Ayala
- Magdalena Cervantes
- Juan E. Méndez
- Elizabeth Salmón
- Judith Schönsteiner

Index

PRESENTATION	4
ACKNOWLEDGMENTS.....	9
PART I.....	10
PANEL INDEPENDENCE	10
WORK METHODOLOGY.....	10
a) Publicity of the Panel, its members and its mission	11
b) Participation of permanent missions.....	11
c) Participation of candidates.....	11
d) Involvement of civil society, academia, and other stakeholders	12
e) Report sources	12
f) Meetings and deliberations	12
g) Decisions.....	13
h) Recusals	13
EVALUATION CRITERIA	13
a) High moral authority and recognized competence in human rights issues	14
b) Independence and impartiality.....	16
c) Contribution to the balanced and representative composition of the organization .	18
d) National nomination processes	18
Evaluation of the above elements and drawing of conclusions	19
Part II: Recommendations.....	21
a) Recommendations for nomination processes at the national level:	22
b) Recommendations for the selection process at the OAS.....	28
Part III: Individual evaluations.....	31
Nominations to the Inter-American Commission on Human Rights	31
1. CARLOS BERNAL PULIDO.....	31
2. ROBERTA CLARKE.....	36
3. JOEL HERNÁNDEZ GARCÍA (reelection).....	41
4. ALEXANDRA HUNEEUS.....	48
5. ANTONIA URREJOLA NOGUERA (reelection).....	53
Nominations to the Inter-American Court of Human Rights	59
1. RODRIGO DE BITTENCOURT MUDROVITSCH.....	59

2.	VERÓNICA GÓMEZ	66
3.	NANCY HERNÁNDEZ LÓPEZ	71
4.	MAYTRIE VYDIA KULDIP SINGH	78
5.	CÉSAR LANDA ARROYO.....	83
6.	MIRYAM JOSEFINA PEÑA CANDIA	89
7.	PATRICIA PÉREZ GOLDBERG	96
Annex A: Biographies of the Panel Members.....		102
Annex B: Questionnaires sent to candidates		105
Questionnaire for Candidates to the Inter-American Court of Human Rights		105
Questionnaire for Candidates to the Inter-American Commission on Human Rights		108
Annex C: Form for the submission of information to the Panel of Independent Experts.....		111

PRESENTATION

The Independent Panel of Experts¹ 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.² 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.³ 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 must meet in order to hold the position of judge or commissioner, depending on the body.⁴ These requirements include demonstration of a high moral authority, recognized expertise or competence in human rights, and other aspects related to potential incompatibilities.⁵ Despite this, neither the ACHR nor the respective statutes provide details on national nomination mechanisms, and the nomination processes at both the national level and the subsequent election before the General Assembly of the Organization of American States (hereinafter OAS) have historically lacked transparent procedures and criteria capable of providing the elections with the guarantees of legitimacy they require.

The lack of transparency and participation of civil society that has characterized the nomination and selection processes of members of the IAHRS bodies (IACtHR and IACHR) led to the convening of the first Panel of Independent Experts in 2015 at the request of the Open Society

¹ Note on the use of inclusive language: In this document, and as long as the communicative sense of the decision did not require a specific gender to be noted, the use of gender-neutral words (e.g., people, population, personnel, members) was preferred. As a secondary strategy to facilitate reading, the use of the slash “/” was kept to a minimum and, if possible, is followed by neutral nouns (e.g., the panelists).

² Expert Catalina Botero had previously been a member of the Panel of Independent Experts and was initially a member of the 2021 Panel. However, for personal reasons, she had to withdraw from the process and did not participate in the interviews or discussions on the individual evaluations. She was also not involved in the preparation of this report.

³ The Panel Secretariat was coordinated by María Julia Dellasoppa and Christian Finsterbusch (Project Coordinators), who acted with the support and supervision of Melissa del Aguila (Acting Director) and Anastassia Fagan (Interim Assistant Director) of the Center for Human Rights & Humanitarian Law at American University Washington College of Law.

⁴ For the position of commissioners, see American Convention on Human Rights, Article 34 and Article 2.1 of the Statute of the IACHR. For the position of judges, see Article 52.1 of the ACHR and Article 4 of Statute of the IACtHR.

⁵ The incompatibilities for commissioners can be found in Article 8.1 of the Statute of the IACHR Commission and, for judges, Article 18 of the Statute of the IACtHR.

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.

The report produced by the first Panel gave greater visibility to the IAHRs elections and was endorsed by more than 80 regional non-governmental groups, universities, and legal clinics throughout the region.⁶ It also contributed to the OAS General Assembly instructing its Permanent Council to invite all candidates to publicly present to the Council their vision of the System, their proposals, and initiatives. In addition, the General Assembly urged the States to “*nominate and elect persons to ensure gender balance, with representation from the different regions, population groups and legal systems of the Hemisphere, guaranteeing that they meet the requirements of independence, impartiality and recognized competence in the area of human rights*”⁷.

The Panel was reconvened to participate in elections held in 2017, 2018, and 2019. It is worth noting that, in parallel to the work of the Panels, the OAS General Assembly published new and important resolutions reiterating the objective of achieving a diverse and representative membership, stressing the importance that both the IACtHR and the IACHR “*be composed of impartial, independent persons of recognized competence in human rights*.”⁸ In June 2019, the General Assembly mandated the Committee on Juridical and Political Affairs to “*deepen its work on this topic, including in its 2019-2020 work program, by holding a follow-up meeting at which member states, experts, and civil society share best practices in the nomination and selection of candidates....*”⁹

In the absence of official evaluation mechanisms, the Initiative of the Independent Panels has progressively increased its impact and has succeeded in raising awareness of the issue among various relevant stakeholders of the IAHRs. Successive panels have gained further legitimacy, refined their methodology, and have produced impartial reports based on objective criteria that have been well received by both government representatives and civil society.

Since 2018, the Center for Human Rights & Humanitarian Law at American University Washington College of Law has served as the technical Secretariat of the Panel, providing the

⁶ See Final Panel Report 2015, available at <https://www.justiceinitiative.org/uploads/34b476e4-dd7b-431e-acd4-e25fbff100cc/iachr-panel-report-eng-20150603.pdf> (English version).

⁷ OAS General Assembly, Resolution on gender-balanced and geographically representative integration and of the different legal systems, of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, AG/RES.2887 (XL VI-O/16), June 14, 2016, available at http://www.oas.org/es/sla/ddi/docs/AG-RES_2887_XLVI-O-16.pdf

⁸ See Organization of American States, AG/RES. 2908 (XLVII-O/17), June 21, 2017. Available at: https://www.oas.org/es/sedi/ddse/paginas/documentos/discapacidad/RESOLUCIONES-AG/Espanol/AG_2908_ESP.doc and AG/RES 2928 (XLVIII-O/18), June 5, 2018. Available at: https://www.oas.org/es/sla/ddi/docs/AG-RES_2928_XLVIII-O-18.pdf

⁹ AG/RES. 2941 (XLIX-O/19), June 28, 2019. Available at: <http://www.oas.org/es/council/ag/resdec/Default.asp?q=&e=&evento=>

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

This year's elections are extremely important for the IAHRs due to the number of vacancies to be filled in each of the bodies: four in the IACtHR and three in the IACHR. The suitability of the persons nominated is essential to ensuring the quality of the work of these bodies, the proper development of Inter-American human rights standards and, ultimately, the effective protection of persons whose human rights have been violated and who have not received a timely and effective response from their countries.

The Panel notes that only some States have implemented partial measures with respect to the recommendations made by the OAS General Assembly and by the Panel, itself, in its previous work. The nomination procedures at the national level continue to be mostly controlled in a discretionary and exclusive manner by the States' executive branches.

However, in this exercise, the Panel would also like to highlight some positive aspects observed in this period of national nominations. In particular, the Panel welcomes the fact that the majority of the candidates for both the IACtHR and the IACHR are women. Likewise, the Panel observes, with enthusiasm, that, for both the IACtHR and the IACHR, candidates were nominated from Caribbean countries, a region historically under-represented in the composition of these bodies. The Panel reports on these advances and insists on the importance of continuing to work to achieve adequate diversity and representation of the various historically underrepresented groups, such as people belonging to indigenous peoples and Afro-descendants.

As in its previous iterations, the Panel prepared a series of recommendations addressed to States with the objective of adapting national nomination and selection processes for candidates to the OAS as international standards, especially in light of the successful adaptations that have been developed in other similar bodies, such as the International Criminal Court (hereinafter ICC) and the European Court of Human Rights (hereinafter ECtHR). The selection processes could be substantially improved, for example, through the creation of an independent advisory committee capable of providing competent, fair, and independent evaluations of nominees, such as those that exist to oversee the selection processes at other international tribunals, such as the ECtHR and the ICC. This and other recommendations can be found in the 2015, 2017, 2018,

and 2019 independent expert panel reports,¹⁰ in the report “Strengthening from Within”¹¹ 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,”¹² 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 election, 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 Candia (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 (nominated by the United States), and Antonia Urrejola Noguera (nominated by Chile for reelection). The 2021 Panel has prepared its individual evaluations based on the *curricula vitae* and the information submitted to the Panel by the candidates, the answers that the candidates have provided to the questionnaires sent to them by the Panel, the interviews conducted, and the information received from civil society, which was duly verified during the interviews, when possible.

The Panel hopes that its evaluation will be useful to the Member States of the OAS in that it provides an objective analysis of the suitability of the persons nominated to serve on the IACtHR and the IACHR based on the requirements established by convention and by the relevant statutes. The Panel recommends that States implement the necessary measures to make

¹⁰ The final reports of each panel are available at: <https://www.justiceinitiative.org/uploads/34b476e4-dd7b-431e-acd4-e25fbff100cc/iachr-panel-report-eng-20150603.pdf> (Panel 2015)
http://www.dplf.org/sites/default/files/iachr_panel_2017_final_report_eng_0.pdf (2017 Panel)
<https://www.wcl.american.edu/impact/initiatives-programs/center/documents/informe-panel-2018/> (2018 Panel)
<https://www.wcl.american.edu/impact/initiatives-programs/center/documents/2019-informe-del-panel-independiente-de-expertos/> (2019 Panel).

¹¹ Open Society Justice Initiative and International Commission of Jurists, *Strengthening from Within: Legal framework and practice in the selection of Judges and Human Rights Commissioners*, 2017. Available at <https://www.opensocietyfoundations.org/sites/default/files/fortaleciendo-dentro.pdf>

¹² Full report available at: <https://www.wcl.american.edu/impact/initiatives-programs/center/publications/documents/dialogos-por-la-transparencia-2020/>

national nomination procedures more transparent, participatory, and merit-based, as well as to institutionalize independent evaluation of candidates for international bodies.

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. The Panel particularly appreciates the collaboration of the permanent missions to the OAS that have provided information and actively participated in the meetings, thus establishing transparent and collaborative channels of communication. It also thanks the Center for Human Rights & Humanitarian Law at American University Washington College of Law for its role as Secretariat. The Panel especially thanks María Julia Dellasoppa and Christian Finsterbusch for all their support—organizational and substantive—so that the Panel could carry out its work. Finally, it thanks the Ford Foundation for making this initiative possible.

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, nor do they have any kind of dependency relationship with any of the convening organizations or States of which they are nationals. The Panel designed its working methodology and agreed upon the evaluation criteria autonomously based on the ACHR, the statutes of the respective bodies, the relevant OAS resolutions,¹³ and the international standards established in the most important instruments on judicial independence. Its conduct is described in this section under the heading “Evaluation Criteria.” In addition, the Panel developed transparent, participatory, and autonomous procedures, and had its own channels of communication through which it received information from civil society actors, academic institutions, representatives of the States, and the nominees themselves. As Secretariat of the Panel, the Center for Human Rights & Humanitarian Law at American University Washington College of Law contributed to the work of the Panel, thus safeguarding its independence.

WORK METHODOLOGY

Once formed, the Panel defined its work methodology, in line with what was implemented by previous iterations of the panel. It determined that the process of preparing the report and evaluating the candidatures would be guided by criteria of publicity, transparency, and participation. In those cases in which the Panel received negative information about the candidacy of any of the nominees, the Panel verified the information received with the individuals themselves at the time of their interviews. The Panel established both general and specific channels of communication with nominees, permanent representations to the OAS, civil society, academia, and interested institutions and groups, in general.

¹³ See AG/RES. 2120 (XXXV-O/05) of June 7, 2005, AG/RES. 2166 (XXXVI-O/06), of June 6, 2006, AG/RES. 2887 (XLVI-O/16), of June 14, 2016, AG/RES. 2908 (XLVII-O/17), of June 21, 2017, and AG/RES. 2928 (XLVIII-O/18), June 5, 2018 and 2941 (XLIX-O/19), June 28, 2019.

a) Publicity of the Panel, its members and its mission

The Panel's first action was to issue a press release, informing the public about its mission and members.¹⁴ The Panel also communicated its intended actions on its website¹⁵ and the social networks of its Secretariat.¹⁶ Following the completion of the report, the Panel will organize a private presentation exclusively for the permanent missions of the States to the OAS and a public event.

b) Participation of permanent missions

On February 19, 2021, an e-mail communication was sent to all permanent missions to the OAS, informing them of the establishment and mission of the Panel and inviting them to a virtual meeting to introduce the Panel. The meeting was held on March 4, 2021, with 29 representatives of 16 permanent missions accredited to the OAS. Throughout the evaluation process, the Secretariat of the Panel maintained ongoing contact with the missions, informing them of the progress made and responding to their questions. At the completion of the interview process with the candidates, a new communication was sent to all the missions, inviting them to participate in a meeting with the Panel in order to inform them about the finalization of the process of receiving background information and completion of individual interviews, as well as about the next stages in the development of the evaluations. This meeting was held on June 8, 2021, with 21 representatives from 13 permanent missions accredited to the OAS.

c) Participation of candidates

The Panel contacted all candidates based on the information provided by the permanent missions at the time of nomination. Once communication had been established, a questionnaire with key evaluation questions was sent to them (see Annex B) and virtual interviews were arranged to expand on the information requested in the questionnaire. All candidates responded to the questionnaires and established contact with the Panel regarding the requested interview. An effort was made to ensure that at least two Panel members and one person from the Secretariat participated in the interviews. These were also recorded and shared with the rest of the panelists who did not participate and were subsequently deleted at the end of the evaluation process, in compliance with the Panel's commitment to the candidates to use them exclusively for Panel member review.

¹⁴ The press release is available at the following link: <https://www.wcl.american.edu/impact/initiatives-programs/center/litigationandadvocacy/projects-initiatives/election-monitoring-in-the-iahrs/election-monitoring-press-release/>

¹⁵ See website: <https://www.wcl.american.edu/impact/initiatives-programs/center/litigationandadvocacy/projects-initiatives/election-monitoring-in-the-iahrs/>

¹⁶ See Facebook accounts: @WCLCenterForHumanRights and Twitter: @humanrts

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 and/or Christian Finsterbusch at chrisfin@american.edu. The deadline to send information is April 30, 2021.”

By a decision of the Panel, the deadline was extended by one week to May 7, 2021. A total of 53 responses were received from 19 organizations (as individual entities and/or as part of coalitions), 101 individuals, and 10 universities and/or academic institutions.

e) Report sources

The Panel mainly considered the curricula vitae of the candidates, their responses to the questionnaires sent by the Panel, their written statements (academic publications, presentations in forums, provisions issued as officials, blogs and social network accounts), and their interviews. It also considered the information sent by organizations and other interested parties through the form indicated above. In addition, when necessary to complement or crosscheck the information received, the Panel consulted information available in reliable media. The Panel did not rely on information received that could not be corroborated in public media and/or confirmed with the candidate. All sources used are duly cited in footnotes.

f) Meetings and deliberations

The Panel held regular meetings throughout the process of receiving input and conducting interviews. Once the process was completed (i.e., questionnaires received, candidates interviewed, and information processed), the Panel held sessions to analyze the information received and to finalize the document. The results of this process are reflected in this report.

g) Decisions

All decisions made by the Panel were by consensus.

h) Recusals

In order to preserve the impartiality of the Panel, before beginning its work, its members agreed that those who had reasons to justify their recusal from evaluating any of the candidates should state this beforehand and refrain from expressing an opinion on the evaluation of the person in question. Likewise, before starting the evaluation process and in order to preserve the independence and impartiality in the exercise of its tasks, the Panel approved an internal document based on the relevant international standards to establish the criteria and grounds for disqualification of any of its members, including situations of “appearance of bias” under the “reasonable observer” criterion.

EVALUATION CRITERIA

The evaluation of candidates is divided into five pillars: a. high moral authority; b. recognized competence in human rights (in the case of candidates for the IACtHR) and recognized expertise in human rights (in the case of candidates for the IACHR); c. independence, impartiality, and conflicts of interest; d. contribution to the representative and balanced composition of the body; and, e. nomination processes at the national level. In doing so, the Panel's evaluation maintains the criteria used by previous panels, which emanate from the ACHR, the statutes of the respective bodies, and the relevant OAS resolutions.¹⁷

In addition to these conventional and statutory criteria, the Panel considered international standards on judicial independence and conduct that provide valuable guidance for the appointment of members to the IACtHR and members of quasi-judicial bodies, such as the IACHR. Among the instruments that guide the work of the Panel, the *Bangalore Principles on Judicial Conduct of 2002* stands out¹⁸ on the independence of members of the Judiciary and establishing standards for their ethical conduct. The standards are grouped into six core values of judicial conduct and can also be applied analogously to the work of commissioners because “the work of a Commissioner includes hearing individual petitions and other quasi-judicial work.”¹⁹

¹⁷ *Supra* notes 8, 9 and 13.

¹⁸ Bangalore Principles of Judicial Conduct, adopted at the Roundtable Meeting of Chief Justices held in The Hague (Judicial Group for the Strengthening of Judicial Integrity), 2002, and annexed to ECOSOC resolution 2006/23. Available at https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf

¹⁹ Report of the Independent Panel for the Election of Commissioners 2019 for the Inter-American Commission on Human Rights [2019 Panel Report], referring to the 2017 Panel Report p. 9, available at <https://www.wcl.american.edu/impact/initiatives-programs/center/documents/2019-informe-del-panel-independiente-de-expertos/>

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)*,²⁰ 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 IAHR 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.”²¹

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.”²²

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.²³ The Principles link this value to public trust and the importance of fair decision-making and clear processes.²⁴ In this regard, impropriety and the appearance of impropriety should be avoided in all activities.²⁵ Following these parameters, the Panel shares the criteria of the previous panels in terms of examining, in addition to outstanding aspects of a person's trajectory (for example, whether he/she has received special mentions, distinctions or awards), whether the nominees have any sanctions, faults or complaints in the professional practice or ethics of their functions.²⁶

The requirement of **recognized expertise in human rights** implies having both knowledge and proven experience in human rights. Knowledge of Inter-American human rights instruments, a

²⁰ Guidelines on the independence and impartiality of members of human rights treaty bodies (“Addis Ababa guidelines”), U.N. Doc. A/67/222. Available at https://www.ohchr.org/Documents/HRBodies/TB/AA_Guidelines_sp.doc

²¹ Article 52.1 of the ACHR and 4.1 of the Statute of the IACtHR.

²² Article 34 of the ACHR, 2.1 of the IACHR Statute and 1.3 of the IACHR Rules of Procedure.

²³ Bangalore Principles, *supra* note 18, Value 3, Art. 3.1.

²⁴ *Ibid*, Value 3, Art. 3.2.

²⁵ *Ibid*, Value 4, Art. 4.1.

²⁶ See, for example, Panel Report 2018, p. 7-8 and Panel Report 2019, p. 13, *supra* note 10.

working knowledge of the main standards issued by the IAHR bodies, an understanding of the internal procedures and relations of the IAHR with external actors, as well as an understanding of the dynamics of its functioning are some of the aspects that the Panel used to evaluate this point. The Panel used the criteria developed by previous panels, which considered “the candidate's knowledge and experience of the Inter-American human rights instruments and the Inter-American Human Rights System” as key, assessed through a “record of professional achievement” and a “record of academic publications or substantial experience of work or litigation in the system.”²⁷ In addition, the Panel analyzed candidates’ knowledge of the main challenges of the IAHR, as well as its proposals and priorities in relation to these challenges. The Panel also assessed the candidate's commitment to the objective and purpose of the ACHR and the mandate of the bodies.

In the case of candidacies for the positions of judges, the Panel also analyzed whether the candidate complied with the requirement of being qualified **to exercise the highest judicial function**, “according to the law of the State of which they are nationals or of the State that nominates them as candidates”, in accordance with Article 52.1 of the ACHR and 4.1 of the Statute of the IACtHR. This analysis was carried out through the study of the legislative texts that regulate the matter in the countries of origin or nomination of the candidates.

In both cases, the members of the IACtHR and the members of the IACHR must be able to fulfill their duties. This implies that the judges must be at the Court's disposal and must travel to the seat of the Court or to the place where the respective sessions are held “as often and for as long as necessary in accordance with the Rules.”²⁸ The regularity of the sessions is established in the Rules of Procedure of the Court, with regular, special and off-site sessions (in accordance with articles 11 to 13 of said instrument).

The commissioners must also be in a position to fulfill the duties of their office, which are as follows: “1. To attend, unless justified impediment, the ordinary and extraordinary meetings held by the Commission at its permanent headquarters or at that to which it has agreed to move temporarily; 2. To form part, unless justified impediment, of the Special Commissions that the Commission agrees to integrate for the performance of on-site observations, or to carry out any other of the duties incumbent upon him/her; 3. To maintain absolute confidentiality on all matters considered confidential by the Commission; 4. To conduct themselves, in their public and private life, in a manner commensurate with the high moral authority of their office and the importance of the mission entrusted to the Commission” (Article 9 of the Statute of the IACHR).

The ability to perform duties has been analyzed by previous panels also under the term **diligence**, described as the “ability of the candidate to carry out his or her responsibilities

²⁷ 2018 Panel Report, *supra* note 10, p. 9.

²⁸ Article 16 of the Statute of the IACtHR.

notwithstanding other obligations and commitments.”²⁹ Likewise, the Bangalore Principles include, among their criteria, competence and diligence.³⁰

The Panel also reiterates the criterion of previous panels to observe and value complementary qualities, such as “the ability to work as part of a collegial body; the ability to work in more than one of the official languages of the Court; knowledge of the various legal systems that exist in the region; and a broad exposure to and understanding of the political, social and cultural environment of the region and its sub-regions.”³¹

The Panel also evaluated the performance and achievements of the individuals running for re-election as commissioners during their first term of office.

b) Independence and impartiality

The ACHR establishes that judges “are elected in their personal capacity”³² and that their office is incompatible with other activities that could affect their independence or impartiality as determined in the respective statutes.³³ It also provides that, at the time of taking the oath of office, they must solemnly declare that they will exercise their functions with “independence and impartiality.”³⁴ Article 18 of the Statute adds further details and establishes that it is incompatible with the exercise of the office to be a member of the Executive Branch, except for positions that do not imply ordinary hierarchical subordination, as well as diplomatic agents who are not Heads of Mission to the OAS or to any of its Member States; to be an official of international organizations; or to exercise any position or activity that prevents judges from fulfilling their duties, or that affects their independence, impartiality, dignity, or prestige of their office.

The commissioners are also “elected in their personal capacity” by the OAS General Assembly³⁵ and, as a consequence, must be independent and impartial in the exercise of their duties. Both the Statute³⁶ and the Rules of Procedure of the IACHR³⁷ establish that “the office of member of the Inter-American Commission on Human Rights is incompatible with the exercise of activities that could affect its independence, impartiality, or the dignity or prestige

²⁹ 2018 Panel Report, *supra* note 10, p. 9.

³⁰ Bangalore Principles, Value 6, *supra* note 18.

³¹ Final Report of the Independent Panel for the Election of Inter-American Commissioners and Judges 2015 [2015 Panel Report], p. 4. Panel Report 2018, p. 9; and Panel Report 2019, p. 13, *supra* note 10.

³² Article 51

³³ Article 71

³⁴ Statute of the IACtHR, Article 11.

³⁵ Statute of the IACHR, Article 3, sub. 1.

³⁶ Approved by Resolution No. 447 adopted by the OAS General Assembly at its ninth regular session, held in La Paz, Bolivia, October 1979. Available at: <http://www.oas.org/es/cidh/mandato/Basicos/estatutoCIDH.asp>

³⁷ Approved by the Commission at its 137th regular session, held from October 28 to November 13, 2009; and amended on September 2, 2011 and at its 147th regular session, held from March 8 to 22, 2013, for entry into force on August 1, 2013. Available at: <http://www.oas.org/es/cidh/mandato/Basicos/reglamentoCIDH.asp>

of its office in the Commission³⁸.” 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.”³⁹

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.”⁴⁰ Independence implies not only being free from inappropriate connections or pressures but also having “the appearance of being free from them in the eyes of a reasonable observer.”⁴¹ To be impartial, on the other hand, is to perform one's duties “without favoritism, bias or prejudice” and has to do not only with the decisions themselves, but also with the process by which they are made.⁴²

The Addis Ababa Guidelines indicate that both conflicts of interest and non-compliance with independence and suitability requirements “may result from a variety of factors, such as the member's nationality or place of residence, current or former employment, membership or affiliation with an organization, or family or social relationships.”⁴³ These Guidelines add that independence and impartiality are compromised by the agency member's participation “in the executive branch of a State, given the political nature of that link.”⁴⁴ Accordingly, members of international organizations should refrain from “performing any function or activity that is, or could be, construed by a reasonable observer to be, incompatible with their duties and responsibilities as independent experts.”⁴⁵ Similarly, assuming decision-making positions in civil society organizations, academic institutions, private companies or entities and state-related organizations can also give rise to conflicts of interest.⁴⁶

To assess the independence and impartiality of the nominees, the Panel analyzed their own responses and statements therein, as well as information provided by civil society and available in the online press from reliable websites when it was necessary to supplement or cross-check it.

³⁸ See Articles 8.1. of the Statute of the IACHR and 4.1. of its Rules of Procedure.

³⁹ See Article 4.1. of the IACHR Rules of Procedure.

⁴⁰ Bangalore Principles, Value 1, Art. 1.1, *supra* note 18.

⁴¹ Bangalore Principles, Value 1, Art. 1.3 and Addis Ababa Guidelines para.2.

⁴² Bangalore Principles, Value 2, Art. 2.2.

⁴³ Addis Ababa Guidelines para. 3.

⁴⁴ *Ibid.*, para. 12.

⁴⁵ *Ibid.*, para. 12.

⁴⁶ *Ibid.*, para. 14.

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.⁴⁷

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."⁴⁸ 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.⁴⁹ In 2018 and 2019, the OAS General Assembly approved new resolutions along the same lines.⁵⁰ In October 2020, the OAS General Assembly issued a resolution on the "Promotion and Protection of Human Rights"⁵¹ 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 geographic representation and an adequate balance of the legal systems of the Hemisphere, ensuring that the requirements of independence, impartiality and recognized competence in the field of human rights are met." The progress made with respect to gender parity within the inter-American human rights bodies is extremely important considering the structural discrimination that exists against women in the region. These resolutions sustained over time allow the Panel to affirm that the balanced and representative composition of the body is a key criterion for its composition, which must be especially taken into account at the time of elections. Through the aforementioned resolutions, it is clear that the States have made a commitment to ensure that the composition of the bodies of the IAHR reflects the diversity of the region in a representative manner.

d) National nomination processes

The Panel maintains that the development of national nomination processes that are transparent, participatory, and based on the merits and competencies of the candidates contribute to guaranteeing the independence, impartiality, and suitability of the future members of the IACtHR and the IACHR. This is because they deconcentrate the power of States over selection

⁴⁷ See AG/RES. 2120 (XXXV-O/05) of June 7, 2005, AG/RES. 2166 (XXXVI-O/06), of June 6, 2006, AG/RES. 2887 (XLVI-O/16), of June 14, 2016, AG/RES. 2908 (XLVII-O/17), of June 21, 2017, and AG/RES. 2928 (XLVIII-O/18), June 5, 2018 and 2941 (XLIX-O/19), June 28, 2019. *Supra* notes 7, 8 and 9.

⁴⁸ 2015 Panel Report, p. 5.

⁴⁹ AG/RES.2887 (XL VI-O/16), *supra* note 7.

⁵⁰ AG/RES. 2928 (XLVIII-O/18) and AG/RES. 2941 (XLIX-O/19), *supra* notes 8 and 9.

⁵¹ AG/RES. 2961 (L-O/20) on PROMOTION AND PROTECTION OF HUMAN RIGHTS, adopted at the 4th plenary meeting, held on October 21, 2020, item ii. Available through <http://www.oas.org/es/50ag/>

processes by allowing civil society, academia, and other stakeholders to participate.⁵² Thus, although they do not prevent the existence of reciprocal political agreements (“exchange of votes”),⁵³ 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.”⁵⁴

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 panels⁵⁵ 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 scope 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 person would not be eligible to be elected as a member of the body in question. The same should be considered in

⁵² See, in this regard, Judith Schönsteiner, *Alternative appointment procedures for the commissioners and judges in the Inter-American System of Human Rights*, in IIDH Magazine, p. 203, available at <http://www.corteidh.or.cr/tablas/R22023.pdf> [internal citations omitted]

⁵³ See Panel Report 2015, p. 37; Panel Report 2018, p. 34, and Panel Report 2019, p.15. *Supra* note 10.

⁵⁴ Final Panel Report 2019, p. 15.

⁵⁵ See, for example, the findings on the individual assessments of each candidate in the 2017 Panel Reports and 2018 Panel Report, *supra* note 10.

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 merits of the participants.

The current systems for nominating and electing commissioners and judges to IAHR 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.”⁵⁶

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 regional⁵⁷ and global levels.⁵⁸ In this regard, it is interesting to note the experience of the Coalition for the International Criminal Court, a global network of more than 3,000 organizations around the world that works to achieve fair, transparent and merit-based nomination and selection processes. The Coalition has developed specific campaigns against vote-swapping, which it has

⁵⁶ Final Panel Report 2018, p. 32, *supra* note 10, citing Open Society Justice Initiative and International Commission of Jurists, “Strengthening from Within: Legal Framework and Practice in the Selection of Judges and Human Rights Commissioners,” 2017, pp. 43-44, *supra* note 11.

⁵⁷ See, for example, Center for Justice and International Law (CEJIL), Contributions to the selection process for members of the Inter-American Commission and Court of Human Rights, 2005, p.9; Katya Salazar and Naomi Roht-Arriaza, Democracy and Transparency at the IAHR: an ongoing experience. *Direito e Praxis Magazine*, Vol. 08, N.2, 2017, pp. 1652-1681, p. 1655, ISSN-2179-8966, available in: <https://www.redalyc.org/pdf/3509/350951354024.pdf>

⁵⁸ See Coalition for the International Criminal Court. ICC Election Campaign: <http://www.coalitionfortheicc.org/es/elecciones-2020-cpi-sp>.

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.⁵⁹”

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 nominations or for the election process within their political selection body. The Panel considers it valuable to highlight in its recommendations the experiences that have worked in these systems and organizations so that they may be taken as a guide for the Inter-American model.

In line with its previous reports, the Panel centers its recommendations on two essential objectives for the improvement of the current system: i) That the States create a transparent, participatory, and open procedure at the national level that allows for the selection of a greater number of suitable candidates who meet the regulatory requirements; and, ii) that the election process at the OAS be improved to avoid many of the deficiencies raised above and to ensure that the election of judges and commissioners meet the regulatory requirements and fully reflect the diversity of the region.

a) Recommendations for nomination processes at the national level:

i) Each State should have a formal, diverse, independent, and apolitical body to select its nominees.

In many States, there are already institutions that could carry out the selection process; if there are none, the Panel believes that such an institution should be created. Whatever the modality chosen, the persons making the selection should be independent, impartial, and well informed about the purpose and functions of the IAHR bodies. They must also have an impeccable

⁵⁹ Coalition for the International Criminal Court. ICC Election Campaign. See: <http://www.coalitionfortheicc.org/es/elecciones-2020-cpi-sp>

human rights 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 convene with time in advance of the next election.⁶⁰

Though each with its own characteristics, this type of evaluation body already exists in other comparable models. For example, the system for the nomination and selection of female judges for the ECtHR is supported by an Advisory Panel of Experts that acts during the nomination process at the national level. Its main mandate is to provide advice to States in assessing whether proposed candidates meet the essential requirements established in the European Convention on Human Rights,⁶¹ which are similar to the requirements established in the inter-American regional instruments.

For the recent election of the new ICC Prosecutor, an independent evaluation body called the “Prosecutor Selection Committee” was created. The Committee was in charge of analyzing the nominations and was assisted by an Expert Panel.⁶² This Committee was composed of five members who acted independently, in their personal capacity, and without receiving instructions from any external agent. In turn, in terms of its composition, a balance by gender and geography was required, as well as an adequate representation of the main legal systems of the world.

ii) States should publicize a call for nominations, explaining the criteria and processes for nominating and electing candidates.

The more publicity the call for proposals receives, the more the process will be enriched in terms of transparency and fairness. Therefore, States should disseminate all information on the nomination process used internally for the selection of candidates. The States should make a public announcement encouraging all those who meet the requirements to be candidates to participate in the internal election procedure. This public announcement should be published on the website of the OAS and the IACHR or IACtHR, as the case may be. It is also suggested that it be widely disseminated on a national scale.

Comparatively, in the model of the ECtHR, the Committee of Ministers of the Member States has highlighted a series of good practices on the publicity of the calls for applications, highlighting the importance of the call for applications be made known to all those who are

⁶⁰ Final Panel Report 2018, p. 43

⁶¹ European Convention on Human Rights, art. 21: “... 1. Judges must enjoy the highest moral consideration and meet the conditions required for the exercise of high judicial functions or be jurists of recognized competence. 2. Judges shall serve on the Tribunal in their individual capacity. 3. During their term of office, judges may not engage in any activity that is incompatible with the requirements of independence, impartiality or availability necessary for an activity exercised on a full-time basis: any question arising as to the application of this paragraph shall be settled by the Court.”

⁶² See ad at <http://www.coalitionfortheicc.org/es/icc-prosecutor-elections-2020>

potentially qualified for the position.⁶³ It is also indicated that the announcement of the call be made through many different channels, such as: official gazettes or other similar official publications, the government's website, national or regional newspapers, and specialized legal press. It can also be disseminated through judicial bodies or bar associations, the Ombudsman, national human rights institutions, universities, and civil society organizations.⁶⁴

Similarly of comparative interest, is the one developed for the election of the new ICC Prosecutor. In this case, the vacancy announcement was circulated to States Parties and was requested to be disseminated nationally through relevant professional or institutional channels in order to reach as wide an audience of criminal justice professionals as possible and across all regions. The vacancy announcement was also distributed to other interested parties.⁶⁵

iii) The selection of nominees should be carried out with the full participation of all relevant stakeholders.

Related to the previous recommendation, dissemination should be carried out so that stakeholders can follow the process and, eventually, participate in the scrutiny at its different stages.

iv) Applicants should present evidence of compliance with the requirements set forth in the ACHR and the Statutes of the IACHR and IACtHR.

Since the regional instruments do not provide details on the content of the essential requirements for evaluating each applicant, the States should develop national guidelines for their evaluation. To this end, the Panel suggests that, in accordance with international standards on the subject, in order to consider the “high moral authority” of a person, their record of sanctions, misdemeanors, complaints or awards or honors should be analyzed. For the purpose of assessing recognized human rights expertise or competence, the Panel considers it important to assess the person's demonstrated knowledge and experience working with the IAHR and its instruments. For this purpose, their record of professional achievement, academic publications, or substantial experience of work or litigation before the System should also be taken into account. In addition, the panels considered important the analysis of the candidate's specific knowledge of the main challenges of the IAHR and his or her commitment to the objective and purpose of the ACHR. Finally, the concepts of independence and impartiality constitute two of the six fundamental values developed by the Bangalore Principles⁶⁶ which, with respect to the independence of judges, provide that they must be free from “inappropriate connections with the executive and legislative branches” and must “appear to be free from the

⁶³ See CM Explanatory Memorandum (2012)40, para. 40. Full text available at https://www.coe.int/t/dgi/brighton-conference/documents/Guidelines-explain-selection-candidates-judges_en.pdf

⁶⁴ CM Explanatory Memorandum (2012) 40, paras. 39, 40 and 41.

⁶⁵ See Interim Report of the Prosecutor Selection Committee, November 13, 2019. Spanish version available at https://asp.icc-cpi.int/iccdocs/asp_docs/ASP18/ICC-ASP-18-INF4-SPA.pdf

⁶⁶ Bangalore Principles, *supra* note 18.

former in the eyes of a reasonable observer⁶⁷.” The values of independence and impartiality are at the core of the Addis Ababa Guidelines⁶⁸, 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.⁶⁹

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 derive from an impediment established by the ACHR or the Statutes of the Court or the Commission; however, the recommendation is proposed as a suggestion of political prudence and should not be understood as a criticism of personal qualities or capabilities. The advised restriction would apply mainly to those who are actively involved in the executive branch and/or performing diplomatic tasks at the time of applying, since they are in charge of developing the foreign policy of a State, based on their own interests.⁷⁰

The selection body should also advise candidates of the limitations they will have, if selected, in relation to their future field or work, in order to avoid any conflict of interest that might interfere with their work. It is of the utmost importance that candidates are available to bring dedication and continuity to the position. In this regard, the Panel notes that in the history of the IACHR, there have been resignations from the Commission. The Panel considers that the early resignation of any member of the IACHR affects the dynamics of the Plenary and the activities of the thematic and country Rapporteurships for which he or she was responsible, a situation that is undesirable for the work of the body. In addition, the learning and adaptation process involved in the arrival of a new Commissioner must be taken into account.

(vi) Breadth of language skills and bilingualism.

To serve as commissioners or judges, it is important to be fluent in more than one of the four official languages of the OAS (Spanish, English, Portuguese, and French) and it would also be desirable to have at least a passive knowledge of another.

⁶⁷ *Ibid.*, para. 1.3.

⁶⁸ Addis Ababa Guidelines, *supra* note 20.

⁶⁹ *Ibid.*, para. 5.

⁷⁰ Final Panel Report 2018, p. 44

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.⁷¹

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 questionnaires 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 authorities should only deviate from its advice by means of a reasoned and public decision.⁷²

(viii) States should nominate at least two candidates for each election.

Given the historical under-representation of women and over-representation of men on the Court, at least one candidate should be a woman, with real possibility of being elected. Likewise, candidates need not necessarily be nationals of the nominating State⁷³. This would ensure the possibility of a real election in the General Assembly and allow voters the opportunity to elect individuals taking into account the need to have human rights bodies that reflect the diversity of persons protected by their constitutive and treaty instruments, including members of underrepresented communities.⁷⁴

From the United Nations Human Rights Council, States and international bodies have been urged to intensify their efforts to advertise available vacancies and “*encouraging more women to apply as candidates and to monitor and report on progress in achieving gender-balanced representation.*”⁷⁵

The Panel notes that, for the current election period, the States have nominated seven persons to the IACtHR to fill four vacancies and five persons to the IACHR to fill three vacancies. Although the ideal goal of having all states nominate at least two candidates has not yet been

⁷¹ See Guidelines of the Committee of Ministers CM (2012) 40 on the selection of candidates for judges of the European Court of Human Rights, adopted on March 28, 2012. Full text available at https://rm.coe.int/16805cb1ac#_ftn1. See also CM Explanatory Memorandum (2012)40, para. 26, full text available at https://www.coe.int/t/dgi/brighton-conference/documents/Guidelines-explan-selection-candidates-judges_en.pdf

⁷² Final Panel Report 2018, p.45

⁷³ Article 4.1. of the Statute of the IACtHR and 3.2. of the Statute of the IACHR.

⁷⁴ Final Panel Report 2018, p.45.

⁷⁵ United Nations General Assembly, Human Rights Council A/HRC/41/L.6/Rev.1 of 10 July 2019, item 15. b. Available at <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G19/210/57/PDF/G1921057.pdf?OpenElement>

achieved, the number of candidates is higher than in previous periods. It should also be noted that of the 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.

Nomination processes at the local level must guarantee access to these positions for members 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 arising from the human rights situation in the region, it is also necessary that they be comprised of members with diverse areas of expertise and life experiences. In this sense, it is essential that there is a balance in its composition. As the OAS General Assembly has repeatedly resolved, it is necessary to ensure “*gender-balanced integration, with representation of the different regions, population groups and legal systems of the Hemisphere.*”⁷⁶

The Panel notes that, with respect to the geographic distribution of the candidates, of the seven persons nominated to the IACtHR, five are from South America, one is from Central America, and one is from non-English-speaking Caribbean. Of the five persons nominated for the IACHR, one is from the English-speaking Caribbean, one is from Central America, two are from South America, and one is from North America. Although there is an over-representation of persons nominated to the IACtHR with nationalities from South American countries, the smaller number of countries that have accepted the contentious jurisdiction of the IACtHR in the region, compared to the IACHR, should be taken into account. In any case, the Panel welcomes with enthusiasm the nomination of candidates from the Caribbean region, which has been historically under-represented in both bodies.

In relation to the profiles and professional careers of the candidates for the IACtHR, the Panel observes a majority of profiles with judicial or judicial careers and in academia with experience in teaching, as well as authorities in areas of institutional management. There are also profiles with backgrounds in legal private practice, public criminal defense, and those with positions in the executive branch and linked to the ministries of justice. To a lesser extent, the Panel saw people with professional experience working in non-governmental organizations and international organizations. The Panel values the diversity of professional profiles of the candidates and highlights the importance of experience working in non-governmental organizations and international organizations.

⁷⁶ OAS General Assembly, AG/RES.2887 (XL VI-O/16), *supra* note 7, AG/RES. 2908 (XLVII-O/17), *supra* note 8 and OAS AG/RES. 2928 (XLVIII-O/18), *supra* note 8.

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 prosecutorial 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.

Within the ECtHR, there is a Committee for the election of Judges before the Parliamentary Assembly that could serve as a reference. The Committee has the mandate to interview candidates, evaluate their curricula vitae, analyze the nomination procedures at the national level according to minimum requirements of impartiality and transparency, consider the interviews conducted and the interaction of the States with the Advisory Panel that functions at the national nomination level. The Committee also approves or rejects the lists of candidates submitted by the States and, if approved, establishes an order of preference to be communicated to the Parliamentary Assembly.⁷⁷

Within the ICC, Article 36(4)(c) of the Rome Statute provides that the Assembly may establish a Nominations Advisory Committee. The Committee was created in 2011 with the objective of having a fair and independent evaluation of the qualifications of the proposed candidates. The Committee reviews the qualifications of the nominees who are then elected by secret ballot of

⁷⁷ Procedure for the election of judges to the European Court of Human Rights. Memorandum prepared by the Secretary General of the Parliamentary Assembly. SG-AS (2019) 05, 15 April 2019, para.4, English version available at <http://www.assembly.coe.int/LifeRay/CDH/Pdf/ProcedureElectionJudges-EN.pdf>, paras. 13, 17, 18 and 21.

the Assembly of States Parties.⁷⁸ 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.⁷⁹

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.”⁸⁰

(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 person 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.”⁸¹

iv) The Panel affirms the value of the continued use of an interview process as an integral part of the Committee's work.

The Panel notes that the presentation of candidates to the OAS Permanent Council in recent years has been considered an effective and productive activity in facilitating the selection of the most suitable individuals. The Panel suggests that the questionnaires used for the evaluation of candidates, which are included in Annex B of this report, may be useful in the development of standardized questions for these interviews.

⁷⁸ Rome Statute, Article 36.6 (a).

⁷⁹ Report of the Bureau on the Establishment of an Advisory Committee for the Nominations of Judges of the International Criminal Court, 20 November 2011, ICC-ASP/10/31. See Annex a.3, Spanish version available at https://asp.icc-cpi.int/iccdocs/asp_docs/ASP10/ICC-ASP-10-36-SPA.pdf

⁸⁰ Final Panel Report 2018, p.47.

⁸¹ Final Report Panel 2018, p. 47

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 object to individual nominations, but to validate their suitability in accordance with the conventional criteria.⁸²

vi) The Panel recommends that election processes take into account both the need for diversity on the basis of gender, ethnicity, sexual orientation, disability status, professional specialty, gender identity, or other considerations, as well as the need for balanced composition in the Commission and Court based on the individual's professional background.

The selection between two or more suitable persons should be determined on the basis of this need, provided they meet the rest of the essential requirements. The Panel also encourages States to select the most qualified individuals based on their relevant skills and other qualities, as well as the needs of the IACtHR or the IACHR for the equitable, fair, and efficient performance of its functions.

⁸² Final Panel Report 2018, p.48.

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.⁸³ 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 misconduct, or professional impropriety.

2. Recognized expertise in human rights

- *Academic background and professional experience*

Carlos Bernal is a lawyer from Universidad Externado de Colombia and holds a Ph.D. from Universidad de Salamanca, Spain. He studied philosophy at the M.A. level (Master's degree) and has a Ph.D. (Doctoral degree) from the University of Florida, United States.

He is currently a tenured professor at the University of Dayton School of Law, United States (since August 2020) and Professor at the Law School of Universidad de La Sabana, Colombia (since May 2020). He is also legal advisor to the Attorney General's Office.⁸⁴

Previously, he was Professor at the Faculty of Law of the Universidad Externado de Colombia (from 2002 to April 2009) and at the Faculty of Law of Macquarie University in Sydney,

⁸³ Letter addressed to candidate Bernal from the Panel dated May 21, 2021. Available at: <https://www.wcl.american.edu/impact/initiatives-programs/center/publications/documents/respuesta-a-carta-abierta-del-candidato-carlos-bernal/>

⁸⁴ In this regard, see the Colombian Public Function website: <https://www.funcionpublica.gov.co/web/sigep/hdv/-/directorio/M921177-6194-5/view>

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, Empresas Públicas 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.⁸⁵

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 substantial doubts about the adequacy of some of the votes cast by candidate Bernal related to the sources and standards of the System.⁸⁶

⁸⁵ *El Espectador* Newspaper, interview with Carlos Bernal “The resignation was a personal decision”: former judge Carlos Bernal, 15.08.2020. At: <https://www.elespectador.com/judicial/la-renuncia-fue-una-decision-personal-exmagistrado-carlos-bernal-articulo/>
Senate of the Republic of Colombia. “Plenary approved resignation of Judge Carlos Bernal Pulido” 28.07.2020. At: <http://senado.gov.co/index.php/prensa/lista-de-noticias/1556-plenaria-aprobo-renuncia-del-magistrado-carlos-bernal-pulido>
Legal Affairs “Magistrate Carlos Bernal Pulido reported his resignation from the Constitutional Court,” 23.07.2020. At: <https://www.asuntoslegales.com.co/actualidad/el-magistrado-carlos-bernal-pulido-dio-a-conocer-su-renuncia-en-la-corte-constitucional-3035183>

⁸⁶ As in all its evaluations, the Panel analyzed the judgments submitted by the candidate itself and by civil society. With respect to those referred to by Candidate Bernal in his questionnaire responses, the Panel analyzed the following rulings: Decision SU141-2020. Protection of freedom of expression, information and press freedom of journalists who, in the framework of a criminal proceeding, were prohibited from entering preliminary hearings. Decision T-91/2020. Protective action against ecclesiastical authorities. Decision T-124-20. Right to education for adults with disabilities-accessibility. Decision T-209-19. Protective action of the right to education for children in the rural sector and Decision C-252-19. Constitutional review of international treaties and their approving laws. Jurisdiction of the Constitutional Court. With respect to the judgments submitted by civil society, the Panel reviewed the following judgments: Protective action. Decision T-361/17. Right of participation in environmental matters in the context of the issuance of the resolution that delimited the Santurban Paramo. Protective action. Decision T-497/17. Protective action for the protection of the right to decent housing. Decision C-034/20. Lawsuit of unconstitutionality against norm that regulates the general pension system - Survivor pension beneficiaries' eligibility. Decision T-228/18. Protective action to protect the right to equality, free development of personality and privacy of a person deprived of liberty belonging to the LGBTI community. Decision T-366/19. Principle of equality and prohibition of discrimination based on sex in sports-Case in which a children's team in which a minor girl is a member was sanctioned and excluded from the soccer league tournament.

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 IAHRs challenges*

In the questionnaire sent to the candidates, they were asked about the challenges facing the IAHRs. Candidate Bernal referred to the balance that must be found between the cases received and those that the IACHR is capable of processing and resolving; to achieving greater efficiency in the processing and follow-up of individual cases; to strengthening the deliberative mechanisms between the bodies of the system and the States; to finding a balance between the development of minimum content by the IAHRs and the margin of democratic configuration of rights in each State; and for the IAHRs to dictate more effective, proportional and feasible measures.

Similarly, in relation to the topics that cannot be excluded from the next strategic plan of the IACHR, he alluded to human rights and pandemics, specifically the setbacks in economic, social and cultural rights; precariousness of employment and other forms of satisfaction via minimum wage in the digital economy; human rights and climate change; and human rights and investment.

The Panel would have been interested in talking with the candidate to learn more about the challenges outlined above.

- *Diligence and other relevant skills*

The IACHR is a collegiate body and its instruments regulate dissenting votes as a right of those who dissent from a majority decision. However, the ability to work as part of a team and the search for consensus are important and necessary qualities of its members. Candidate Bernal, as a Magistrate of the Constitutional Court of Colombia, issued 300 dissenting votes⁸⁷, reflecting differing positions. Notwithstanding the freedom of the members of collegial bodies to dissent from a majority decision, this could point to a difficulty of the candidate in building consensus, generating satisfactory agreements, or compromising collectively in accordance with human rights standards.

⁸⁷ *El Espectador* Newspaper, interview with Carlos Bernal “The resignation was a personal decision”: former judge Carlos Bernal, 15.08.2020. At: <https://www.elespectador.com/judicial/la-renuncia-fue-una-decision-personal-exmagistrado-carlos-bernal-articulo/>

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 flexible working conditions that would allow him to prioritize his activities as commissioner.

Regarding his language skills, he indicated that his native language is Spanish. His working language is English. He also possesses advanced active and passive communication skills in French, Italian, and German, and can also understand and read Portuguese. He added, “*I currently write my work in English. I have also written articles and book chapters directly in French, Italian and German. I have also given lectures in these languages (...).*”

3. Independence, impartiality and conflicts of interest

The candidate has spent his professional life as an academic and legal advisor. He has not held any political or other decision-making positions in his country's government.

Regarding possible conflicts of interest, candidate Carlos Bernal indicated, “*I do not expect any conflict of interest to arise. However, should any arise, I would proceed as I always did in the Colombian Constitutional Court. I would disclose it with absolute transparency and declare myself barred from hearing the matter.*” The Panel has no information to support a contrary conclusion.

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

The candidate indicated in his answers to the questionnaire that his contribution would be independence and impartiality, rigor in his work, honesty, good treatment of all people, and a facility for teamwork and deliberation.

One contribution of candidate Bernal's profile that should be highlighted is his knowledge of the constitutional law of several countries in the region.

5. National nomination process

The candidate indicated in his answers to the questionnaire that “*To the best of my knowledge, in Colombia there is no regulation on this nomination procedure. I know that the Government of Colombia considered other candidates and, after that, honored me with this nomination.*”

No information could be found to determine the existence of an open process in which civil society had participated in any of its stages.

6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that Carlos Bernal meets some of the qualifications necessary for the position of Commissioner.

Regarding the requirement of **high moral authority**, in the questionnaire sent to the Panel by candidate Bernal, he stated that he had never been disciplinarily sanctioned for professional misconduct. The Panel received no information to the contrary. There is nothing in his record to indicate any type of sanction, ethical misconduct, or professional impropriety.

However, the decision to excuse himself from participating in the interview with the Panel and his subsequent actions—among them the sending of an open letter based on partial and erroneous information to the media in which he questioned the evaluation procedure developed by the Panel—generate reasonable doubts as to whether the candidate would have the necessary specific qualities that the position of Commissioner requires, among them to generate dialogue and consensus to advance human rights.

In relation to the requirement of **recognized expertise in human rights**, the Panel recognizes his legal training, as well as his academic work. However, from the analysis of some of the decisions referred to *above* as a judge of the Constitutional Court of Colombia, the Panel has substantial doubts as to whether applying the same legal logic in certain decisions would affect the standards of the IAHR.

Regarding his **independence and impartiality**, the Panel does not have reason nor has it received information that would allow it to have doubts about this requirement. The Panel considers that candidate Bernal is viewed as independent and impartial in the eyes of a reasonable observer. This is due to the fact that his profile is that of a jurist and academic.

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.⁸⁸

1. High moral authority

Candidate Clarke indicated in her responses 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 International Human Rights Law (MSt) at Oxford University in 2004, with a thesis on "The Ombudsman and Economic and Social Rights."

The candidate served as Director of the UN Women Regional Office for Eastern and Southern Africa until March 2021. She is currently a member of several organizations related to academic and human rights activities,⁸⁹ including her role in the presidency of the Executive Committee of the International Commission of Jurists and her role in the presidency of the Harassment Committee of the Caribbean Court of Justice.

Between 2018 and 2020, she worked as an international consultant in the creation and implementation of legal and human rights programs for the strengthening of women's rights, including several consultancies carried out for UN Women.

Previously, Candidate Clarke has held various positions at the United Nations, including as Acting Director of UN Women's Libya Program based in Tunisia (2017-2018); Regional Director of UN Women's Regional Office for Asia and the Pacific and Representative in Thailand (2012-2016); Regional Programme Director of UNIFEM Caribbean Office (2003-

⁸⁸ On behalf of the Colombian Commission of Jurists (CCJ).

⁸⁹ President of the Barbados Population Commission; Advisory Board Member, Center for Biosafety Studies, University of the West Indies, Cave Hill Campus; Member of the Gender Advisory Council of the Institute for Gender and Development Studies, University of the West Indies, St. Augustine; Board member of the Coalition Against Domestic Violence, Trinidad and Tobago; and Board Member, Cropper Foundation of Trinidad and Tobago.

2012)/UN Women; and Social Affairs Officer, (Programme of Work on Gender and Development) United Nations Economic Commission for Latin America and the Caribbean Subregional Headquarters for the Caribbean (1999-2004).

Regarding her academic experience, she has been professionally associated with the University of the West Indies where she taught “International Human Rights Law” during 2017-2018 and also held several positions in various other years, including Visiting Scholar, Assistant Professor, and Researcher.

Regarding her particular areas of knowledge relevant to the exercise of the position, her profile in social and legal sciences, her work in institutional administration in close collaboration with states to comply with their human rights obligations, developing the capacity of civil society to promote state accountability, and supporting people affected by human rights violations stand out. Her analytical and programmatic work has focused on a range of issues related to women's human rights, gender equality, the elimination of all forms of violence against women and girls, sexual and reproductive health and rights, gender-based approaches, gender equality and women's empowerment in rights to halt and reverse the spread of HIV, and socioeconomic justice.

The candidate has published in international journals and has authored reports prepared during her tenure as an international civil servant or consultant in the areas of social justice, gender, children and adolescents, economic and social rights, and domestic and gender-based violence.

- *Knowledge of IAHRs challenges*

In her answers to the questionnaire and in the interview with the Panel, the candidate showed an understanding of the challenges that the IACtHR and IACHR will face in the immediate future. Among other considerations, in her responses to the questionnaire, she noted that Annual Reports since 2018 have shown positive improvements in the number of petitions being considered for admissibility and merit, and interest in reaching amicable solutions. However, she indicated that taking into account the number of pending petitions, the number of ongoing proceedings, and the number of petitions handled annually, it is clear that the problem of backlog and procedural delays will continue to be a major challenge to be resolved.

She indicated that, apart from efficiency challenges, current challenges are deeply political as even administrative challenges (procedural delays and backlogs) have political origins and States are not committing the necessary resources to ensure the efficient functioning of the Commission. She complemented this idea by indicating that the region is also facing new challenges to democracy, with a period of populism in some countries, an increase in militarism and the rise of coercive and violent authority of non-state actors, repression of human rights defenders, extreme political polarization, inequalities, and the fragmentation of social movements. These are factors that undermine the rule of law in all its elements and weaken civil society's actions to hold the State accountable.

She also indicated that the impact of the Covid-19 pandemic, with the restriction of some fundamental freedoms promoted in the interest of public health and order, will constitute a great challenge to be faced. She indicated that there are allegations of overreach and abuse of emergency powers. In addition, many states are unable to or do not sufficiently protect against the harms caused by non-state actors, such as the increase in domestic violence against women that is occurring throughout the region.

Candidate Clarke indicated that another challenge is the lack of universalization, and she believes that the legitimacy of the IAHRs is also questioned by the limited ratification of the American Convention and other Inter-American human rights treaties, particularly in the Caribbean member states. She also adds that accompanying this formal normative gap is the low level of visibility of IAHRs mechanisms and human rights norms and standards at the national level, at least in the Caribbean, a region with which the candidate indicates she is familiar.

She is of the opinion that, for the system to maintain legitimacy and relevance, the people of the region, or at least critical sectors (civil society organizations, national human rights institutions, judicial education institutes, bar associations, academia, etc.), must have some level of familiarity with it, including how to access and use it. She adds that they must have an appreciation of jurisprudential developments and how these apply to their legal and constitutional arrangements.

As for her contribution to the challenges she has identified, she considers that her role, given her experience in translating standards into policies and programs, would be to support the Commission in its outreach to member states; to advocate for the ratification of the American Convention; and to prepare thematic and interdisciplinary country reports with a focus on strategic and practical recommendations through an active dialogue with member states.

- *Diligence and other relevant skills*

Regarding her dedication if elected to the post, the candidate indicated that she would dedicate herself to the work of the Commission and would continue, if compatible with her position, with consultancies and advisory services.

Regarding her language skills, she indicates that English is her native language and that she can read a little French.

3. Independence, impartiality and conflicts of interest

The candidate has dedicated her entire professional career as an international civil servant, linked for many years to the work of the United Nations and especially UN Women, as an academic and activist in human rights issues, thus highlighting her role in the defense of

women's rights. She has not held any political or other decision-making positions in governmental spheres.

With respect to possible conflicts of interest, the candidate indicated that she does not foresee any possible conflict of interest situation, but that, in case it exists, even apparent, she would immediately disqualify herself from knowing about a matter. She stated that she would resolve the alleged case based on precedent and in consultation with others who attend to the issue. She added that she might even resign from being a member of an organization to which she belongs if it were involved in a case before the IAHR.

The Panel has no information of any kind to support a contrary conclusion.

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

In her responses to the questionnaire, the candidate indicated that she would bring to the IACHR an interdisciplinary approach to the preparation of country and thematic reports and the consideration of complaints. She also added that she has experience in providing technical advice on the domestic implementation of human rights standards in policy and programming with a variety of audiences, including the three branches of government: executive, legislative and judicial, as well as civil society actors, human rights advocates, and the private sector.

Candidate Clarke is an expert in the recognition of women's rights from an intersectional perspective; with other vulnerable groups; and with people directly affected by human rights violations in connection with issues related to poverty reduction, administration of justice, and rule of law, which constitutes a relevant contribution to the integration of the body.

Also relevant is her particular knowledge of the challenges to the recognition of human rights faced by the countries in the English-speaking Caribbean where she has served as an international civil servant, academic, and activist. This holistic vision has served her work engaging directly with people whose rights have been violated in the region and human rights defenders, which constitutes a significant contribution to the balanced and representative composition of the organization, expanding its geographic representation.

In terms of knowledge of other legal systems, the candidate is versed in the common law legal system, having worked with legal systems in the English-speaking Caribbean, as well as with St. Lucia, which has a mix of common and civil law.

5. National nomination process

In her responses to the questionnaire, the candidate indicated that she was nominated by the Government of Barbados following her expression of interest to serve on the IACHR. In her interview with the Panel, the candidate added that there was no civil society participation in her nomination process, but that she strongly believes there should be in the future.

6. Conclusion

After analyzing various sources used to prepare this report, the Panel has concluded that Roberta Clarke 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 promotion of human rights, especially on women's rights in the Caribbean and the region. There is nothing in her record to indicate any type of sanction, ethical misconduct, or professional impropriety.

Regarding the requirement of **recognized expertise in human rights**, the Panel believes that the candidate's professional background confirms that this requirement has been met.

In relation to her contribution to the diverse composition of the Commission, the Panel particularly values that she is a woman from a Caribbean state. This is a profile that would contribute to the diverse geographic representation of the IACHR and would help bring its work closer to the Caribbean states. The candidate would bring geographic, cultural, and gender diversity, with knowledge and experience in the area of women's rights.

Regarding the requirement of **independence and impartiality**, the Panel does not have reason nor has it received information that would allow it to have doubts about this requirement. The Panel believes that the candidate is viewed as independent and impartial in the eyes of a reasonable observer. This is due to the fact that throughout her professional career she has worked in the promotion of human rights at the local and international level. In addition, she has served as a United Nations official, including in senior management positions, a role that requires complete independence and impartiality.

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 regarding his candidacy.

1. High moral authority

Candidate Hernandez stated that he has never been disciplined for professional misconduct. The Panel has not received any information to the contrary. The candidate has served as a commissioner of the IACHR for the past three years, holding its presidency for the period of 2020-2021, which reaffirms his high moral authority. There is nothing in his record to indicate any type of sanction, ethical misconduct, or professional impropriety.

2. Recognized expertise in human rights

- *Academic background and professional experience*

Joel Hernández is a lawyer who graduated from the Universidad Nacional Autónoma de México (UNAM, Mexico) and has a Master's Degree in International Law from New York University (USA). He is currently a Commissioner of the IACHR for the 2018-2021 period. In this role, he served as President of the organization for the period of 2020-2021; he also held the Rapporteurship on the Rights of Persons Deprived of Liberty for the period of 2018-2019 and currently holds the Rapporteurship on Human Rights Defenders as of 2020. He is also a member of the Board of Directors of the United Nations Interregional Crime and Justice Research Institute (UNICRI)⁹⁰ and is President of the Mexican Branch of the International Law Association (ILA).⁹¹

Regarding his work at the IACHR, his work in the Rapporteurship on the Rights of Persons Deprived of Liberty stands out, in which he conducted visits to prisons in several member states and carried out activities to promote the 2017 IACHR report on measures to reduce the use of pretrial detention in the Americas. The report also highlights a proposal to request an advisory opinion from the IACtHR on “differentiated approaches to persons deprived of liberty” by which the Commission seeks to have the Court define the obligations that the principle of equality and non-discrimination imposes on States in the context of the deprivation of liberty in order to attend to the at-risk population.

With respect to his current role in the Office of the Rapporteur on Human Rights Defenders, he has developed actions to disseminate standards on the subject and also promoted engagement and coordination with the Joint Action Mechanism of the Office of the United Nations High

⁹⁰ Available at: <http://www.unicri.it/index.php/governing-body>

⁹¹ Available at: <https://www.ilamexico.org/mesa-directiva>

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 rising to the rank of Ambassador in 2008. He held several positions, among which the following stand out: Director General for the United Nations System (2016-2017); President of the Mexican Foreign Service Personnel Commission (2013-2016); Permanent Representative of Mexico to the Organization of American States (2011-2013); Legal Consultant to the Ministry of Foreign Affairs (2005-2011); Director General for the United Nations (2005 and 2015); Deputy Legal Consultant for the Ministry of Foreign Affairs (2002-2005); Alternate Representative of Mexico to the United Nations Office at Vienna (1999-2001); Deputy Consul of Mexico in New York (1995-1999); and, Director for UN Political Affairs and Disarmament of the Ministry of Foreign Affairs (1992-1995).

Of note among the positions mentioned above are those held with the United Nations and the Organization of American States, as well as his role as Permanent Representative of Mexico for the period of 2011-2013 during which he was Chairman of the Permanent Council. He was also Chairman of the OAS Permanent Council Working Group for the Strengthening of the IAHRs that led to a reform of the rules of procedure of the Inter-American Human Rights System.

Of note among his activities as a representative of the Mexican government, he participated in the international negotiation processes of the UN Convention against Corruption and the Convention against Transnational Organized Crime and its three protocols; as co-agent before the IACtHR in the Castañeda Gutman and Campo Algodonero cases; and as a drafter for the bill for the implementation of the Rome Statute of the International Criminal Court in Mexico and the establishment of the Inter-sectoral Commission on International Humanitarian Law (IACHR-Mexico).

He was head of the legal team that represented Mexico in the request for interpretation of the Avena case and other Mexican nationals (*Mexico v. U.S.*) before the International Court of Justice and supervised the operation of a Capital Defender Program, a program which it coordinates a network of lawyers in the United States who advise Mexicans who may face the death penalty in their criminal proceedings.

In the area of work regarding migrants, his advocacy work with local authorities and promoting initiatives in multilateral forums has been noteworthy. In 1995, he founded the Mexican Protection Department at the Consulate General of Mexico in New York. He also participated on behalf of Mexico in the negotiation of the protocols against the smuggling of migrants and trafficking in persons and was part of the legal team that prepared the request for an advisory opinion to the IACtHR on the legal status of the rights of undocumented migrants (advisory opinion OC-18 of 2003).

As for his academic experience, he has been a visiting professor at the Centro de Investigación y Docencia Económicas (CIDE) and at the Graduate Division of the Instituto Tecnológico Autónomo de México (ITAM), both in Mexico City. He also has publications in Mexican legal and diplomatic journals related to the IAHRs on migrants from United Nations peacekeeping operations.

- *Knowledge of IAHRs challenges*

In his answers to the questionnaire and in the interview with the Panel, the candidate demonstrated a clear knowledge of the IAHRs. He stated that the greatest challenge facing the IAHRs is its ability to continue to have a transformative impact on our societies by advancing the highest standards of human rights protection. He indicated that the Commission, in particular, must continue to ensure compliance with its resolutions and recommendations by the States, which in his opinion is decisive in ensuring that it is an effective body in the promotion and protection of human rights. He added that, “*The Commission must encourage States to comply with its decisions by creating mechanisms for dialogue with the parties involved in a case and, in general, with the users of the system to strengthen the credibility and effectiveness of the IAHRs.*”

He also indicated that despite significant advances in recent years, the Commission continues to face a significant procedural backlog which, in his opinion, is one of its greatest challenges and addressing this backlog is also one of the main demands of the system's users. He believes that when faced with a portfolio with a high number of cases the Commission has the challenge of promoting “paradigmatic cases,” that is clarifying that these correspond to situations involving the most serious human rights violations and can effectively contribute to the legal and institutional strengthening of the States. But he indicated that they should not fail to address cases that are already within the system.

In relation to the budgetary challenge, he indicated, “*The Cancun Agreements adopted by the OAS General Assembly to double the regular budget of the IAHRs bodies made it possible to make them financially viable,*” adding that “*The Commission now has sufficient funding to fulfill its mandate. However, the financial pressures on the OAS today may affect the funding of the IACHR in the future.*”

In the interview before the Panel, the candidate emphasized that during his term as Commissioner, despite the great challenges faced by the Commission, achievements have been made, such as the methodical and systematic progress in the reduction of the procedural backlog, thus allowing the Commission to establish criteria to continue advancing in the historical debt it has with the petitioning parties and the victims. The second great achievement, said the candidate, is that the Commission has managed to devise new monitoring mechanisms that have had an impact on very complex national situations.

Finally, he is of the opinion that the universality of the IAHRs 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 at the initial study stage (*per saltum*). In addition, he added that the Commission may also consider criteria for prioritizing cases in the admissibility and merits stages in order to address emblematic cases that require priority attention.

The candidate especially highlighted the promotion of amicable solutions as one of the mechanisms to reduce the procedural backlog. He pointed out that the Commission's role in achieving robust friendly settlement agreements and in monitoring full compliance by the States has great potential that should be used more intensively.

- *Diligence and other relevant skills*

Regarding his dedication, the candidate indicated that since he was elected as commissioner in 2017, he has dedicated himself full time to the work and responsibilities involved in his position. He added that, if re-elected, he would continue to work full time. In the interview, the candidate indicated that the commissioners should be involved in the work on a full-time basis because, although this is not a requirement, it is what the position requires to move the processes forward.

From the sources considered in the preparation of this report, in addition to Spanish, the candidate is fluent in English. In his answers to the questionnaire, he also indicated that he has knowledge of French.

3. Independence, impartiality and conflicts of interest

The candidate affirmed that he would have no conflict of interest as “*Aware and convinced of the requirement of independence and impartiality that the work as Commissioner implies, established in Article 8 of the Statute of the Commission, and to avoid any possible conflict of*

interest, I resigned from my last administrative responsibility in the Mexican Foreign Ministry on June 1, 2017, prior to the elections to the IACHR that took place at the 47th General Assembly of the OAS.” He also clarified that he has no working relationship with either the Ministry of Foreign Affairs or the Government of Mexico. He concluded by stating, *“Throughout my term of office, I have abstained from participating in any deliberation on any issue concerning Mexico. Therefore, there is no conflict of interest that affects my independence and impartiality in my work as Commissioner.”* The Panel has not received any information that would allow it to support a contrary thesis.

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

In this regard, the candidate indicated, *“The Commission today is made up of seven commissioners, each with their respective contributions to the collegiate body.”* He added that *“(…) some of its members have a very rich academic profile, others have worked in activism and defense of victims' rights and others have served as civil servants or public officials - either at the national level in the Executive or Judicial, or at the Inter-American level, such as the Court. In this context, each commissioner makes his or her particular contribution and strengthens the legitimacy and richness of the Commission's decisions,”* he concluded, *“I am convinced that the IACHR benefits from a composition with multiple experiences.”*

Regarding his particular contribution, he highlights his legal-diplomatic training, which, according to the candidate, allows him to contribute knowledge and generate approaches and consensus in the search for comprehensive solutions. He indicated, *“I have made this experience available to the Commission to build bridges and cooperation among the actors of the System, as well as within the main bodies of the OAS, including its Secretary General, especially when the Commission is questioned for the mere fact of carrying out its mandate.”*

Regarding knowledge of other legal systems, the candidate indicated that he completed a master's degree in international law (LLM) at New York University School of Law, where he obtained knowledge of international law, in general, and common law, in particular. He also added that, while serving as head of the protection department of the Consulate General of Mexico in New York, he studied constitutional law, criminal law, and immigration law at the New York University School of Law, gaining useful knowledge in the consular protection of Mexicans residing in the states of New York, New Jersey, and Connecticut.

He added that *“(…) being part of the legal team that defended Mexico's claim before the International Court of Justice in the Avena case, we had to demonstrate the application of international law to the domestic law of the United States of America. Also, in the request for interpretation of the Avena ruling filed in 2008, we analyzed and argued against the Medellin v. Texas decision of the Supreme Court of the United States of America.”*

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 presidency for the 2020-2021 period. There is nothing in his record to indicate any type of sanction, ethical misconduct, or professional impropriety.

With regard to the requirement of **recognized expertise in human rights**, the Panel believes that it has been met, based on the candidate's knowledge and experience prior to his mandate at the IACHR, and is complemented by his experience of almost four years as a commissioner of the Commission, including the position of President, which has allowed him to develop a complete understanding of the challenges that the IACHR and the IAHR face in the regional political context, as well as internally.

If re-elected, candidate Hernández would contribute his diplomatic experience, his knowledge of international organizations, and his capacity for consensus building. He would contribute with his previous experience working on issues related to the rights of migrants, in the prevention and fight against the death penalty and discrimination and his experience gained as a commissioner.

Regarding the requirement of **independence and impartiality**, the Panel has not received any information that would cause it to have doubts regarding this requirement. The Panel believes that candidate Hernández is viewed as independent and impartial in the eyes of a reasonable observer. This is due to the fact that throughout his professional career he has worked in the promotion of international human rights law and international humanitarian law from his

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:

- *Lubar Distinguished Research Chair* (2020-2021), awarded by the University of Wisconsin (USA) to outstanding legal scholars for their research work;
- Best article by the *International Society for Public Law* (2018);
- Winner of the *American Association of Law Schools'* scholarly reporting competition (2013);
- Best-written report in the category of young people dedicated to the study of comparative law, awarded by the *American Society of Comparative Law* (2013).

She has also received project funding from institutions, such as the *National Science Foundation* (2013-2015), the *Ford Foundation*, and the University of Wisconsin.

2. Recognized expertise in human rights

- *Academic background and professional experience*

Alexandra Huneeus holds a *Juris Doctor* (J.D.) degree from the University of California, Berkeley School of Law (USA) and a *Doctor of Philosophy* (Ph.D.) degree in Jurisprudence and Social Policy from the same university. She is currently a Professor of Law and Political Science at the University of Wisconsin (USA). The candidate has dedicated her professional career to teaching, research, and program management in academia.

Since 2007, she has worked at the University of Wisconsin teaching various courses on Public International Law, Sociology of Law, Human Rights, Latin American Law, and Law and Climate Justice.

She was appointed as International Jurist Expert for the Special Jurisdiction for Peace in Colombia for the period of 2018-2028. From 2014 to the present, she has served as director and co-founder of the Human Rights Program at the University of Wisconsin. Since 2016, she has been the Program Director of the Center for Global Studies at the University of Wisconsin.

Since 2018, she has served as the director of the University of Wisconsin's Legal Education Opportunity Program, which focuses on diversity, equity, and inclusion among students.

Between 2012 and 2016, she worked as an associate professor at Universidad Diego Portales in Chile, in charge of the course on International Tribunals. From 2017-2020, she served as a member of the University Committee for Immigration and International Affairs.

The candidate has participated in and continues to participate in the Board of Editors of several specialized publications, such as the *American Journal of International Law* (2014-2022); the *Law and Social Inquiry*, a publication of Cambridge University Press, and the *Brazilian Journal of Empirical/Socio-Legal Studies*.

In recent years, she has presented and participated in numerous conferences in various countries in the region. She has several publications in prestigious specialized academic journals around the world. Among the topics on which the candidate has written and published in recent years are Human Rights, Comparative Law, Regional Protection Systems, Transitional Justice, Latin American Constitutional Law, among others.

Regarding her particular areas of knowledge relevant to the exercise of the position, her knowledge of the IAHRs stands out. The candidate indicated through her responses to the questionnaire that she has taught courses on Public International Law and Human Rights for 14 years at the University of Wisconsin. She is currently in charge of a course on Climate Change and Human Rights. She has also taught a seminar on Comparative Latin American Law.

Her research has focused on various aspects of the IAHRs, comparisons between different constitutional systems in the region, and regional systems for the protection of human rights. In addition, she has focused on issues such as the International Criminal Court in Colombia and transitional justice processes in Chile and Colombia.

- *Knowledge of IAHRs challenges*

In her answers to the questionnaire and in the interview with the Panel, the candidate demonstrated a clear knowledge of the IAHRs and understanding of the challenges that the Court and the Commission will face in the immediate future. The candidate has studied and researched the IAHRs throughout her academic career.

Regarding the challenges facing the IAHRs, candidate Huneus indicated that she believes that international human rights institutions are currently facing great challenges. Many states are reviewing their commitments to human rights bodies, questioning their authority, or even withdrawing from them. She also noted that the pandemic has accentuated inequalities and the exclusion of those belonging to the most vulnerable groups. The candidate described that these processes are replicated in the region, where governments also show less democratic

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 IAHRs. 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 management skills and that she would apply these skills to work together with the Secretariat to create a better working environment.

- *Diligence and other relevant skills*

As for her dedication, should she be elected to the position of commissioner, she noted that she has the support of the University of Wisconsin to dedicate herself primarily to attending to her responsibilities as commissioner. The candidate stated that she would teach a maximum of one course per semester and that she would have a reduced workload at the University.

Regarding her language skills, she indicated that she is fluent in both English and Spanish. The candidate stated that she can also read French.

3. Independence, impartiality and conflicts of interest

The candidate has spent most of her professional career in academia. No information was found that would allow us to determine whether the candidate has held political or other decision-making positions in her country that could compromise her independence.

The candidate indicated that, taking into account her work as an international expert on the Special Jurisdiction for Peace in Colombia and in light of the Burgh House Principles on the Independence of the International Judiciary, if she were to intervene in any matter related 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, non-governmental organizations, and academia who, in turn, published the announcement and issued their recommendations. The nominations and recommendations were reviewed by a panel of subject matter experts created within the State Department. The panel ranked the candidates according to nine selection criteria.⁹² Interviews were conducted with the best-qualified candidates for the position. The Panel made its recommendation and submitted it to the authorities of the State Department for approval.

6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that Alexandra Huneus meets the requirements to be elected as a commissioner, and that, if elected, she would contribute significantly to the work of the IACHR, by virtue of her knowledge and experience linked almost exclusively to teaching, research, and program management in academia. It

⁹² The candidate attached the e-mail with the call for applications that the Department of State disseminated among the various stakeholders and that contains the selection criteria, which are as follows: 1. Knowledge of Public International Law, International Human Rights Law and the Inter-American Human Rights System; knowledge about the political and social realities of Latin America and the Caribbean; professional command of the Spanish language (and preferably command of French and / or Portuguese); understanding of the domestic legal system of the United States, how international law is integrated into domestic law, and the position of the United States vis-à-vis international legal obligations and other commitments in the area of human rights; diplomatic and interpersonal work skills; ability to devote sufficient time and energy to responsibilities related to the IAHRs; Ability to perform independently and impartially, without aspects that may affect the dignity and prestige of a commissioner; ability to address OAS member states, management and administration skills.

should be noted that her experience is focused on the study of human rights issues, so she is perfectly familiar with the instruments, standards, and dynamics of the IAHRs.

Regarding the requirement of **high moral authority**, there is no evidence to indicate any type of sanction, ethical misconduct, or professional impropriety. The candidate has received several recognitions for the quality of her work in the form of awards and project funding. Likewise, throughout her career at the University of Wisconsin, she has been recognized for her performance and has assumed progressively greater responsibilities.

In relation to the requirement of **recognized expertise in human rights**, the Panel believes that it is indisputable that Professor Huneus has a solid background in the area of international human rights law, with expertise in the areas of the Inter-American Human Rights System, regional systems of protection, comparative constitutional systems, transitional justice, and more specific topics, such as the peace process in Colombia and the constituent reform in Chile. The Panel also considers that her professional experience in charge of various management and administration programs at the University of Wisconsin constitutes an additional value that can contribute to the improvement of the internal working environment of the IACHR. During the interview, the Panel was able to verify that the candidate is familiar with the dynamics of the IAHRs and that she has developed valuable dialogues with various actors in the System.

With respect to their **independence and impartiality**, the Panel has no reason nor has it received any information that would cause it to have doubts regarding this requirement. The Panel believes that candidate Huneus is viewed as independent and impartial in the eyes of a reasonable observer. This is due to the fact that her profile is that of an expert who has been involved in human rights work mainly through her work in teaching, research, and academic management, which presents her as an independent and impartial candidate, capable of remaining free from any external influence or pressure. Additionally, the candidate would contribute to the diverse composition of the body as a woman, in an entity that has been mostly composed of men. In addition, she would contribute on the basis of her professional experience that is defined almost exclusively by the academic practice of teaching and research on human rights issues.

Finally, with respect to the dual nationality (U.S. and Chilean) of the candidate, the relevant legal instruments provide that no two nationals of the same State may serve on the Commission.⁹³ Although there is another candidacy to the IACHR of Chilean nationality, which was presented by the State of Chile, the Panel does not find in this instance any obstacle to the candidacies themselves, in light of the relevant legal instruments. At this stage, the Panel notes that the candidacy of Alexandra Huneus was proposed by the Permanent Mission of the United States of America to the OAS and that the candidate has spent most of her personal and professional life in that country.

⁹³ Article 37.1 of the ACHR and 7 of the Statute of the IACHR: “No more than one national of the same State may be a member of the Commission.”

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 Policy, Indigenous Law, and Inter-American Human Rights System, providing advice to private sector offices and agencies such as UNDP, ILO, FLACSO Chile, Universidad Diego Portales and IDB, among others. From 2014 to 2017, she was a Cabinet Advisor to the Ministry in the General Secretariat of the Presidency of the Government of Chile, providing advice on human rights and indigenous peoples' rights.

Regarding her particular areas of knowledge relevant to the exercise of the position, her knowledge of the IAHRs in general and the application of its standards stand out. She also has experience in specific issues such as indigenous peoples' rights, transitional justice, children's rights, and human rights and business.

In her responses to the questionnaire, the candidate indicated that while a commissioner, she served as rapporteur for Nicaragua, a position from which she led the visit of the IACHR to that country in the context of a serious human rights crisis. She also promoted the creation of the Follow-up Mechanism for Nicaragua (MESENI) and the Interdisciplinary Group of Independent Experts (GIEI). Then, as country rapporteur, she participated in the on-site visit to Brazil. As rapporteur for Cuba, she participated in the drafting of the report on the serious human rights situation in that country, and as rapporteur for Colombia, she monitored the implementation of the peace agreements and raised awareness of the situation of leaders and human rights defenders. As rapporteur for Jamaica, she participated in the regular session of the IACHR held in that country. As rapporteur for Uruguay, she conducted a working visit to obtain information on the human rights situation in that country. Finally, as rapporteur for Ecuador, she was part of the working visit to observe the human rights situation on the ground following the social protests that took place in 2019.

The candidate also pointed out that as thematic rapporteur on the rights of indigenous peoples, she worked to build a direct dialogue with the continent's indigenous organizations. As thematic rapporteur on Memory, Truth and Justice, she participated in monitoring the progress and pending challenges in the continent and alerting others about specific situations of impunity in the region.

She indicates that she was part of the team that led the creation of the Working Group for the implementation of the Inter-American SIMORE, whose objective is strengthening the effectiveness and impact of the IAHRs.

It should be noted that the candidate has been part of the board of the Inter-American Commission on Human Rights, serving as Vice President in 2020 and as President in 2021. This has given her an in-depth knowledge of the political and administrative challenges of this body and it demonstrates confidence in her abilities on the part of her fellow commissioners.

She has several publications, mainly in the academic fora, on the Inter-American Human Rights System and on more specific topics, such as free, prior and informed consultation and indigenous peoples, the right to truth, and the human rights situation in Nicaragua.

The candidate also emphasized that, from her positions within the Executive Branch of her country, she participated in the incorporation of human rights standards in various bills and in the generation of public policies. Her graduate thesis was entitled "Indigenous customary law: its recognition by international law, comparative law and Chilean law. The Mapuche Case [Santiago, Chile], 1992". For her post-graduate degree on Transitional Justice in Democratization Processes, she wrote a thesis on the Transitional Justice Process in Chile.

- *Knowledge about the challenges of the IAHRs*

In her answers 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 IACHR's work with States in which dialogue is not possible or does not comply with the recommendations issued by this body.

Finally, she also referred to the challenge of procedural delays and highlighted the progress that has been made through concrete measures that have been taken in recent years.

Regarding her contribution to the challenges she referred to, she indicated that her professional career linked to human rights issues, but from such diverse areas and functions, has given her accumulated experience to face the challenges of the IACHR and in the current regional context in terms of human rights and pandemics. She added that she has first-hand knowledge of the difficulties that exist in generating human rights institutions and public policies within the countries of the region.

- *Diligence and other relevant skills*

As for her dedication in the event that she is reelected as commissioner, the candidate stated that she plans to continue to dedicate herself full time to the position. She clarified that, in parallel, she would continue to dedicate herself to some activities as a guest lecturer in various human rights centers of Chilean universities. She would also continue to serve as Director of the Diploma in Human Rights, Public Policy, and Strategic Litigation at the Law School of the Universidad Alberto Hurtado.

Regarding her language skills, in addition to being a native speaker of Spanish, she indicated that she speaks and writes in English.

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 doubts about the lack of independence and impartiality with respect to your country's Executive.

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

Regarding her contribution to the body, the candidate explained that she has a diverse background, including State spaces, international organizations, and the IACHR itself. She also believes that she contributes through her capacity for dialogue with all stakeholders, especially civil society and victims.

Candidate Urrejola said that although she has not worked with legal systems other than her own, she is familiar with the dynamics of common law, having grown up in England. She also indicated that, from her position as advisor to the OAS Secretary General, she has had to familiarize herself with the different legal systems of the continent and, in her role as commissioner, she has worked closely with Caribbean countries.

5. National nomination process

The candidate indicated that there was no pre-selection process. However, she pointed out the importance of implementing nomination mechanisms with broad stakeholder participation. She added, *“the legitimacy of the Commission is reinforced if its members are proposed through transparent, participatory processes that allow for the evaluation of the different candidates and gather the diverse visions and concerns of the various actors that are key to the promotion and protection of human rights in each country.”*

6. Conclusion

After analyzing the sources used to prepare this report, the Panel has that Antonia Urrejola Noguera meets the requirements to be re-elected as a Commissioner and that, if she were to be

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 Urrejola has a solid professional background in international human rights law, with expertise in the areas of indigenous peoples and transitional justice. The Panel believes that her professional experience from different sectors—State, academia, OAS, and the IACHR itself—represents additional value to her candidacy.

During the interview, the Panel was able to verify that, from her experience, the candidate has acquired a deep understanding of the dynamics of the IAHR and the complexities of the position of commissioner. The candidate highlighted the need for an IACHR that is present in the territories and in dialogue with victims. This, in the opinion of this Panel, is an essential personal skill for a member of the IACHR. Both the responses to the questionnaire and her interview reflected the candidate's extensive knowledge of regional human rights and institutional challenges. The fact that the candidate has been a member of the Commission's Board of Directors and is currently its President explains her knowledge of the challenges for the promotion and protection of human rights and for the IACHR, both within and with respect to the OAS.

With respect to its **independence and impartiality**, the Panel has no reason nor has it received any information that would cause it to have doubts regarding this requirement. The fact that the candidate has been a commissioner for four years, during which she has not alleged on any occasion a lack of independence in the decisions made, allows the Panel to presume that this type of performance will be maintained in the event that she is elected for a new term. The Panel believes that candidate Urrejola is viewed as independent and impartial in the eyes of a reasonable observer. Although she has served in various positions in the Executive Branch of her country, the Panel has no evidence that could compromise her independence in the performance of her duties.

As an additional value, the candidate would contribute to the diverse composition of the body as a woman, in a space that, historically and until very recently, has been mostly composed of men. In addition, she would contribute according to its areas of interest, one of them the rights

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 rights. During the interview, the candidate showed clarity regarding the situation of the States of the continent that are not part of the ACHR and those that are part of it and questioned the mandate of the IACHR. In this context, she showed her skills and shared initiatives for the political work to be promoted by the commissioners. The candidate has a diverse profile, not only as a human rights expert, but also as a political expert, which is particularly relevant and necessary for a body such as the IACHR.

Nominations to the Inter-American Court of Human Rights

1. RODRIGO DE BITTENCOURT MUDROVITSCH

Proceedings before the Panel: Rodrigo de Bittencourt Mudrovitsch was contacted by the Panel on April 6, 2021. He responded to the questionnaire and submitted it on April 28, 2021. He met with the Panel on May 12, 2021. The Panel received 19 letters of support from public entities of the three branches of the Brazilian government, Brazilian professional associations, academics, civil society organizations, and others.⁹⁴ The candidate's willingness to send the Panel additional information about his academic and professional background before and after the interview process is highlighted.

1. High moral authority

The candidate stated that he has never been disciplined for professional misconduct. The Panel did not receive any information to the contrary. The candidate received multiple letters of support and holds a distinction, the “Medal of Honor of the Federal Police of Brazil,” though it is not clear to the Panel for what attributes he was awarded. There is nothing in his record to indicate any type of sanction, ethical misconduct, or professional impropriety.

2. Recognized competence in human rights

- *Academic background and professional experience*

Rodrigo de Bittencourt Mudrovitsch holds a law degree, a Master's degree in Constitutional Law from the University of Brasilia (Brazil), and a Ph.D. in State Law from the University of Sao Paulo (Brazil). He is a lawyer in a private law firm that bears his name and of which he is a founding partner. He also has been a full professor at the Brazilian Institute of Teaching, Development and Research (IDP) since 2013 where he teaches the course “Fundamental Law and Guarantees” and, from 2021, “Constitution and Human Rights.”

⁹⁴ Presidency of the Senate of Brazil; the Association of Federal Judges of Brazil (AJUFE); the National Association of Attorneys of the Republic (ANPR); the Association of Brazilian Magistrates (AMB); the National Association of Labor Justice Magistrates (ANAMATRA); the Brazilian Bar Association (OAB); the National Association of Public Defenders; the Presidency of the Foreign Relations Commission of the Senate of Brazil (CRE); Professors Messrs. Luis Greco and Alor Leite, from the Humboldt-Universität Faculty of Law in Berlin, Germany; Mr. Felipe Santa Cruz, President of the Federal Council of the Brazilian Bar Association (OAB); Mr. Antônio Nabor Bulhões, President of the National Commission for the Defense of the Republic and Democracy (OAB); Mr. Marcus Vinicius Furtado Coelho, President of the National Commission for Constitutional Studies (OAB); Mrs. Dora Cavalcanti, Mrs. Flávia Rahal and Mr. Rafael Tucheran from the Board of Directors of the NGO Innocence Project; Ms. Marina Pinhão Coelho de Araújo, President of the Brazilian Institute of Criminal Sciences (IBCCRIM), Ms. Denise Leão Suguitani, Executive Director, of the NGO Prematuridade; of the professors Messrs Daniel Sarmento and Ademar Borges, Director and member respectively of the Fundamental Rights Clinic of the State University of Rio de Janeiro (UERJ).

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 nor 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.”

As a lawyer, he has worked in the constitutional field, filing unconstitutionality appeals before the STF, with the purpose of—according to his answers to the questionnaire—“(…) *to contribute to the defense and realization of fundamental rights and to have a real influence in changing the situation of several groups in vulnerable situations,*” which, among other issues, involves the rights of foreigners, women, debtors, criminally prosecuted persons and workers. In this regard, the candidate highlighted the filing of five direct actions of unconstitutionality (ADI) before the STF between 2018 to 2020. Thus, he coordinated ADI No. 6327 in order to extend the existing maternity leave in case of complications in childbirth or premature birth of the child, which restricted family life and made it difficult for the mother and/or child to have adequate access to health care.

The candidate also coordinated the ADPF action⁹⁵ no. 425 before the STF, the purpose of which was to declare the unconstitutionality of the articles of the Statute of Foreigners (Law 6825/1980) that established the preventive detention of foreigners in extradition proceedings without the possibility of provisional release. As a result of this action, the requirement of preventive detention was definitively eliminated except in exceptional cases and according to

⁹⁵ Allegation of Non-Compliance with a Fundamental Precept. This is a constitutionality control action aimed at challenging violations of the fundamental principles and rights established in the Brazilian Constitution.

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.⁹⁶

The candidate also filed ADI No. 5941, which seeks to challenge the articles of the Code of Civil Procedure that granted the courts power to impose arbitrary coercive measures against civil debtors, such as the suspension of passports and driving licenses or the prohibition to participate in public tenders and bids. These were arbitrary measures contrary to the right to free movement and human dignity. The candidate said that the action is pending before the PTS but anticipates a favorable opinion from the Attorney General's Office.

The candidate also mentioned that as a lawyer, he has defended the implementation of the “judge of guarantees”⁹⁷ in Brazil before the STF as a way to ensure the full validity and effectiveness of human rights in criminal proceedings. To this end, he indicated that he had participated in the presentation of several *amicus curiae* briefs in several unconstitutionality appeals on the matter.⁹⁸

Finally, he indicated that in 2020 in the context of the COVID-19 pandemic, he coordinated the filing of a direct action—ADI no. 6359—before the STF, the objective of which was to ensure that workers have broad access to public pension funds (FGTS⁹⁹), given the context of social and economic crisis, as well as the increase in unemployment; this action is pending resolution.

After reviewing the unconstitutionality actions filed by the candidate, although they are based on Brazilian constitutional and legal norms, some of them take up the American Convention on Human Rights and the Universal Declaration of Human Rights as frameworks of reference for the protection of the right being addressed, without taking up the jurisprudence developed by international human rights protection bodies.

The candidate also has several publications on constitutional jurisdiction, democracy, institutionalism, and fundamental rights, and has coordinated the publication of a Manual on the Rights of the Elderly.

- *Qualification to exercise the highest judicial function*

Candidate de Bittencourt Mudrovitsch meets the requirements to be a Justice of the Federal Supreme Court of Brazil, as established in the Federal Constitution.¹⁰⁰

⁹⁶ Report “Situation of Human Rights in Brazil” (OEA/Ser.L/V/IL, doc.9), published by the Inter-American Commission on Human Rights on February 12, 2021. Paragraph 237. P. 91.

⁹⁷ According to the candidate, “The magistrate is the authority in charge of controlling the legality of criminal investigations, observing due legal process and safeguarding the fundamental rights of the accused.”

⁹⁸ ADIs No. 6298 , 6299 , 6300 and 5941.

⁹⁹ According to the candidate, “It is a social security fund created by the Brazilian government for the formation of savings in favor of workers, assuring them income in case of resignation without just cause.”

¹⁰⁰ Federal Constitution, Article 101. At:

https://www.senado.leg.br/atividade/const/con1988/CON1988_05.10.1988/CON1988.asp

- *Knowledge of IAHRs challenges*

In his answers 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 IAHRs 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 to their respective judiciaries, is essential to address the challenges surrounding the effectiveness of its decisions, to ensure compliance with its deliberations and determinations, and to incorporate Inter-American jurisprudence into the practice of the courts (...)*". In this sense, he is of the opinion that, "*the conclusion of agreements with the States Parties or the deepening of institutional dialogue may be important tools to give greater force to the jurisprudence of the [IACtHR] at the continental level.*"

He indicated that another important challenge is the Covid-19 pandemic, a situation that poses new problems: he indicated that the complaints that arise would take place in a social environment that is very different from the one the IAHRs authorities were used to dealing with, which will require innovative solutions from the IACtHR. He mentioned, among other issues, the possible conflict between the right to freedom and social isolation measures, the protection of socially vulnerable groups, and the influence of fake news in the fight against Covid-19.

He mentioned another challenge to the expansion of the dialogue between the Court and the Commission. He is of the opinion that, "*on the one hand, the significant increase in the number of petitions admitted points to a concrete effort to mitigate delays in the analysis of cases—a delay that in itself constitutes a major structural challenge for the IAHRs—on the other hand, the greater volume of complaints reaching the Commission and cases referred to the Court calls for greater coordination, dialogue and alignment between the agencies.*"

- *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 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 responses to the questionnaire that “[*I*], 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, especially in the Judiciary. Although they are professionals with great prestige and notable legal knowledge, it is very important for the deepening of the debates that the body also welcomes professionals from other careers, such as lawyers.*” He argued that, “*The role of lawyers is essentially to defend the full observance of the fundamental rights of their clients. Hence the importance of having magistrates in the Court who come from the legal profession (...) that is why he stated that he would contribute the experience he has accumulated in cases of defense and affirmation of human rights before the courts.*”

In terms of knowledge of other legal systems, the candidate has an in-depth knowledge of the Brazilian legal system, both from a theoretical and practical point of view. He also mentioned

that he has participated in several cases of international criminal cooperation, working in legal systems of more than 15 countries, which have given him a deep connection with the most varied legal realities. He also indicated that he constantly applies comparative law in the practice of law in search of innovative solutions.

5. National nomination process

Regarding the existence of a participatory and transparent national nomination process, the candidate responded in the questionnaire that, *“...although Brazil does not have a specific internal procedure for the presentation of candidacies, the proposal of my name to the IACtHR was made in a transparent manner, with wide publicity and open to public debate, and was very well received by various civil society entities.”*

He added, *“From the very first moment, the Brazilian authorities have always shown great concern for publicizing my candidacy as a way of allowing civil society to know about the candidacy and be able to express themselves.”* He indicated, *“My nomination was published in the Official Gazette before being presented to the other countries, and the Ministry of Foreign Affairs was in charge of organizing events and publicizing my nomination for the position on its social networks, as a way of taking it to the public and opening a space for questions, discussions and proposals...”*

However, no sources of information were found that would allow us to determine any civil society participation in the nomination process or any dialogue with them after the nomination.

6. Conclusion

After analyzing sources that were used to prepare this report, the Panel has concluded that Rodrigo de Bittencourt Mudrovitsch meets some of the necessary requirements to hold the position of Judge of the IACtHR.

The Panel believes that Rodrigo de Bittencourt Mudrovitsch, who possesses in-depth knowledge in various areas of law, has only recently engaged in human rights, thus evidencing a lack of knowledge in public international law and international human rights law, key branches of law in consideration of the high magistracy to which he is applying. The Panel did not find references to such knowledge either in the actions filed before the STF of Brazil (even when the issues they deal with refer to human rights) or in their academic or legal publications. Nor could such knowledge be established in his interview with the Panel.

On the requirement of **high moral authority**, the 19 letters of support from public entities of the three branches of the Brazilian government, from Brazilian professional associations, academics, civil society organizations, and others suggest a high moral authority of the

candidate. There is nothing in his record to indicate any type of sanction, ethical misconduct, or professional impropriety.

In relation to the **requirement of recognized expertise in human rights**, the candidate has an outstanding academic background with Master and Doctorate degrees in law. He is also highly knowledgeable in criminal law, economic criminal law, and constitutional law, in matters of state institutions, government, and democracy in Brazil, as well as an outstanding academic activity in Brazilian universities and institutions, having taught in recent years as a professor of fundamental rights.

The legal actions he has filed in recent years before the STF reveal his interest in constitutional jurisdiction as a means of enforcing human rights and defending groups in vulnerable situations. The Panel highlights the aforementioned qualities of the candidate, however, the scarce reference to international human rights law, treaties, and jurisprudence, both in his professional work and in his academic work—a key subject of the work of a judge of the IACtHR—is noteworthy. The interview with the candidate confirmed this assessment and revealed a partial knowledge of the regional challenges faced in the area of human rights.

With respect to **independence and impartiality**, the Panel has no reason nor has it received any information that would cause it to have doubts regarding this requirement. The Panel believes that candidate Rodrigo de Bittencourt Mudrovitsch is seen as independent and impartial in the eyes of a reasonable observer. This is because his profile is that of a lawyer who participates, in his personal capacity and *ad honorem*, in various committees of institutions in legal matters and as an academic, which suggests that he is an independent and impartial candidate, and able to stay away from any external influence and pressures.

2. VERÓNICA GÓMEZ

Proceedings before the Panel: Veronica Gomez was contacted by the Panel on April 6, 2021. She responded to the questionnaire and returned it on April 29, 2021. She met with the Panel on May 19, 2021. The Panel received 14 letters of support for her candidacy from academics, individuals, and civil society organizations from different parts of the world.¹⁰¹

1. High moral authority

Candidate Gómez 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.

2. Recognized competence in human rights

- *Academic background and professional experience*

Verónica Gómez is a lawyer who graduated from the University of Buenos Aires (Argentina) and holds a Masters of Law degree in International Law from the University of Nottingham (England). She currently serves as President of the Global Campus of Human Rights, an academic association that brings together one hundred universities from around the world dedicated to human rights education and collaboration with States, intergovernmental organizations, and civil society.¹⁰² She is also the Director of Education at the International Center for Political Studies (CIEP) of the National University of San Martín (UNSAM), where she designs and directs programs for the exchange of best practices between States in the region. She also promotes and participates in proposals for virtual learning for officials of national human rights institutions, the European Union, as well as the general public. She is also Co-Director of the Master in Human Rights and Democracy in Latin America at CIEP-UNSAM.

From 1998 to 2009, she worked as Senior Specialist at the IACHR and from 2010 to 2012 as Senior Advisor to the General Directorate of Human Rights of the Ministry of Foreign Affairs, Trade and Worship of the Argentine Republic. She has also worked as a consultant and expert for different international organizations and has been invited as a speaker at different universities and institutions around the world, including the University of Sarajevo (Bosnia & Herzegovina), Mahidol University (Thailand), University of Pretoria (South Africa), SEK

¹⁰¹ María Luisa Peralta, from the NGO Akahatá—Work team on sexualities and genders; Victor Ernesto Abramovich; Dr Mike Hayes, Mahidol, from the University of Thailand; Jihad Nammour of the “Global Campus-Arab World”; Mariana Hadzijusufovic, from the University of Sarajevo (Global Campus South East Europe) Bosnia and Herzegovina; George Ulrich of the Global Campus on Human Rights; Frans Viljoen, from the Center for Human Rights at the University of Pretoria; Roberto Agustín Follari; Therese Murphy, Professor of Law at Queen's University Belfast & Director of the European Master in Human Rights and Democratization; Prof. Marco Borraccetti, from the University of Bologna; Prof. Dr. Antoine Buyse, Director of the Netherlands Institute for Human Rights at Utrecht University; Roberta Camineiro Baggio; Hector Santiago Mazzei. Secretary of Government of Universidad Nacional San Martín; and Jorge Taiana.

¹⁰² <https://gchumanrights.org/education/regional-programmes/latma/programme-director-and-staff.html>

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 relevant to the position for which she is running, her knowledge of the IAHR stands out. In this regard, the candidate indicated in her responses to the questionnaire that throughout her work experience, she has “...*acquired and developed knowledge in the area of constructing and drafting international instruments, resolutions and procedural standards; the interpretation and application of treaties and other international instruments; the instructing and processing of international claims in written and oral stages; the collection of testimonial and forensic evidence in situ; working with experts; oral and written argumentation of international decisions (quasi-judicial reports, resolutions, awards) on jurisdiction, merits and reparations; the evaluation of risk situations for people and the design of protection measures; the promotion and monitoring of friendly settlement processes; the development of monitoring mechanisms for compliance with international decisions; organizing and carrying out on-site missions; dialogue with the States and their agencies, and with civil society; the negotiation and management of international cooperation projects; the construction and governance of international academic networks; among others.*”

She also has several publications in scientific journals in the field of human rights and development issues at national and international level, both in Spanish and English, especially those related to the IAHR. The candidate clarified in her answers to the questionnaire that despite her publications, a significant part of her legal opinions in the area of the application of international human rights law has been subsumed in portions of institutional publications of the IACHR between 1998 and 2009, in which she participated in the position of Senior Specialist of the Commission. This scholarship includes draft reports on individual cases at all procedural stages; draft country and thematic reports; internal memoranda in the area of protection measures, regulatory reforms and hearings; and briefs submitted to the IACtHR in the framework of individual cases at all procedural stages, including compliance monitoring and provisional measures.

- *Qualification to exercise the highest judicial function*

Candidate Gómez meets the requirements to be a judge of the Supreme Court of Argentina. Article 111 of the National Constitution provides that “*No one may be a member of the Supreme Court of Justice without being a lawyer of the Nation with eight years of practice, and having the qualities required to be a senator.*”¹⁰³

¹⁰³ Article 55 of the National Constitution establishes that the requirements to be elected Senator are: “(...) to be thirty years old, to have been a citizen of the Nation for six years, to enjoy an annual income of two thousand pesos fuertes or an equivalent income, and to be a native of the province that elects him/her, or with two years of immediate residence therein.”

- *Knowledge of IAHRs challenges*

In her answers to the questionnaire and in the interview with the Panel, the candidate evidenced a clear knowledge of the IAHRs 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, “...it is vital to actively nurture the capacity and values of the Inter-American system, as well as active dialogue with States and civil society in the region. The Inter-American Court has a fundamental role in this dialogue since its jurisprudence represents the highest expression of human rights standards for Latin America and the Caribbean.”

After giving an account of the most important contributions made by the Commission in recent years, she mentioned those issues that should be strengthened, indicating an agenda to address climate change and environmental protection and its impact on the survival and quality of life of people and communities. She also added other relevant issues—economic, social and cultural rights, the impact of new technologies, and the protection of children—which, according to her, require a holistic approach in the interpretation of international human rights law.

- *Diligence and other relevant skills*

As for her dedication if elected to the post, the candidate explained that she hopes to continue her activities related to teaching and promoting human rights at the Universidad Nacional de San Martín and at the *Global Campus of Human Rights*. She clarified that these institutions support her candidacy and would adapt to the rhythm of the Court's work.

Regarding her language skills, she indicated that she is equally fluent in Spanish and English. The candidate is a native Spanish speaker and holds a university degree in Sworn Translator and Interpreter in English granted in 1993 by the School of Law of the National University of Buenos Aires.

In her answers to the questionnaire, she indicated that she uses English on a daily basis as part of her academic work and as part of the management of international cooperative projects, and has in the past—in her role as an OAS official—in her contacts with the authorities of the English-speaking member states of the Organization. She added that “...I am aware of and sensitive to the challenges faced by the bodies linked to the OAS in terms of communication with the authorities and inhabitants of the member states where other official and non-official languages, other than the working languages, are spoken. I am particularly interested in finding ways to improve communication within the framework of the proceedings and in the Court's pronouncements.”

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 Andean region.

5. National nomination process

On this point, the candidate indicated, *(...the Ministry of Foreign Affairs, Trade and Worship of Argentina and the Human Rights Secretariat of the Ministry of Justice for the first time used a nomination process based on the candidates' background and the scrutiny of civil society.”*

She added, *“...the process involved contacts with representatives of civil society for the consideration of resumes of experts suitable for the position; receipt of written endorsements in favor of candidates; hearing with four candidates...who presented their suitability for the position and answered questions from representatives of civil society and academia; a report from the Human Rights Directorate of the Ministry of Foreign Affairs on the results of the hearing and other background information; and, final decision by the President of the Nation, Alberto Fernández.”*

In her interview with the Panel, the candidate expressed her support for the institutionalization of a system of transparency and evaluation of candidates for the IAHR, inspired by the experience of other international tribunals. She indicated that what was done by Argentina was a first test, which was positive due to the names of the people who were considered; however,

she clarified that in spite of the above, the procedure will be concluded once there is a legal norm that regulates it.

6. Conclusion

After analyzing the sources used to prepare this report, the Panel has that Verónica Gómez meets the requirements to be elected judge and that, if elected, she would make a significant contribution to the work of the IACtHR by virtue of her knowledge and experience.

Regarding the requirement of **high moral authority**, the 14 letters of support she received from different academic entities, organizations, and individuals in the field of human rights illustrate the respect and trust that the candidate has inspired throughout her career in human rights, both in her country and at the international level. 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 candidate Gómez has a solid academic and professional background in international human rights law, with expertise in the areas of justice, democracy, economic, social and cultural rights, and the IAHRs, in general.

The Panel believes that candidate Gómez would contribute with her knowledge of the IAHRs, because of her past work as Senior Specialist for nearly ten years at the IACHR, which in the Panel's opinion, constitutes an additional benefit. The Panel also values the candidate's contribution to the diverse composition of the IACtHR since, as a woman, she would contribute to the composition of a body that has been mostly composed of men.

The Panel also notes that her professional experience in different sectors—government, academia, OAS—and her work as President of the Global Campus of Human Rights, constitutes an additional value. From both the interview and analysis of the sources used for the preparation of this report, the Panel has been able to verify that her experience has allowed her to incorporate different work perspectives from different sectors and to develop interpersonal skills of dialogue and collaboration with state entities and social organizations. This, in the opinion of the Panel, is an essential interpersonal skill for a judge of the IACtHR.

With respect to its **independence and impartiality**, the Panel has no reason nor has it received information that would cause it to have doubts about this requirement. The Panel believes that candidate Gomez is seen as independent and impartial in the eyes of a reasonable observer. This is because her profile as an expert who has been involved in human rights work primarily as an academic and legal advisor.

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 Hernandez 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 impropriety.

Nancy Hernández has received the following distinctions:

- Certificate of Merit on the occasion of the XV Anniversary of the Constitutional Chamber;
- Certificate of Appreciation Constitutional Chamber (September 27, 2004);
- Certificate of Judicial Merit (October 1, 2012);
- Recognition from the Bar Association for 25 years of professional practice (May 21, 2012);
- Owl Award of the Escuela Libre de Derecho 2014, a distinction awarded to defenders of freedom;
- Merit recognition for 30 years of service in the Judiciary (awarded only to those who have no sanctions or blemish on their record) (October 2020);
- Recognition from the Embassy of the United States of America and the National Center for State Courts for the work in favor of strengthening the anti-corruption system of the Judiciary (December 9, 2020).

2. Recognized competence in human rights

- *Academic background and professional experience*

Nancy Hernández López is a lawyer who graduated from the Universidad Escuela Libre de Derecho de Costa Rica; she also holds two Master's Degrees, one in Tax Law from the Universidad para la Cooperación Internacional and the other in Public Law from the Universidad de Costa Rica.

A large part of the candidate's professional career—more than 30 years—has been spent in the Costa Rican Judiciary, where she currently serves as Magistrate of the Constitutional Chamber of the Supreme Court of Justice, a position she has held since 2013.

Previously, the candidate was Director of the Office of the Chief Justice (2009-2013), Counsel to the Chief Justice (1999-2013), Counsel to the Constitutional Chamber (1992-1999), and

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 Rica in the Office of the Human Rights Ombudsman of the National Penitentiary System (1988-1990). She was also a consultant for the Pan American Health Organization (1988) and has been a member of various committees, organizations, associations, and working groups on constitutional, human rights, and international humanitarian issues within Costa Rica.

As part of her work in the Judiciary, Judge Hernández has issued several rulings in cases related to human rights regarding women's access to representative spaces, torture and police abuse, equal marriage, freedom of the press, among others, in which she has directly applied the doctrine of conventionality control and the sources from the Inter-American and universal human rights systems. This has had an impact on regulations, leading Costa Rica to adapt its laws and policies to the standards of the aforementioned systems.

Within her prolific jurisprudential production, it is worth highlighting, among others, Decision 16070 of 2015, known as “horizontal parity.” This declared the jurisprudence of the Supreme Court of Elections that limited the real access of women to popularly elected positions in deputations unconstitutional, because the way in which the election lists were formed left women at the bottom of the ballots, and they were not elected to Parliament.

She has issued various judgments regarding persons deprived of liberty, one on which she ordered to have protocols for the care and prevention of those deprived of liberty in the face of the Covid-19 pandemic in compliance with Resolution 1-2020 of the IACtHR¹⁰⁴ (Decision 09738-2020). Another regarded the elimination of the use of electric shields to control the behavior of those deprived of liberty (Decision 2015-1297). She was also responsible for issuing a structural judgment to protect the physical integrity of 1,300 inmates, ordering the reconstruction of an entire section of a prison (Decision 7918-2014).

As the dissenting vote of judgment 01692-2016, the candidate ruled against the majority of the Constitutional Chamber that established a prior authorization of legal rank to access the right to in vitro fertilization. Candidate Hernández pointed out in her vote that the judgment of the IACtHR in the case of *Artavia Murillo et al. vs. Costa Rica* was of immediate and mandatory compliance. In the follow-up judgment in the case, the IACtHR cited the reasoning of the candidate as the correct criterion.

It is important to note that, as a Justice of the Constitutional Chamber, she not only promoted the protection of human rights through her jurisdictional work, but also through public policy within the Judiciary. An example of this was the development of a project, approved by the Plenary of the *Protocol for Immediate Action in Possible Cases of Torture*, with the aim of expeditiously and better documenting the evidence in cases where torture is alleged (Protocol 11-2016).

¹⁰⁴ Available at: http://www.oas.org/es/cidh/SACROI_COVID19/documentos/resolucion01-2020_ilustrada.pdf

Regarding her experience as Legal Advisor to the Ministry of Justice of Costa Rica in the Office of the Human Rights Ombudsman of the National Penitentiary System, the candidate participated in the implementation of protocols for the protection of prisoners; conducted investigations of prison officials for abuse of authority; managed to reverse a practice of immigration police who held detainees under administrative order “for deportation” for years; and, obtained the release of migrants who had, in some cases, been imprisoned for up to 3 years without a court order, among other actions. She also mediated in-person in riots to reach agreements to end violence and improve the conditions of prisoners, in general.

During her professional career, she has also participated in the drafting of legal reforms for the protection of vulnerable groups, such as people with HIV-AIDS, children and adolescents, women, persons deprived of liberty, protection of witnesses in trials, and persons belonging to indigenous peoples.

Regarding her career as an academic, the candidate was Professor of Constitutional Law, Public Law and Criminal Sciences at the University of Costa Rica, from 2010 to 2020. She was also a tenured professor at La Salle University where she taught fundamental rights from 1999 to 2009. She was also a professor at the Judicial School of the Supreme Court where she participated in the training of judges in the areas of international human rights law and constitutional law.

She also has several publications in the field of human rights and constitutional law in legal journals in Costa Rica and other countries in the region, including “The judicial guarantees in light of the judgments of the Court of Human Rights and analysis of the case *Loayza Tamayo v. Peru*.” The candidate clarified in her answers to the questionnaire that her greatest written contribution, however, was developed through the jurisprudence of her 30-year judicial career. She is also a coordinator and contributor to newsletters and legal journals in the field of human rights and constitutional law and is the Vice President of the Costa Rican Association of Constitutional Law.

- *Qualification to exercise the highest judicial function*

Candidate Hernandez has been a full Magistrate of the Constitutional Chamber of the Supreme Court of Justice since 2013 and therefore meets the requirement established in the Political Constitution of Costa Rica.¹⁰⁵

- *Knowledge of IAHRs challenges*

In her answers to the questionnaire and in the interview with the Panel, the candidate evidenced a clear knowledge of the IAHRs and the challenges that the Inter-American Court and

¹⁰⁵ Political Constitution of the Republic of Costa Rica, articles 159 and 160. Available at: http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_articulo.aspx?param1=NRA&nValor1=1&nValor2=871&nValor3=111699&nValor5=5007

Commission will face in the immediate future. It was noteworthy for the Panel that even though she is a candidate for Judge of the IACtHR, she also referred to the challenges of the IACHR, demonstrating an understanding the Inter-American System in a comprehensive manner.

The candidate referred to the region's democratic regression, the lack of funding for IAHR bodies, freedom of thought, and Covid-19. She also pointed out that the operational and functioning capacity of the IAHR bodies is a permanent challenge, indicating that *“The budgetary difficulties previously faced by both the IACHR and IACtHR have shown the latent risk of directly affecting and influencing their ability to fulfill their mandates.”*

She indicated that the procedural backlog is another of major challenge of the IAHR, which *“...may be due to some extent to the lack of human resources to handle petitions and cases more efficiently and promptly. And I clarify that the economic aspect may be a cause, because as we have seen with the recent policies adopted by the IACHR, there is the possibility of devising internal mechanisms, differentiated processes and other types of administrative solutions that have had a positive impact on this body, the first great filter of the petition and case system.”*

She also indicated that one of the challenges in which there is perhaps the greatest consensus when reflecting on the IAHR, is its lack of universality. She also mentioned that the degree of effectiveness and efficiency of the IAHR rests on the will and capacity of States to comply in accordance with their international obligations and the principles of *pacta sunt servanda* and good faith with the recommendations of the IACHR and the judgments and other resolutions issued by the IACtHR. She indicated, *“Therefore, in order to avoid the sterility of these decisions, it is essential that countries have the necessary regulations and institutions to facilitate compliance with recommendations and to some extent guarantee compliance with judgments and other jurisdictional rulings.”*

Finally, in the interview, she referred to a major challenge of the work of the IACtHR in its current context: the promotion of structural measures to address the structural inequality that exists in the region, indicating that the States are obliged to promote guarantee measures as part of the commitments they have assumed with respect to rights.

- *Diligence and other relevant skills*

Regarding her time commitment if elected Judge of the IACtHR, the candidate indicated that she would retire from the Costa Rican Judicial Branch to dedicate herself exclusively to this function, with the sole exception of maintaining her activity as a university professor.

With respect to her language skills, she mentioned that her mother tongue is Spanish and that she is fluent in English, which was corroborated by the documents presented to the Panel.

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 answers 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.

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, in her jurisdictional practice, she has applied the doctrine of conventionality control in multiple sentences, in cases for the protection of the population deprived of liberty on equity and political rights of women, equal marriage, and in vitro fertilization, among others. Regarding the protection of the fundamental rights of the population deprived of liberty, she added that her decisions as a judge have been implemented and are part of the jurisprudence of the Constitutional Chamber.

The candidate specializes in International Human Rights Law, Constitutional Law, equality and women's human rights, LGBTIQ+ population, Afro-descendants, people with HIV, indigenous populations, migrants, among others. She also specializes in criminal law focused on the promotion of effective judicial protection through the *Habeas Corpus* recourse and the control of arbitrariness, detentions, conditions of deprivation of liberty, use of force, among others.

Candidate Hernández stated that she has academic and practical knowledge of the IAHRs and the IACtHR. She said that her work as a teacher and as a lawyer and judge of the Constitutional Chamber has allowed her to teach and apply international human rights law. She also indicated

that she is familiar with the jurisprudence of the constitutional courts of the United States of America, Spain, Colombia, and Germany, which she constantly monitors.

5. National nomination process

In her answers to the questionnaire and the interview with the Panel, the candidate referred to her nomination procedure, indicating that the President of the Republic, together with a team of advisors and the Ministry of Foreign Affairs, selected her for the nomination. She added that she was subsequently informed directly by the President of the Republic through a telephone call about his intention to nominate her. He informed her that after a process of reviewing the backgrounds of several people, he had chosen the profile of a woman with a long career in the Judiciary, convinced that the IACtHR requires parity and that, after consulting with several sectors, there was a consensus that the nomination should go to her. She explained that, despite the previous nomination procedure and because of her 30-year career in the Judiciary, she has no ties to politics nor to the current government. In fact, she indicated that she has had to condemn the current government *in amparo* on many occasions.

In her interview with the Panel, candidate Hernandez also explained that as a Magistrate, one of the prohibitions contained in the conflict-of-interest regulations—which she herself participated in its elaboration—is not to participate in politics at a partisan level and not to campaign in any way for any postulation, such as the one in which she is participating. She added that her current position as Magistrate requires absolute impartiality and therefore she cannot ask for the sponsorship of her candidacy from the groups that litigate in her court. She could not have participated in any dialogue with civil society or any other similar entity.

She also added that her nomination has been an honor and a commitment that she has not been able to shirk at a time when the Court and the region need to continue to ensure a level of excellence in the field to maintain and increase the credibility and confidence of individuals and States in the Inter-American system of justice.

6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that Nancy Hernández López meets the requirements to be elected judge and that, if elected, she would make a significant contribution to the work of the IACtHR, by virtue of her knowledge and experience.

Regarding the requirement of **high moral authority**, the candidate has a career of more than 30 years in the Judicial Branch of Costa Rica, where she has been regularly evaluated for her performance in her position, rising through the different positions in her judicial career. This guarantees fulfillment of the Panel's evaluation criterion. Likewise, the recognitions and awards received by the candidate, including from the Costa Rican Judiciary itself, reaffirm her high

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 IAHR 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, access to justice for indigenous populations, and the protection of women's rights. Additionally, she has contributed to the creation of specific tools, such as the Protocol for immediate attention to possible cases of torture (2016) and the legal framework for the regulation for the prevention, identification and management of conflicts of interest in the Judiciary.

The Panel also believes that her professional experience in the judiciary of her country constitutes an additional benefit of her candidacy, as she has a demonstrated track record in judicial work, applying international human rights law on a daily basis.

Her proactive profile, participating in the “field” in the verification of compliance with judgments and dialoguing with victims, reveals her interest in learning about the alleged situation of human rights violations directly from the perspective of the victims, as well as in assisting in compliance with the decisions of the regional court through on-site visits and meetings with the actors involved in compliance.

A topic of special concern and expertise for the candidate is groups in situations of historical vulnerability and, among them, persons deprived of their liberty. Considering the current regional situation and given that it is an issue that the IACtHR must constantly address in its different mandates—contentious, preventive and advisory—the Panel believes that the candidate’s expertise will constitute an additional contribution to the Court. The Panel also values the candidate's contribution to the diverse composition of the IACtHR as a woman, as this would contribute to the composition of a body that has been mostly composed of men.

With respect to its **independence and impartiality**, the Panel has no reason nor has it received information that would allow it to have doubts about this requirement. The Panel believes that candidate Hernandez has had an independent and impartial professional career, keeping herself free from outside influence and pressure.

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 training courses for court officials.

From 2000 to 2003, the candidate worked as Director of Legal Affairs for the Moiwana 86 Organization. Between 2004 and 2008, she worked as an official of the Ministry of Justice and Police Affairs, first as a court clerk and then she began her training to become a Judge of the Court of Appeals. The candidate indicated that she was part of the team that promoted the enactment of the Domestic Violence Law in her country and added that she also participated in the drafting commission of said law, under the supervision of the Women's Rights Center.

The candidate stated that she has applied international human rights law throughout her professional career. In her work with the NGO Moiwana 86, the candidate provided legal advice to civilians denouncing the State for human rights violations. The candidate pointed out that, from that position, she provided legal advice to the descendants of the victims of the “Moiwana” massacre against the state of Suriname, a case that was brought before the IACHR¹⁰⁶ and later also before the IACtHR. The candidate added that Moiwana 86 also carried out advocacy and training activities on human rights issues. One of its specific activities was cooperation with local organizations to provide training on human rights issues in secondary schools. They also carried out campaigns focused on specific issues, such as, women's rights day.

In her position as a judge of the Court of Appeals, she has issued rulings promoting the application of standards in relation to prison conditions; health situation of persons deprived of

¹⁰⁶ See IACHR REPORT No. 26/00. CASE 11,821 MOIWANA VILLAGE. SURINAME. March 7, 2000. Available at <https://www.cidh.oas.org/annualrep/99span/Admisible/Suriname11.821.htm>

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 her particular areas of knowledge relevant to the position to which she is applying, the candidate highlighted that she has specific knowledge on the rights of indigenous peoples, as there are various communities in Suriname; women's rights and their protection through the Domestic Violence Law; due process issues; and, in particular, the application of the standard of reasonable time applied to the duration of judicial processes; institutional strengthening and its link with aspects of democracy; prison conditions and their relationship with the right to health of people deprived of liberty, especially during the COVID 19 pandemic; and, rights derived from the protection of the environment and their link with the exercise of illegal mining.

Candidate Kuldip Singh has some publications on human rights issues in the local press. For example, her publication on the Moiwana case before the IACHR Commission stands out. She also participated in seminars on the topics of prison conditions, transparency in government institutions, and the abolition of the Asian Marriage Law. The candidate wrote her graduation thesis for Anton De Kom University, entitled “Research on environmental insurance for companies: comparison between Suriname and the Netherlands.”

- *Qualification to exercise the highest judicial function*

Candidate Kuldip Singh is eligible to be a judge of the High Court of Justice of Suriname in accordance with Article 141, paragraph 1 of the National Constitution of Suriname.¹⁰⁷

- *Knowledge of IAHRs challenges*

As for the challenges facing the IAHRs, the candidate believed that, first, there should be a review of the Court's financing system. On this point, she proposed the creation of a system of incentives and sanctions as a way to strengthen the annual budget. Second, the candidate pointed out the lack of transparency in the management of the budget since there are no detailed records of the Court's expenditures. In this regard, she mentioned the need for such information to be made public.

Third, the candidate identified the need to create gender equality policies within the Court, because in her opinion, despite the progress made in this regard, the policies for the promotion of gender equality are not yet reflected in the institutional structure of the Court. Fourth, she mentioned that there must be greater control over full compliance with the resolutions of the IACHR and IACtHR to ensure absolute compliance with the ACHR in the region. Fifth, the

¹⁰⁷ Article 141, paragraph 1 of the Constitution of the Republic of Suriname sets forth the requirements to be appointed as a Judge of the Supreme Court of Justice and establishes that persons must be at least 30 years of age, have Surinamese nationality, and have their principal or current domicile in Suriname. English version available at http://www.oas.org/juridico/pdfs/mesicic4_sur_const.pdf

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 active 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 skills, the candidate relayed that she speaks and writes Dutch as her native language. She also communicates fluently in English, both spoken and written. The candidate also indicated that she speaks Sranan Tongo and explained that this language is used as a common language in the streets of Suriname and is also spoken in the local courts. Finally, the candidate speaks Sarnami, which is the language of her ancestors from India.

3. Independence, impartiality and conflicts of interest

Throughout her career, the candidate has served mainly as a judge in the Judiciary of her country. She has not acted in the political sphere, nor has she held any decision-making positions in the government that may require special analysis by the Panel. No information was found to indicate to the Panel that candidate Kuldip Singh's independence and impartiality would be compromised if elected as a Judge of the IACtHR.

Regarding possible conflicts of interest, the candidate stated that she is a member of the Board of Directors of the Justice Studies Center of the Americas (JSCA) and that her term of office will expire in December 2022. In this regard, she stated that if she were elected as a judge of the IACtHR, she would refrain from continuing to participate in that position.

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

As for her contribution to the composition of the agency, the candidate explained that she would work to facilitate the rapprochement between the domestic courts of the Caribbean countries, the Caribbean Court of Justice, and the IACtHR. The candidate highlighted the difficulty faced

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 Kuldio 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 Panel highlights the work of candidate Kuldip Singh while in charge of the Legal Affairs Department of the organization Moiwana 86, providing legal advice in different areas to victims of human rights violations committed by the State and participating in the development of the Moiwana case before the IACHR. In relation to her extensive experience as a judge in criminal matters, both through her answers to the questionnaire sent to the Panel and in the interview, the candidate demonstrated her knowledge of the due process guarantees derived from the ACHR and showed special attention to the rights of persons deprived of liberty, their state of health, and prison conditions. The candidate has expertise in the areas of indigenous peoples' rights, women's rights, due process, and rights derived from environmental protection.

Throughout her answers to the questionnaire, the candidate showed a clear understanding of the jurisprudence of the IACtHR, developing extensively on the contribution of the body in the areas of transitional justice, rights of migrants, economic, social, cultural, and environmental rights, due process and minimum judicial guarantees, equality and non-discrimination, rights of children and adolescents, rights of LGBTQ persons, gender, persons deprived of liberty, and corruption. The Panel also highlights her knowledge of the specific jurisprudence of the IACtHR with respect to Caribbean countries.

Additionally, the candidate would contribute to the diverse composition of the body as a woman in a body that has been mostly composed of men. In addition, she would contribute as a national of a Caribbean state. She believes that this profile would contribute to the diverse geographic representation of the IACtHR and it would help to bring the work of the Court closer to the Caribbean states. It should also be noted that, because of her own personal history and the presence of various population groups with very diverse characteristics and origins in Suriname, the candidate is well aware of the challenges involved in respecting cultural and religious diversity and non-discrimination among different groups, in particular, by the State. In sum, the candidate would bring geographic, cultural, and gender diversity, with knowledge and experience in the area of women's rights.

Regarding her **independence and impartiality**, it is noted that the candidate has served mainly as a judge in the courts of her country. The Panel has no reason nor has it receive information that would allow it to infer a possible lack of independence or impartiality of the candidate in an eventual mandate as judge of the IACtHR. The Panel considers, therefore, that candidate Kuldip Singh is viewed as independent and impartial in the eyes of a reasonable observer.

5. CÉSAR LANDA ARROYO

Proceedings before the Panel: The candidate was contacted by the Panel on April 6, 2021, submitted questionnaire responses to the Panel on April 27, 2021, and was interviewed by the Panel on May 11, 2021. The candidate also sent letters of support for his candidacy signed by Peruvian judicial authorities, former presidents of the Inter-American Court of Human Rights, academics, and jurists from different countries around the world.¹⁰⁸

1. High moral authority

In the answers to the questionnaire sent by the Panel, candidate Landa Arroyo indicated that he has never been sanctioned for professional misconduct in the public positions he has held as a public servant, public authority, or in his work as a university professor. He clarified, however, that as a constitutional magistrate, he was constitutionally accused before the Congress of the Republic for his singular vote in the “El Frontón” case, in which the candidate declared such a massacre as a crime against humanity. He added that he was also criminally denounced for the issuance of a judgment on access to justice in electoral matters, following the jurisprudence of the IACtHR. In this regard, the candidate informed the Panel that these complaints had been filed.

The Panel has received no additional information from other stakeholders questioning the candidate's moral authority or indicating other instances of ethical misconduct or professional impropriety.

The candidate holds honorary doctorates from five Peruvian universities, including the Universidad Nacional de Cajamarca, Universidad Peruana Los Andes, and Universidad César Vallejo de Trujillo.

¹⁰⁸ César Eugenio San Martín Castro. President of the Criminal Chamber. Senior Professor PUCP; Dr. Víctor Roberto Prado Saldarriaga. Chief Justice of the Peruvian Supreme Court; Marianella Ledesma Narvaez. President of the Constitutional Tribunal; Jorge Luis Salas Arenas. President of the National Jury of Elections; Luz Inés Tello de Necco; Inés Felipa Villa Bonilla. President of the Special Criminal Chamber of the Supreme Court of Justice of the Republic of Peru; Dr. Pablo W. Sánchez Velaverde. Titular Supreme Prosecutor; Prof. Dr. Armin von Bogdandy. Max Planck Institut. Prof. Dr. Rainer Arnold. University of Regensburg; Prof. Adrienne Stone FASSA FAAL. President of the International Association of Constitutional Law; Prof. Dr. Ingo Wolfgang Sarlet. Pontificia Universidad Católica de Río Grande do Sul; Dr. Humberto Nogueira Alcalá. Universidad de Talca. Chile; Prof. Dr. J.J.Moreso. Universitat Pompeu Fabra. Barcelona; Prof. Dr. Luis María López Guerra. Universidad Carlos III de Madrid; Laurence Burgogue-Larsen. Escuela de Leyes de la Sorbona, Universidad de París 1 Panteon-Sorbona; Prof. Dr. Renaud Bourget. Université Cote d’Azur. Nice, France; Dr. Gerrit Hendrik Addink. Utrecht University. The Netherlands; Prof. Andrew Le Sueur. University of Essex; Diego Valadés. Ibero-American Institute of Constitutional Law; Dr. José Ma. Serna de la Garza. Ibero-American Institute of Constitutional Law; Prof. Shimon Shetreet. The Hebrew University of Jerusalem; Martín Risso Ferrand. Catholic University of Uruguay; Sergio García Ramírez. Universidad Nacional Autónoma de México. Former judge and former President of the Inter-American Court of Human Rights; Diego García-Sayán; Wilder Tayler. Former Secretary General of the International Commission of Jurists; Dr. Martín Hebia and Dr. José Luis Guerrero Becar for the Ibero-American Association of Law Schools and Faculties.

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 post-doctoral 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 Constitutionnalists 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 in different countries, such as Chile, Turkey and Spain. Previously, he was president and judge of the Constitutional Tribunal of Peru, positions he held from 2004 to 2011. In 2003, he was ad-hoc judge of the IACtHR, vice-minister of State in the Office of Justice in 2004, and dean of the Faculty of Law of the PUCP from 2012 to 2014.

In his teaching capacity, the candidate has participated in national and international conferences and given seminars on the adoption or implementation of the standards established in the jurisprudence of the IACtHR. He was the President of the Network of Ibero-American Law Schools and of the Inter-American Network of Fundamental Rights and Democracy.

Regarding his particular areas of knowledge, the candidate pointed out his knowledge of constitutional and Inter-American justice, social and political rights, protection of vulnerable groups, such as migrants and indigenous peoples, and comparative law. He also pointed out his knowledge of the "new rights," such as the right to the Internet and digital identity. In his responses to the questionnaire sent by the Panel and during his interview, the candidate demonstrated knowledge and handling of the recent jurisprudence of the IACtHR.

In relation to his experience in the application of International Human Rights Law and Constitutional Law, he indicated that he has applied the Inter-American human rights instruments in his jurisdictional work with the Constitutional Court, both as a judge and then President. The candidate referred to having promoted and issued rulings to establish the

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 protection of the rights to equality, privacy and honor, political-electoral rights, the right to work and social security, the right to education, the right to health and the environment, the right to prior consultation and due process, among others.

He indicated that in 2003 he served as ad-hoc Judge of the IACtHR in the case of *De la Cruz Flores vs. Peru*, from which he had to leave when he was appointed Vice-Minister of Justice. During his tenure as Vice Minister of Justice, the guidelines of the National Human Rights Plan were established under the responsibility of the National Human Rights Council through which human rights organizations were incorporated, legal defense before the IAHR was strengthened, and working instances were promoted with the IACHR in terms of friendly settlements and recommendations.

As a judge and later president of the Constitutional Court, he participated in rulings recognizing the constitutional rank of human rights treaties and reaffirming the imprescriptibility of war crimes and crimes against humanity. He has also promoted rulings protecting the rights of women, girls, adolescents, persons deprived of liberty, indigenous persons, persons with disabilities, LGTBI persons, and senior citizens, among others.

The candidate has also analyzed and applied human rights instruments throughout his academic work as a university professor. He has numerous publications in the form of books and articles in the field of human rights at national and international level, both in Spanish and English. He has written on general aspects of the Inter-American Human Rights System, its jurisprudence, and more specific issues of constitutional law, indigenous peoples' rights, migration processes and sexual and reproductive rights. He has written and published on the international standards of the jurisprudence of the IACtHR and the domestic mechanisms for compliance with the Court's resolutions.

From his experience as a judge of the Constitutional Court, he has issued unique rulings and votes applying human rights standards.

- *Qualification to exercise the highest judicial function*

Candidate Landa Arroyo meets the requirements to be a magistrate of the Supreme Court of Justice of Peru. Article 147 of the National Constitution provides that the requirements for membership in the Supreme Court are “1. To be Peruvian by birth; 2. To be an active citizen;

3. *To be over forty-five years of age; 4. To have been a Superior Court magistrate or Superior Prosecutor for ten years or have practiced law or been a university professor in legal matters for fifteen years.*”

- *Knowledge of IAHRs challenges*

In his answers to the questionnaire and in the interview with the Panel, the candidate evidenced a clear knowledge of the IAHRs and an understanding of the challenges that the IACtHR and IACHR will face in the immediate future. Regarding the challenges facing the IAHRs, the candidate pointed out the situation generated by the pandemic and its relation to migratory processes, economic, social and cultural rights, budgetary limitations, and the questions that have arisen regarding the importance and usefulness of the IAHRs.

- *Diligence and other relevant skills*

As for his dedication if elected to the post, the candidate stated that he would place the jurisdictional responsibilities of the IACtHR at the center of his professional work, reducing his hours as a university professor to what is strictly necessary. He clarified that he would not accept any other proposal to assume a position at the national or international level, nor would he carry out any private professional activity that might be incompatible with the responsibilities of a judge of the IACtHR. Regarding his language skills, his native language is Spanish. He indicated that he can also speak and write in English and speak French and German.

3. Independence, impartiality and conflicts of interest

The candidate’s professional life is informed by different positions, as an academic and jurist. From an analysis of the candidate's professional background, it is clear that he has developed his career in various positions of major responsibility and prestige. No information was found that would indicate to the Panel that candidate Landa Arroyo's independence and impartiality would be compromised if elected as a Judge of the IACtHR.

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

Regarding his contribution to the composition of the body, the candidate emphasized that he would contribute from his comparative perspective and stressed the importance that the Court seek dialogue with the different States in order to achieve an adequate implementation of its decisions. With respect to knowledge of other legal systems, the candidate indicated that, in his professional experience as a judge of the Constitutional Court of Peru, he has studied and developed the doctrine of precedents as a source for the creation of binding law for all public and private authorities, with the purpose of protecting violated fundamental rights.

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 elected judge and that, if elected, he would make a significant contribution to the work of the IACtHR, by virtue of his knowledge and experience.

Regarding the requirement of **high moral authority**, there is nothing in his record that indicates any type of sanction, ethical misconduct, or professional impropriety. In addition, the candidate was accompanied with letters of support for his candidacy signed by Peruvian judicial authorities, former presidents of the Inter-American Court of Human Rights, academics, and jurists from different countries around the world, and individuals who are leaders in the field of human rights. These endorsements illustrate the respect and trust that the candidate has earned throughout his career in human rights, both at home and internationally. The candidate has received honorary doctorate degrees from five Peruvian universities.

With regard to the requirement of **recognized expertise in human rights**, the Panel believes that it is indisputable that candidate Landa Arroyo has a solid academic and professional background in international human rights law, with expertise in the areas of constitutional and Inter-American justice, social and political rights, protection of vulnerable groups, such as migrants and indigenous peoples, and comparative law. He also pointed out his knowledge of the “new rights,” such as the right to the Internet and digital identity.

The Panel believes that his professional experience from the academic sectors and from high positions of great responsibility in the justice system of his country constitute an additional value. In addition, Mr. Landa Arroyo has studied, given seminars and courses, and published in several countries around the world. This provides the candidate with an international perspective that is highly relevant for an eventual appointment as a Judge of the IACtHR. During the interview, the Panel was able to verify that the candidate has a profound knowledge of the work of the bodies of the System, has expert knowledge of the recent jurisprudence of the Court, and is familiar with the evolution and development of the IACtHR's own rights and standards.

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 Candia was contacted by the Panel on April 7, 2021. She responded to the questionnaire on April 27, 2021. She was interviewed by the Panel on May 21, 2021, and it should be noted that the candidate sent additional information from what was requested by the panel members who interviewed her, in order to broaden the Panel's knowledge of her professional trajectory.

The Panel did not receive letters of support for the candidate; it received one communication opposing the candidacy that was signed by 16 civil society organizations and 67 individuals.

1. High moral authority

Candidate Peña Candia indicated in her answers to the questionnaire that she has never been disciplined for professional misconduct. From the information available to the Panel, there were no elements to conclude that the candidate lacks moral authority.

The candidate is a member of the Commission on Fundamental Rights at Work and Prevention of Forced Labor,¹⁰⁹ of the Board of Directors of the Law School of the National University of Asuncion, of the Ethics Commission of the Ibero-American Judicial Summit as Commissioner, a member of the Paraguayan Academy of Law and Social Sciences, and a member of the Court of Honor for the election of Ministers of the Supreme Court of Justice.

2. Recognized competence in the field of human rights

- *Academic background and professional experience*

Miryam Peña Candia holds a law degree from Universidad Nacional de Asunción and a Ph.D. in Legal Sciences from the same university, *Summa Cum Laude*. She is currently a professor at the Faculty of Law and Social Sciences of the National University of Asuncion, where she is the chair on Childhood and Adolescence Law, Civil Law and Labor Procedural Law.

The candidate has had a judicial career in various positions since 1970. Among the positions he has held, the following stand out:

- Member of the Juvenile Court of Appeals (1984);
- Member of the Labor Court of Appeals (1995-2015);
- Minister of the Supreme Court of Justice (2015 -2020);
- Member of the Court of Honor for the election of Ministers of the Supreme Court of Justice (2020).

¹⁰⁹ Created by Decree 7865 of October 12, 2017. Available at:
https://www.mtess.gov.py/application/files/1215/5913/3241/DECRETO_7865.pdf

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 Miryam Peña Candia also has a long career dedicated to teaching in the areas of Labor Law, Civil Law, Personal and Family Law and Child and Adolescent Law, mainly at the Law School of the National University of Asuncion.

Regarding her particular areas of expertise, the candidate indicated in her responses to the questionnaire that during her professional and academic experience, she “...[has] demonstrated [her] dedication and commitment to access to justice for vulnerable groups, such as workers, women workers, children and adolescents.” It should be noted that the candidate has an extensive career in the judicial sector of her country, mainly in the areas of Labor Justice and Child and Adolescent Justice. She also served as Minister of the Constitutional Chamber of the Supreme Court of Justice. The candidate indicated that in this position, she was in charge of the Human Rights Directorate of the Judicial Branch, which is part of the Inter-Institutional Commission responsible for the execution of actions necessary for compliance with judgments, recommendations, requests and other international commitments in the field of human rights. The Panel does not have more information regarding the type of policies that she promoted in that area.

The candidate emphasized that, as a member of the highest court, she has applied the ACHR to carry out, not only constitutional control of national norms, but also control of conventionality. In relation to her concrete experience applying the ACHR, the candidate cited an action of unconstitutionality against a rule prohibiting the importation of used vehicles of a certain age. From the reading of the ruling, it appears that the vote of candidate Peña Candia upholds the proportionality and reasonableness of the challenged rule based on the “preservation of public health, public safety and consumer protection.”¹¹⁰ In her answers to the questionnaire, the candidate explained that she voted for the preeminence of the right to a healthy environment over the right to the freedom of competition.

The candidate has also published several articles in Paraguayan legal journals, mainly related to family and children's issues in the national legal system. Among her publications is her thesis presented to obtain the degree of Doctor of Juridical Sciences, entitled “*The Mercosur Social and Labor Declaration: its Direct Applicability by the Paraguayan Court.*”

In the section of the questionnaire regarding significant writings in the area of human rights, the candidate refers to some of her votes as a judge of the Labor Appeals Chamber, which regarded issues of labor harassment (2007), unjustified dismissal of a pregnant woman for being discriminatory on the basis of sex (2011), and *habeas data* (2011). The candidate also referred

¹¹⁰ Supreme Court of Justice. Action of Unconstitutionality: “Grupo Once Once S.A. v. Art. 1 of Law 4333/2011.” Year 2016. No 1869. June 13, 2018. Available at: http://digesto.senado.gov.py/archivos/file/A_S%20463-2018.pdf

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 endorsements from organizations mainly linked to women's rights and other individuals. In said communication, these organizations indicated that, in 2019, candidate Peña, as Minister of the Supreme Court of Justice, confirmed the sentence of 45 days of imprisonment issued against a woman holding the position of military lieutenant who had been convicted by the Military Justice for requesting permission to breastfeed her child. During the interview process, the Panel consulted with the candidate about her intervention in the case. She responded that she did not participate in any substantive way, but only in the resolution of a procedural incident. She added that in the performance of her duties as a magistrate, she disregards all social pressures.

The same communication indicated that the candidate had supported the Prosecutor in charge of the case known as the “Curuguaty Massacre.” In this regard, the candidate clarified that she had an indirect intervention, voting in favor of the continuity of the Prosecutor in charge of the case, who in her opinion was a good official.

- *Qualification to exercise the highest judicial function*

Candidate Peña Candia meets the requirements to be a judge of the Supreme Court of Justice of Paraguay. Article 258 of the National Constitution provides that the requirements to be a member of the Supreme Court are “...to have natural Paraguayan nationality, to be thirty-five years of age or older, to hold a university degree of Doctor of Law, and to be of high honor. In addition, they must have effectively exercised for at least ten years the profession, the judicial magistracy or the university professorship in legal matters, jointly, separately or successively.”

- *Knowledge of IAHRs challenges*

In her answers to the questionnaire and in the interview with the Panel, the candidate mentioned that one of the main challenges facing the IAHRs is the “*lack of awareness*” that exists in the countries of the region about the work of the Inter-American Court, a factor that contributes to the reluctance to comply with judgments. In this regard, she pointed out that it is necessary to carry out a massive and permanent awareness campaign and that it would be important to enter into agreements with academic institutions and judges' and lawyers' associations to disseminate the importance of the Court. Second, the candidate stressed the need to maintain the System and promote the effective application of its norms in the States Parties. Third, she indicated the need to reduce the procedural backlog through long-range strategic planning.

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 post, the candidate stated that she would maintain her activities as a professor and researcher, as well as a member of the Honorary Tribunal.

Regarding her language skills, she indicated that she is fluent in Spanish and Guarani.

3. Independence, impartiality and conflicts of interest

The candidate has spent her entire professional career as a lawyer and academic. No information was found that would allow us to determine that the candidate has held political or other decision-making positions within the Executive Branch. The Panel has no information of any kind that would allow it to affirm a conclusion contrary to the independence and impartiality of the candidate.

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

The candidate referred to the importance of achieving gender parity in the IACtHR and, as a result, indicated that her status as a woman would contribute to the composition of the body. The candidate argued that her trajectory in the judiciary, being a woman, and working in collegiate bodies were qualities to be elected as a Judge.

Candidate Peña Candia explained that she has been a member of commissions in the different iterations of the Ibero-American Judicial Summit and that she has learned about the different legal systems of the member countries.

5. National nomination process

The candidate reported that in Paraguay the nomination for judges of the IACtHR is not designed as a public competition of opposition and merit, since it is framed within the discretionary decisions of the Executive Branch. She also described that the government's decision to nominate her as a candidate was based on the powers established in the National Constitution¹¹¹ and in the Organic Law of the Ministry of Foreign Affairs.¹¹²

¹¹¹ Art. 238, inc. 7. The President of the Republic is in charge of foreign relations.

¹¹² Law 1635/00. Art. 2. The Ministry of Foreign Affairs is the body that plans, coordinates and executes foreign policy under the direction of the President of the Republic.

She indicated that the selection criteria for candidates are:

- Excellent track record in the administration of justice;
- Relevant experience in the performance and management of collegiate bodies, such as Courts of Appeals and the Supreme Court of Justice;
- Commitment to the national judiciary and the human rights protection system;
- There is an urgent need for women to occupy leadership positions in international tribunals, such as the Inter-American Court of Human Rights.

6. Conclusion

After analyzing the sources used to prepare this report, the Panel has concluded that candidate Peña Candia meets some of the requirements to be elected judge.

Regarding the requirement of **high moral authority**, the Panel does not have information to assess a lack of moral authority of the candidate.

With regard to the requirement of **recognized expertise in human rights**, the Panel believes that the candidate has a valuable academic background, being a lawyer and a doctor in law, with specialization courses in labor and criminal law.

Regarding her professional career, she has extensive experience in the judicial field. She was a labor judge and also dealt with children's issues and served as Minister of the Supreme Court of Justice, in charge of the Human Rights Directorate, in charge of compliance with judgments, recommendations, requests, and international commitments in the field of human rights. However, from the answers to the questionnaire and during the interview, it was not possible to ascertain what specific actions she promoted to comply with the decisions of international organizations while in charge of this Directorate.

The candidate has a long experience in teaching, teaching classes on childhood and adolescence, civil law, and procedural labor law. However, the Panel notes that she has few publications on human rights and international human rights law, with the exception of one on the incorporation of international labor law in Paraguay.

In the questionnaire sent to the Panel, candidate Peña Candia` referred to decisions she made as a Judge or Minister. The Panel notes that the candidate pointed out her participation in a judgment on the unjustified dismissal of a pregnant woman in which she used the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Para) as a frame of reference. In another of the rulings shared, she referred to a case of workplace harassment. The Panel would like to point out that this ruling does not have a basis in international human rights law, which is noteworthy when harassment has been considered a form of violence in accordance with the Convention of Belém do Pará.

The candidate highlighted another of her pronouncements in a case that raised an action of unconstitutionality against a rule prohibiting the importation of used vehicles due to a certain age. In this pronouncement, some articles of the ACHR and a 1988 IACtHR decision (OC6/86) are cited, without resorting to more recent jurisprudence.

The candidate submitted an article to the Panel on the right to conscientious objection, understanding it as part of the right to freedom of conscience. This article concludes that conscientious objection prevails over any obligation or mandate of any authority, when it conflicts with intimate convictions. The interview sought to clarify the candidate's position in specific situations where there may be a conflict with a human right. Specifically, access to health services (such as termination of pregnancy) was addressed; the candidate conceded that the right to freedom of conscience should yield, in this situation, to the woman's right to life, responding without reference to Inter-American jurisprudence on the matter.

Regarding regional human rights challenges, the Panel was unable to verify her knowledge in this regard. Instead, during the interview, the candidate referred to some of the challenges facing the IACtHR, addressing almost exclusively compliance with judgments and linking it to the Court's effectiveness. She explained the lack of compliance by relating it to the lack of knowledge of the work of the IACtHR. The Panel is surprised that, having headed the Human Rights Directorate of the Judiciary, the candidate did not provide a more precise analysis and did not present an analysis of the actions of the Directorate in relation to compliance with sentences. Research that has been conducted on the System indicates that, in the vast majority of countries, it is not a lack of awareness or knowledge of the existence of the System that prevents compliance with its pronouncements, but rather resistance to certain types of measures in certain thematic areas. The Paraguayan case, in this sense, was for many years an exception to the patterns of compliance and resistance to the IACtHR.

Continuing with the challenges facing the IAHRs, the candidate proposed strengthening the Compliance Unit and holding a greater number of regular sessions. It should be mentioned that, according to its annual reports in recent years, the IACtHR has been working intensively to strengthen the area of compliance with judgments, as well as increasing the number of regular and special sessions held annually.

With respect to its **independence and impartiality**, the Panel does not have reason nor has it received information that would allow it to have doubts about this requirement. During the interview, she was questioned about the independence of the judiciary, to which the candidate responded that judges must interpret the law without social pressures, detaching themselves from it all. The Panel believes that the candidate is viewed as independent and impartial in the eyes of a reasonable observer.

In relation to her contribution to the composition and diversity of the body, the Panel highlights her status as a woman and as a national of a State that has not previously had a Judge on the IACtHR.

From the overall review of the documentation submitted, the answers provided in the questionnaire and the interview, the Panel believes that the candidate is an expert in the public, civil, and labor law of her country. The Panel has some doubts regarding the candidate's specific knowledge of the jurisprudence of the IACtHR and regional human rights challenges.

The candidate has an outstanding track record in the Judiciary and in teaching, with extensive knowledge and handling of domestic law. In the decisions and papers that the candidate shared, there are some isolated quotations from human rights instruments that are not accompanied by reasoning based on international human rights law. Nor was it possible to verify a specific academic production on the subject of human rights. The Panel, therefore, is unable to find that candidate Peña Candia fully complies with the requirement of proven competence in international human rights law.

7. PATRICIA PÉREZ GOLDBERG

Proceedings before the Panel: Patricia Pérez Goldberg was contacted by the Panel on April 6, 2021. She returned the questionnaire sent by the Panel on April 26, 2021. She met with the Panel on May 14, 2021. The Panel received 32 submissions in support of the candidate from members of academia, the Judiciary, the Ministry of Justice, and professional associations of judges and lawyers.¹¹³ Likewise, the candidate was accompanied with reference letters issued by academics and representatives of civil society in support of her candidacy.¹¹⁴

1. High moral authority

Candidate Pérez Goldberg 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.

Patricia Pérez Goldberg has received the following distinctions:

- Elected as one of the One Hundred Women Leaders of Chile in 2007 and 2013 (Economía y Negocios de El Mercurio and Mujeres Empresarias);
- Distinguished as the Undersecretary with the best performance in meeting the goals of the Chile Manages Program of the Ministry of Finance (2013);
- Awarded by the Chilean Energy Efficiency Agency, public building category, for the project developed in the Ministry of Justice building (2013);
- Doctor *Honoris Causa*, California Western School of Law (2013).

The candidate belongs to the following associations:

- Human Development and Capability Association;
- Latin America, Africa, Europe, Caribbean International Network. Territory(ies), Vulnerable Populations and Public Policies. Universidad de Limoges, Francia;

¹¹³ Claudio Fierro Morales; Prof. Dr. Enrique Sepúlveda Marshall; Felipe Bulnes S.; Juan Enrique Vargas; María Francisca Zapata García; Raúl Antonio Carnevali Rodríguez; Rodrigo Obrador Castro; Mónica Maldonado Croquevielle; Eduardo Aldunate Lizana; Olga Espinoza Mavila; Judge Karen Atala; Luis Roblero Arriagada; Francisco Cox Vial; Sebastián Soto Velasco; Dr. Marcela del Pilar Aedo Rivera; Andrew Coyle; Catalina Droppelmann; Flavia Carbonell Bellolio; Nicolás Espejo Yaksic; Jorge Bofill Genzsch; Ana María Morales Peillard; Luis Cordero Vega; María Esperanza Cueto Plaza; Macarena Cortés Camus; Alejandro Gómez Cortés; Jaime Andrés Vera Vega; María Luisa Sepúlveda Edwards; Julián López Masle; Carolina Aurora Villagra Pincheira; Jorge Contesse; Agustín Squella.

¹¹⁴ Dr. Carlos Peña. Universidad Diego Portales; Dr. Miguel Angles Cillero Bruñal. Universidad Diego Portales. Ibero-American Center for Children's Rights; Prof. James Cooper. California Western School of Law; Prof. Avner De-Shalit. Hebrew University of Jerusalem; Prof. Ana Maria Stiven. Pontificia Universidad Católica de Chile; Dr. Dominique Gay-Sylvestre. Latin America, Africa, Europe, Caribbean International Network (ALEC) "Territories, Vulnerable Populations, Public Policies" of the Universidad de Limoges (France); Andrés Ignacio Rivera Duarte. Coordinating Council of the Latin American and Caribbean Network for Democracy REDLAD; Prof. Nicola Lacey. London School of Economics; Dr. Joaquín García Huidobro. Universidad de Los Andes; Marcelo Sánchez. San Carlos de Maipo Foundation; Dr. Christian Viera. Universidad de Valparaíso; Prof. Alison Lieblich. University of Cambridge, Institute of Criminology; Judge Mauricio Olave Astorga. Judicial Branch of Chile.

- Chilean Association of Therapeutic Justice;
- Iguales Foundation;
- Criminal Jurisprudence and Philosophy Group of the University of Cambridge.

2. **Recognized competence in human rights**

- *Academic background and professional experience*

Patricia Pérez Goldberg is a lawyer and holds a Ph.D. in Law from the University of Valparaíso. She also holds a Master's degree in Criminal Law and Criminal Sciences from the Pontificia Universidad Católica de Valparaíso, approved with highest distinction (2010). She reported that she currently collaborates with the National Institute of Human Rights and that, from 2014 to present, she has focused on evaluating public policies in two areas: disability and female incarceration. She also indicated that she is currently working as Conservadora de Bienes Raíces de Villa Alemana (Real Estate Conservator of Villa Alemana).

Previously, from 2001 to 2003, she worked as a Public Defender. From 2003 to 2010, she worked as an attorney at the Public Defender's Office Studies Unit. From 2010 to 2012, she held the position of Undersecretary of Justice and, from 2010 to 2014, she worked as Minister of Justice.

The candidate has repeatedly applied international human rights law during her professional career. In this regard, she referred to her positions in the public criminal defense offices of different cities where she worked to represent the interests of persons accused of or charged with a crime, invoking and applying the main human rights treaties, especially of the American Convention on Human Rights and the jurisprudence of the IACtHR. She's applied the new adversarial criminal procedure system, strongly based on the adoption of human rights treaties. She indicated that in the exercise of her office, she had to "*critically analyze the actions of the police and the Public Prosecutor's Office in light of the ACHR, the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention against Torture, the Convention against Discrimination against Women, the Convention of Belém do Pará, the Convention on the Rights of Persons with Disabilities, the Standard Minimum Rules for the Treatment of Prisoners, among others. In particular, in the hearings I invoked the judicial guarantees contemplated in Article 8.2 of the ACHR.*"

As Undersecretary, and then as Minister of Justice, she was responsible for implementing a set of public policies inspired by human rights treaties and the jurisprudence of the Court. Candidate Pérez Goldberg mentioned that some of the areas in which she has worked in the development of policies are: access to justice; protection of the rights of persons deprived of liberty; modification of legislation to achieve a rational use of prison; modernization of the gendarmerie; infrastructure in penal units; security; reinsertion and intervention processes; promotion of work, education and health of persons deprived of liberty; and, consideration of special groups.

Regarding her particular areas of knowledge relevant to the position for which she is applying, her knowledge of the IAHR 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.¹¹⁵

- *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.

¹¹⁵ 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..."

As an additional challenge, the candidate highlighted the need for States to become more involved in the application of regional human rights law, internalizing and making norms and standards their own.

Continuing with the challenges of the system, the candidate described the context of the procedural backlog at the IACHR and the issue of limited funding. Regarding this last point, the candidate highlighted progress and challenges of maintaining the level of financing agreed in the 2017 Cancun Agreements.

The candidate also referred to the challenge of making the Court's jurisprudence accessible to all, indicating that measures should be taken to facilitate the understanding of the rulings by the public, such as trying to make the rulings shorter without sacrificing legal rigor and in clear and accessible language.

Finally, the candidate mentioned the need to increase the “jurisprudential dialogue” with national courts. It would be valuable, in this sense, for the Court to recognize and highlight in her judgments, not only those rulings that apply the criteria of the Court itself, but also those that reflect original developments by national courts and that expand the protection of human rights.

- *Diligence and other relevant skills*

As for her dedication if she is elected to the position, the candidate explained that she would only continue with her registry work as Real Estate Conservator of Villa Alemana.

Regarding her language skills, in addition to Spanish as her native language, she indicated that she has an advanced command of written and spoken English and a basic understanding of French.

3. Independence, impartiality and conflicts of interest

Though the candidate has served in the Ministry of Justice, first as Undersecretary and then as Minister (between 2010 and 2014), such appointments are consistent with the professional strength of the candidate and the trajectory of her career, and there are no other indications that could lead the Panel to conclude that she lacks independence or impartiality if elected as a judge of the IACtHR.

With respect to possible conflicts of interest, candidate Pérez Goldberg said: *“I do not envision any possibility of such conflicts arising. If presented, it would disqualify me.”*

The Panel has no information of any kind to support a contrary conclusion.

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

The candidate reported that Chile has not yet established a procedure for the nomination of candidates to the IAHR bodies and that her candidacy was proposed by the Ministry of Foreign Affairs on the basis of her curriculum vitae and in response to the call made to the States by the President of the Court to contribute to a more equitable composition of the Court in terms of gender.

During the interview with the Panel, the candidate stated that it is important that there are instances where civil society and academia can give their opinion and that the recipients of public policies can participate.

6. Conclusion

From the analysis of the sources used to prepare this report, the Panel has concluded that Patricia Pérez Goldberg meets the requirements to be elected judge and that, if elected, she would make a significant contribution to the work of the IACtHR, by virtue of her knowledge and experience.

Regarding the requirement of **high moral authority**, the candidate has a track record recognized by her peers and also by members of civil society. The Panel received letters of support from various well-known individuals in academia, the judiciary, lawyers' and judges' associations, and people who are leaders in the field of human rights, which illustrate the respect and trust that the candidate has inspired throughout her career, both in her country and

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 Goldberg 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. Likewise, in the different areas in which she has worked, she has promoted public policies.

The candidate demonstrated her knowledge of the challenges of the IAHRs, referring to some of the regional system (universality and budget), others specific to the IACtHR (such as access to and impact of Inter-American jurisprudence, strengthening of advisory opinions, and protection through Article 26 of the ACHR) and the IACHR. From her answers on the challenges, her knowledge of the IAHRs was evident, including innovative proposals to bring the work of the Court closer to the citizenry.

The candidate would contribute to the diverse composition of the body by being a woman in a body that has been mostly composed of men. In addition, her life and professional trajectory show a profile of a person especially interested in the enforcement of the rights of persons deprived of liberty and persons with disabilities. It is believed that her profile would contribute to the composition of the IACtHR and to the advisory, contentious, and preventive work that the body carries out on these issues.

Regarding her **independence and impartiality**, it is noted that although the candidate has held the positions of Undersecretary and Minister of Justice, the Panel has not received information that would allow it to infer any link with the head of the Executive at the time she held those positions. Her appointment and performance are consistent with her professionalism and professional strength. The Panel considers, therefore, that candidate Pérez Goldberg appears to be independent and impartial in the eyes of a reasonable observer.

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. He has been a Professor of International Human Rights Law, University of Oxford, New College since 2011; was a Professor of Human Rights and Constitutionalism in the Americas, at Georgetown University in 1999, and was a Professor of International Human Rights Protection at American University Washington of College of Law in 1999, and from

2004 to present. He was also Professor of Human Rights in the Postgraduate Program in 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 Rights Commission of the Federal District at the Supreme Court of Justice of the Nation as an advisor to the Coordination of Human Rights and as an advisor to the Presidency of Minister Juan N. Silva Meza. Since February 2015, she has coordinated the Observatory of the Inter-American Human Rights System of the Institute for Legal Research (UNAM). As an academic space, the Observatory promotes activities for the dissemination of the decisions of the two bodies that comprise it, provides training in the regional system, and research. One of the issues that has been supported in this space is the national appointment of candidates to the Inter-American Commission and Court and ensuring compliance with the conventional requirements for such positions. Her areas of interest are human rights, particularly economic, social, cultural, and environmental rights.

Juan E. Méndez: Juan E. Méndez is a Professor in Residence of Human Rights at American University Washington College of Law, where he is also faculty director of the Anti-Torture Initiative, a project of the Center for Human Rights & Humanitarian Law. He was the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment between November 2010 and October 2016. He is the author (with Marjory Wentworth) of “Taking a Stand: The Evolution of Human Rights” (New York: Palgrave MacMillan, 2011). In early 2017, Professor Méndez was elected Commissioner of the International Commission of Jurists. In February 2017, he was appointed as a member of the Selection Committee for the appointment of judges of the Special Jurisdiction for Peace and Truth Commission, which was part of the Colombian Peace Accords. He was crime prevention advisor to the Prosecutor of the International Criminal Court from 2009 to 2011 and co-chair of the International Bar Association's Human Rights Institute in 2010 and 2011. Until May 2009, he was the president of the International Center for Transitional Justice (ICTJ). In parallel to his duties at the ICTJ, the Honorable Kofi Annan appointed Mr. Méndez as his Special Advisor for the Prevention of Genocide, a task he performed from 2004 to 2007. He has taught international human rights law at Georgetown Law School and the Johns Hopkins School of Advanced International Studies. In addition, he teaches regularly at the Oxford Master's Program in International Human Rights Law in the United Kingdom, where he is a visiting fellow at Kellogg College. His current field of practice is International Human Rights Law, with expertise in Transitional Justice, Prevention of Genocide and Mass Atrocities, Rights of Persons Deprived of Liberty, and Right to Personal Integrity. Mr. Méndez is a member of the Bar Associations of Mar del Plata and Buenos Aires, Argentina, and of the District of Columbia, USA. He holds a J.D. degree from Universidad Católica Stella Maris in Argentina and a certificate from the American University Washington College of Law.

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 from the Ministry of Foreign Affairs of Chile, the Ministry of Justice of Peru, the National Institute of Human Rights of Chile, and different civil society organizations. She is a professor of the Master in International Human Rights Law at the UDP. She has also been a visiting researcher at the Max Planck Institute for Comparative Public Law and International Law, Heidelberg, and a visiting professor at the Magister of Human Rights at the Friedrich Alexander-Universität Erlangen-Nürnberg.

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 51st General Assembly of the Organization of American States. In particular, the panel will:

- 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 OAS¹¹⁶, and the international standards established in the most important instruments about judicial independence and conduct.¹¹⁷
- Issue recommendations about the nomination processes at the national level and the 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 that 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.

¹¹⁶ See GA/RES. 2120 (XXXV-O/05), 7 June 2005, GA/RES. 2166 (XXXVI-O/06), 6 June 2006, GA/RES. 2887 (XLVI-O/16), 14 June 2016, GA/RES. 2908 (XLVII-O/17), 21 June 2017, and GA/RES. 2928 (XLVIII-O/18), 5 June 2018.

¹¹⁷ **Basic Principles on the Independency of the Judiciary**, adopted by the Seventh United Nations Congress on the Prevention of Crime and Treatment of offenders and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, **Bangalore Principles of Judicial Conduct**, adopted at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002, **Burgh House Principles On The Independence Of The International Judiciary**, adopted by the Study Group of the International Law Association on the Practice and Procedure of International Courts and Tribunals, in association with the Project on International Courts and Tribunals (2004), **Rhodes Resolution** of the Institut de Droit International on the Position of the Judge (2011), **Guidelines on the independence and impartiality of members of the human rights treaty bodies** (“the Addis Ababa guidelines”) U.N. Doc. A/67/222 (2012).

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 Inter-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 the 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.

III. Nomination process

20. How were you selected to be a candidate to the Inter-American Court of Human Rights? 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 it? If so, what role(s) did they play?

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 51st General Assembly of the Organization of American States. In particular, the panel will:

- 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 OAS¹¹⁸, and the international standards established in the most important instruments about judicial independence and conduct.¹¹⁹
- Issue recommendations about the nomination processes at the national level and the 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 that 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

¹¹⁸ See GA/RES. 2120 (XXXV-O/05), 7 June 2005, GA/RES. 2166 (XXXVI-O/06), 6 June 2006, GA/RES. 2887 (XLVI-O/16), 14 June 2016, GA/RES. 2908 (XLVII-O/17), 21 June 2017, and GA/RES. 2928 (XLVIII-O/18), 5 June 2018.

¹¹⁹ **Basic Principles on the Independency of the Judiciary**, adopted by the Seventh United Nations Congress on the Prevention of Crime and Treatment of offenders and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, **Bangalore Principles of Judicial Conduct**, adopted at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002, **Burgh House Principles On The Independence Of The International Judiciary**, adopted by the Study Group of the International Law Association on the Practice and Procedure of International Courts and Tribunals, in association with the Project on International Courts and Tribunals (2004), **Rhodes Resolution** of the Institut de Droit International on the Position of the Judge (2011), **Guidelines on the independence and impartiality of members of the human rights treaty bodies** (“the Addis Ababa guidelines”) U.N. Doc. A/67/222 (2012).

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. What do you think are the greatest challenges that the Inter-American Human Rights System faces and how could they affect your work?
5. Some of the most challenging problems that the IACHR faces are procedural backlog in the area of individual petitions and the difficulties involved in following up on recommendations issued for individual cases, and country and thematic reports: a) How do you evaluate the proposals and initiatives that the IACHR has issued to resolve these problems?, b) What should be, in your opinion, the next steps for the next five years? What would be your contribution to this issue should you be elected as commissioner?
6. As you probably know, the IACHR has developed its Strategic Plan for 2017-2021: a) What is your personal assessment about the IACHR's work in compliance of this plan?; what would your contribution be in the remainder of the implementation of this plan? b) what do you consider to be the most important topics to be included in the next strategic plan?
7. Given your professional development and the personal characteristics with which you identify, how would you assess your contribution to the IACHR and your potential to adequately complement the current composition of this body?
8. Do you think the Inter-American Court of Human Rights, according to its mandate, should modify any of the interpretations that the IACHR has made of the American Convention on Human Rights or other Inter-American treaties? why?
9. Do you have knowledge or experience in working with legal systems other than that of your country?
10. Have you been a member of civil society movements in favor of human rights?
11. Have you served as a public servant? If so, in what capacity?
12. What are your specific language skills? Please, if possible, provide us with documents or links to corroborate your answer.
13. 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.

14. 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? Please describe your experience and inform us about how to access documents where that application is reflected.
15. 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.
16. Please enclose your CV.

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

17. 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?
18. During your possible term as a commissioner, what other professional posts or activities do you foresee developing?
19. Have you ever been sanctioned as a result of professional misconduct?
20. 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.

III. Nomination process

21. How were you selected to be a candidate to the Inter-American Commission on Human Rights? 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 it? If so, what role(s) did they play?

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 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 and/or Christian Finsterbusch at chrisfin@american.edu. The deadline to send information is May 7, 2021.

Name of the person, institution, or organization completing this form:

E-mail address:

Phone number:

Full name of the candidate for whom you are providing information:

Suitability

Please provide any relevant information about the candidate's background and qualifications in the field of human rights. Is the candidate suitable for the position?

Independence

Please provide any relevant information about the candidate's capacity to work with independence and impartiality, and about possible conflicts of interest that may affect his/her work. Is the candidate independent?

Non-discrimination

Please provide any relevant information about the candidate's capacity to carry out his/her duties with respect to the principle of non-discrimination. This principle entails that the candidate 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, immigration or citizenship status. Is the candidate capable of carrying out his/her

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 all the links that support the information you provided:

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