FINAL REPORT OF THE INDEPENDENT PANEL FOR THE ELECTION OF JUDGES TO THE INTER-AMERICAN COURT OF HUMAN RIGHTS

31 May 2018

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In addition, the Panel took into consideration the public presentations and responses of the persons nominated in the framework of the Permanent Council session held pursuant to the aforementioned resolution, and in the public forum convened by civil society on the same day at the offices of the Inter-American Dialogue (Washington, D.C.).

In its recommendations regarding processes at the national level, the 2017 Panel again suggested the implementation of a formal body, with a diverse, independent, and apolitical composition to select the candidates, that States publicize the calls for candidates, specifying the criteria and the processes of nomination and election, and that States nominate at least two candidates for each election. As for the elections in the OAS, the experts again suggested the creation of an Advisory Committee responsible for ensuring the

II. CRITERIA FOR EVALUATION OF CANDIDATES AND METHODOLOGY

A. Criteria for Evaluation of Candidates

The American Convention on Human Rights (ACHR) and the Statute of the Court set out the minimum qualifications for judges. Article 52.1 of the ACHR and article 4.1 of the Statute establish that W K H \ P X V W E H ³ M X U L V W V R I W K H K L J K H V W recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions under the law of the State of which they are nationals or of the State that proposes them as candidates[3]

Moreover, article 71 of the ACHR explains that the position of judge of the Court is incompatible with any other activity that Statute establish therQ 374.95 478.75 T5 478.75 Tm 0 g that have been used in the evaluation of judges in other courts and tribunals. The 2002 Bangalore Principles of Judicial Conduct set out a number of relevant principles: independence, impartiality, integrity, propriety, equality, competence and diligence.[7] The definition of independence includes both individual and institutional aspects. Independence and impartiality include not only avoiding actual bias or control by other organs, but also avoiding the appearance of impropriety or lack of independence.

Furthermore, the United Nations Treaty Body system created the Guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa Guidelines) that apply to the independent experts who staff these bodies. These GuideOLQHV VWUHVV WKH LQGHSHQGHQFH DQG LPSDUWLDO body members shall not only be independent and impartial, but shall also be seen by a UHDVRQDEOH REVHUYHU WR EH VR.[8] Moreover, they may not be subject to direction or influence of any kind or to pressure from the State of their nationality or any other State or its agencies, and they shall not seek nor accept instructions from anyone concerning the performance of their duties.

At the regional level, as stated before, through its resolutions AG/RES.2887 (XLVI-O/16) and AG/RES. 2908 (XLVII-O/17), the General Assembly of the OAS XQGHUVFRUHG ³WKH Inter-American Court of Human Rights and the Inter-American Commission on Human Rights (IACHR) being composed of impartial, independent individuals of recognized competence in the field of human rights, in keeping with the principles of nondiscrimination, gender equality and equity, and geographic representation, so that they can continue to carry out their mandates properly."[9]

In terms of competence and suitability, the Panel concluded that a key criteria was

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[7] Bangalore Principles of Judicial Conduct, available at http://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf

[8] Guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa Guidelines), available at http://www.ohchr.org/Documents/HRBodies/TB/AA_Guidelines_sp.doc

[9] OAS General Assembly, Resolution on Gender equity and balanced geographic and legal system representation on the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, AG/RES.2887 (XLVI-O/16), 14 June 2016, available at http://www.oas.org/en/sla/dil/docs/ag-res_2887_xlvi-o-16.pdf; and Resolution on

WKH FDQGLGDWH¶V NQRZOHGJH RI DQG H[SHULHQFH ZL American Human Rights instruments and the Inter-American System, demonstrated, for example, through a record of academic publications or substantial work experience or litigation in the system. As regards diligence, the Panel WRRN LQWR DFFRXQW WKH FDQGLGDWH¶ ability to carry out his or her responsibilities given other duties and commitments, as well as his or her record of professional achievement. To evaluate the moral authority of the candidates and their professional ethics, which are crucial topics for the Inter-American System, the Panel analyzed whether the person had any kind of sanctions, warning, or denunciations, or if, on the contrary, he or she received awards or prizes that would validate him or her as a jurist of the highest moral authority, as required by the ACHR and the Statute of the Court.

Additionally, the Panel took into account other qualities that would facilitate the &RXUW¶V ZRUN LQFOXGLQJ the ability to work as part of a collegial body; capacity to work in more than RQH RI WKH &RXUW¶V official languages; knowledge of different legal systems in the region; and widespread exposure and understanding of the regional and sub-regional political, social and cultural environment. Finally, the Panel considered whether the candidate would contribute to balance in the overall composition of the Court in terms of areas of expertise, gender, career path (e.g., diplomacy, academia, NGOs, etc.), and other forms of diversity.

In this sense, the members of the Court who will serve until 2021 include Eduardo Vio Grossi (Chile), Elizabeth Odio Benito (Costa Rica), Eugenio Raúl Zaffaroni (Argentina) and Patricio Pazmiño Freire (Ecuador). Judge Vio Grossi has an extraordinary academic and profesional career in public international law and human rights law. He was a member of the Permanent Court of Arbitration and of the Inter-American Juridical Committee, and he was re-elected in 2015 to serve a second mandate as Judge of the IACtHR. Judge Odio Benito previosly served at the International Criminal Court and the ,QWHUQDWLRQDO &ULPLQDO 7ULEXQDO IRU WKH- ([<XJRV president, Minister of Justice, Attorney General and Minister of Environment and Energy. She has extensive H[SHULHQFH LQ KXPDQ ULJKWV KXPDQLWDUL international criminal law. Judge Zaffaroni was a member of the Argentinean National Supreme Court of Justice and worked in the Judiciary for over 35 years. He was recognized as Doctor Honoris Causa in more than 30 universities around the world, mainly because of

The candidate haV GHYHORSHG KLV SURIHVVLRQDO OLIH LQ 0H fields. He has not engaged in political activities or in other spheres of the State. In addition, his specialty in Constitutional Law and Constitutional Procedure makes him especially cognizant of the need to preserve independence and impartiality and to avoid appearances of lack thereof. There is no information available to the Panel to consider that the position of impartiality and independence shown by Dr. Ferrer-Mac-Gregor in recent years is at risk if he is reelected for a second term. It is worth noting that in the course of the interview with the Panel, the candidate seemed inclined to draft a Code of Conduct for the Court applicable to the members of the Inter-American Court, which is of the utmost importance.

C. High moral character

As shown in the previous paragraph, Dr. Ferrer-Mac-Gregor has interesting ideas on how to highlight the moral authority of the Inter-American Court, especially in regards to the conduct of its members both in the function of their position and in their capacity as citizens of their respective countries. The Panel considers that the public performance of Dr. Ferrer Mac-Gregor is a guarantee that the Court will continue contributing to upholding the high ethical standards of the body and international protection of human rights. Finally, the candidate does not have sanctions, suspensions, or convictions of any kind that could compromise this conclusion.

D. Qualification to exercise the highest judicial function

In accordance with the requirements of article 52 of the American Convention, the candidate fully satisfies the professional, academic, and ethic requirements established in article 95 of the Political Constitution of the United Mexican States to exercise functions in the national Supreme Court of Justice[10], as evidenced by his professional career to which the Panel alludes above.

E. Challenges faced by the Inter-American Human Rights System

In his responses to the questionnaire, his statements before t the necessity to supplement the progressive development of jurisprudence with an honest and direct dialogue with policy makers and those in charge of the domestic implementation of these progressive developments. His judicial and academic experience in Mexico could significantly contribute to this point.

Nardi Elizabeth Suxo Iturry (Bolivia)

Nardi Elizabeth Suxo Iturry presides over WKH 8QLWHG 1DWLRQV intergovernmental Working Group on the rights of peasants and other people working in rural areas. She has served as Ambassador of Bolivia before the United Nations (2015-2017) and as Minister of Institutional Transparency and the Fight against Corruption (2009-2015).

A. Recognized competence in human rights

The candidate is a lawyer, with specialized studies in human rights undertaken in various European and Latin American countries. According to her curriculum vitae and her answers to the questionnaire, she has worked in human rights NGOs since co-founding the Juridical Commission of the Permanent Assembly for Human Righs in Bolivia. Since then, VKH KDV EHHQ WKH GLUHFWRU RI WKH 1*2 ³&DSDFLWDFLy legal actions and educational processes with a special focus on protecting

The candidate replied to these accusations in her questionnaire, stating that as the Minister of Institutional Transparency and the Fight against Corruption, she faced attacks by the media, and even physical attacks, by sectors that felt persecuted and by other agents of the same government, solely based on her position as Minister. The Panel is not aware of any formal complaint, administrative or judicial, against the candidate, nor of any formal invest[illegible] from the French government for her work to advance human rights, that she was recognized as a distinguished visitor in the United States, and that she obtained a professional medal awarded by the Bar Association of La Paz, Bolivia.

D. Qualification to exercise the highest judicial function

Article 52 of the ACHR requires W K D W W K H F D Q G L G D W H ³possess the qualifications required for the exercise of the highest judicial functions in conformity with the law of the state of which they are nationals or of the state that proposes them as candidates´, Q W K L V case, Dr. Suxo Iturry has the qualifications to be a part of the Bolivian Constitutional Tribunal: she is a lawyer, over 35 years old, with at least 8 years of experience in constitutional law, administrative law, and human rights, and there is no record evincing any of the stated impediments. The aforementioned tribunal qualifies as an organ that exercises the highest judicial functions of the country; therefore, the candidate would be qualified to be a Judge of the Inter-American Court.[11]

E. Challenges faced by the Inter-American Human Rights System

The Panel did not have the benefit of an interview with the candidate to go into depth regarding this point. In her questionnaire and in her statements before the Permanent Council of the OAS and in the forum with civil society, she identified the following challenges: 1) complementarity: the System should align its actions with those of other sub-regional organs, such as MERCOSUR and UNASUR; 2) transparency and access to information: for the transparency model, it is not enough to offer general information on the decisions adopted by the Inter-American Court. It is necessary that the information available also include data on its functioning, budget and expenses. In this sense, Dr. Suxo

[11] It is not clear whether the cand[(11)]Tm 0 g 0 G [(re)7(qurc 157.8f)64.0000091ali4(onied n BT /F3 12 Tf 1 0 0 1 85

Iturry considers that the Court should develop a model that includes public accountability where it informs not only the OAS, but also the users of the system; 3) procedural delays: the candidate affirms that ³WKH sustained and increasing individual complaints presented before the System have produced a congestion of complaints, which requires an evaluation WR DGYDQFH RQ WKLV LVVXH´ DQG WKDW LW LV QHFHVV bottlenecks of the petitions and that readjust and direct the budget to the most sensitive DUHDV´ 1HYHUWKHOHVV, she recognizes that the duration of the process and the attention given to the peititoners, as well as the monitoring of compliance with judgments, has improved, the latter of which she attributes, among other reasons, to the holding of hearings in the territories of the responsible States.

F. Balanced composition

The Panel believes that the Court is stronger and more legitimate when it has a diversity of members in terms of gender, ethinicity, profesional experience, and areas of expertise within the general field of human rights law. There is only one women in the current composition of the Court, and the majority of the Judges and candidates have already served as judges or academics, with a special focus on Constitutional Law and Criminal Law. In this sense, candidate Suxo Iturry would bring a series of new and complementary

The candidate indicates

Ricardo Pérez Manrique (Uruguay)

Ricardo Pérez Manrique was the President of the Supreme Court of Justice of Uruguay. He is a member of the Ibero-American Commission of Judicial Ethics and worked as a professor and researcher, mainly in universities in Argentina and Uruguay, among other countries.

A. Recognized competence in human rights

Dr. Pérez Manrique has a distinguished judicial career and numerous records that demonstrate his competence in the field of human rights. From March 28, 2012 to May 17, 2017, the candidate was a magistrate of the Supreme Court of Justice of Uruguay, the highest court in the country, serving as President since 2016. In this Court, he was in charge of Area on Gender. He was also a member of the Advisory Board and Council against Domestic Violence on behalf of the Judiciary and participated in the drafting of the First National Plan to Combat Domestic Violence. Dr. Pérez Manrique signed several rulings, some in the majority and others in the minority, in which the interpretive criteria of the Inter-American Court of Human Rights were adopted.

For more than a decade, he served as a Judge of a Family Court of Appeals. He is also a former member of the National Honorary Consultative and Advisory Council on the Rights of Children and Adolescents and, in 2004, contributed to the drafting of the Children and Adolescents Code. Between 2005 and 2012, he joined the International Hague Network of Judges on Child Abduction. Dr. Pérez Manrique also joined the Ibero-American Judicial protection of children. He is also a UNESCO teacher in academic activities on freedom of expression, freedom of access to public information, and the protection of journalists. Among his most relevant writings are publications on the control of conventionality (role of treaties in domestic law) and a dissenting opinion as Judge of the Supreme Court of Justice of Uruguay on issues of transitional justice.

B. Independence and impartiality

His record as a judge of the Supreme Court of Justice of Uruguay shows that the candidate has always been independent and impartial in his actions. In the questionnaire, Dr. Pérez Manrique reported that possible conflicts of interest arose from personal knowledge of some of the parties involved in the process or their lawyers and that, in those few cases, he had no doubts about withdrQJ IURP WKH FDVH ³EHFDXVH LQG LPSDUWLDOLW\ DUH YDOXHV DQG OHJDO GXWLHV HVVHQ. The candidate has retired from the Court. He does not foresee carrying out activities in the future that are not academic, so there is no concern about a conflict of interest if elected.

C. High moral character

The Panel is not aware of Dr. Pérez Manrique having received any types of conviction, suspension, or sanctions for ethical misconduct. On the contrary, the candidate is a member of the Ibero-American Commission of Judicial Ethics, and his nomination was supported by several civil society organizations and international institutions. In his statements before the Permanent Council of the OAS, he maintained that his values as a judge would be courtesy, wisdom, prudence, impartiality, and independence. In addition, in his responses to the questionnaire, he explained that the Supreme Court of Justice of Uruguay has corrective and disciplinary authority over judges; thus, he has experience in sanctions proceedings and the dismissal of judges for breaches of their functional obligations. One of his proposals, if elected, would be to draft a Code of Ethics for the Inter-American Court, which would represent a contribution to the institutional strengthening of the Court.

D. Qualification to exercise the highest judicial function

The candidate served as magistrate of the Supreme Court of Justice of Uruguay from 2012 until 2017, acted as President of that Court in 2016, and has supplemented his professional performance with academic activities related to the fields of domestic law and international human rights law. This demonstrates that he has the necessary requirements to exercise the highest judicial functions in his country.

E. Challenges faced by the Inter-American Human Rights System

In his interview with the Panel, in his responses to the questionnaire, and in his statements before both the Permanent Council of the OAS and the forum convened by civil society organizations, the candidate identified the following main challenges: 1) the need to improve dialogue and the relationship between the Inter-American Court and national judicial systems. Two of his proposals were to increase interaction with the F R X Q W U L H V ¶ judicial schools and to conclude new exchange agreements with local judicial authorities; 2) universalize the jurisdiction of the Court, for example, through greater translation and dissemination of judgments. He also suggested that the judgments should be shorter and written with O D Q J X D J H W K D W L V P R U H D F F H V V L E O H; 3) shorten the execution times of the decisions of the Inter-American Court and improve the level of compliance with judgments through greater cooperation with the States; 4) improve financing and the distribution of funds. For example, he proposed that the money that comes from international cooperation should be used at the discretion of the Court in essential areas and not necessarily for the G R Q R U ¶ V F K R L F H R I V S H F L I L F S U R M H F W V D Q G D G R S W through the preparation of a Code of Ethics or other similar self-regulation mechanism

F. Balanced composition

Dr. Pérez Manrique was part of a Family Court of Appeals for more than a decade and could contribute his experience on themes related to families, children, and adolescents. In addition, during his tenure as a judge of the Supreme Court of Justice of Uruguay, he worked on issues of transitional justice and freedom of expression. This experience as a judge of the highest court in Uruguay, together with his position in the Ibero-American Judicial Summit, also places him in a very good position to contribute to the dialogue between the Inter-American Court and national courts. Finally, his membership in the Ibero-American Commission of Judicial Ethics would allow him to provide significant assistance with regard to the tribunal before a future code of conduct.

G. Selection procedure

The candidate reported that there is no institutionalized mechanism in Uruguay to nominate candidates for the Inter-American Court of Human Rights. His candidacy was proposed by the Ministry of Foreign Affairs based on his technical and academic background, as well as his performance during his judicial career. Nevertheless, the Panel has received numerous communications from civil society supporting his nomination. In addition, the candidate explained that, for example, to submit for candidacy before the International Criminal Court, it is necessary to have an agreement on behalf of the Congress of Uruguay.

H. Conclusions

Dr. Ricardo Pérez Manrique has a noteworthy background and judicial experience, and he is an expert on the Inter-American System for the protection of human rights, both with regard to the jurisprudence and the functioning of the Inter-American Court, knowledge that he has used in his work as a judge. Dr. Pérez Manrique also has extensive knowledge and experience in matters of judicial ethics that may be applicable to the Inter-American System. The Panel considers the candidate highly qualified to be elected.

and Public Law of the Externado University of Colombia. He is the author of several published books and articles on issues related to constitutional law, sources of law, and human rights.

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human rights issues, with a spcieal emphasis on international instruments and Inter-American jurisprudence. His performance for five years as a judge of the Inter-American Court of Human Rights affirms his competence in the interpretation and application of international instruments in the field of human rights, either in the context of contentious cases or in advisory opinions. At the same time, the candidate has a comprehensive vision of the administration of a judicial office, which is crucial to continue the process of consolidation of the Court before the national and international actors.

B. Independence and impartiality

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he currently does not undertake any activitih.i0 0 1 85.104 399.43 Tm /ss ot912 0 612 792 re W* n BT

7KHUH LV QR LQIRUPDWLRQ LQ WKH 3DQHO¶V NQRZOH has been the subject of judicial or disciplinary proceedings, sanctions, ethical or similar faults, whether nationally or internationally, that could call into question his high moral authority.

D. Qualification to exercise the highest judicial function

The candidate was elected as a magistrate of the Constitutional Court of Colombia from 2004 to 2012, and he was the President of this Court between 2008 and 2009. The foregoing indicates that the candidate meets the requirements established in Article 232 of the Political Constitution of Colombia for occupying the post of magistrate of the Constitutional Court and the Supreme Court of Justice, as well as the Colombian Council of State.[12] Based on this, the candidate has satisfied the requirements of article 52 of the American Convention on Human Rights.

E. Challenges faced by the Inter-American Human Rights System

Based on dialogue with the candidate, it is clear that he has a sharp and prudent vision about the challenges he considers most relevant for the evaluation of the Inter-American human rights system and, in particular, regarding the Inter-American Court of Human Rights. Both in the questionnaire and in his interview, the candidate demonstrated an in-depth knowledge of each of the issues addressed, as well as concrete perspectives on how to deal with them.

From an institutional perspective, Dr. Sierra Porto highlighted five challenges that he considers of particular importance for the strengthening of the Inter-American Court of

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Human Rights: 1) the universality of the Inter-American human rights system; 2) the financial shortages of the organs; 3) the judicial and administrative processes for monitoring compliance with Inter-American judgments; 4) the coordination between the Court and the Inter-American Commission on Human Rights; and 5) the strengthening of the Court's legitimacy vis-à-vis the States and Inter-American public opinion.

With respect to the recent evaluation of Inter-American jurisprudence, the candidate identified, with precision, the areas that he considers priorities, as well as those topics currently under debate. Many of these positions have already been formally expressed by Dr. Sierra Porto in his concurring or dissenting opinions. Beyond the opinions that the candidate's proposed positions may generate, it is undeniable that they are based on well-presented arguments with strong considerations. The evolution of Inter-American jurisprudence requires constructive dialogue through the constructive confrontation of well-

G. Selection procedure

The candidacy of Dr. Sierra Porto was presented directly by the Government of Colombia. The Panel has no information regarding the internal procedures that have taken place for the nomination and subsequent nomination of the candidate. It is important that

IV. RECOMMENDATIONS

A. The current election system and its deficiencies

The election of judges to the Inter-American Court of Human Rights is governed by the American Convention on Human Rights (arts. 52 and 53) and by the Statute of the Court (arts. 6 to 9). Nominating and voting for candidates is limited to States Parties to the opinions are taken into account when selecting applicants at the local level. After announcing the candidacies, in the best of cases, there is an occasional exchange of information and comments with some actors in civil society organizations, which is usually done informally and confidentially. There are generally no public consultations in the country.

In most cases, it is fair to say that there is no selection process. Instead, some authority, usually the Ministry of Foreign Affairs, appoints the candidate that the State will present. Therefore, nomination by the States does not necessarily lead to candidates who are highly qualified for the work, nor does it guarantee that the requirements of recognized competence, impartiality, and independence are met. Nor is there any indication that States take into account the overall composition of the Court in their nominations. For example, it is not known whether national processes consider the importance of including persons with expertise on issues faced by populations particularly vulnerable to human rights violations—such as children, women, racial, cultural, religious, and sexual minorities; persons with disabilities; persons previously deprived of liberty, and others—or if they intend to integrate the Court with people with different professional trajectories.

Nevertheless, it cannot be denied that, over the years, the Court has benefitted from the presence of persons with impeccable credentials and extensive experience in matters of human rights. These positive results have generally coincided with demonstrations of interest in the Inter-American System of Human Rights in several countries, which translates into increased active public participation, particularly with respect to human rights organizations, in the decision-making leading to nominations. However, it is also undeniable that the appropriate choice of candidates has been, at best, uneven. It certainly cannot be said that all of the candidates have been ideal or that they have complied with the normative requirements. Additionally, the lack of transparency in the nomination of persons set forth by each State can influence perceptions of the legitimacy of the IAHRS and its effectiveness.

Once the nominations are submitted and made public, States initiate campaigns to obtain votes in support of the candidates they have presented from other States. This occurs mainly as a series of bilateral meetings with the Permanent Missions of other countries before the OAS, during which States other than the nominating State have the opportunity to ask questions and become familiar with the qualifications of the candidate. In some cases, the visits take place in the capitals of States whose vote is sought. For their part, civil society organizations that follow or attend the General Assembly can, and often do, make their views known about which candidates should be chosen. On some occasions, these campaigns have been quite public, generally to prevent a candidate from being elected because of past conduct considered inimical to human rights. Nonetheless, there is no formal or institutionalized opportunity for NGOs to participate in debates on the election of judges or for States to receive commentary on candidates from civil society or the general public.

In this context, what usually happens is that States seek to obtain promises from other States to vote for their candidate. These promises are usually agreements made in good faith and are not publicized, though rumors generally spread about the number of votes a candidate has or if a State is leaning towards voting in favor of a certain person. In order to obtain firmer commitments, States engage in an exchange of votes, given that in most cases there is more than one vacancy for the respective organ. However, the exchange of votes is not limited to the same election or organ. States can exchange a vote for a judge by voting for a Commissioner, and it is not uncommon for votes in elections for positions in organs not related to the IAHRS, as well as for other elected positions, even outside the OAS.

The result is that, on the one hand, successful candidates tend to be those whose candidate countries have a very active, committed, and participatory diplomacy and who can offer benefits to other States in exchange for their votes. The system does not automatically favor people nominated by the most powerful States, but historically, the States that are more powerful very rarely have been denied posts in the Court or in the Commission. Conversely, for some small Latin American States, it has been comparatively more difficult to get their candidates elected to these organizations. On the other hand, the system also sometimes favors voting in blocks, so that a group of small states that have common language, geography, and other interests generally vote together and become crucial for electing certain members or denying others election or re-election. Nevertheless, the latter is not completely applicable in the elections for judges of the Inter-American Court, since, as stated above, only the States Parties of the ACHR, which are mostly Latin

American States, vote in these. In any case, the votes are secret, which means that improved process.

1) European Court of Human Rights

Council of Europe Member[4] States must

her personal capacity. The Committee of Ministers appoints the members of the Panel, and the Secretariat and corresponding costs are borne by the Court.

The Chair of the Panel informs the State, giving reasons for its views. The State then can respond or withdraw the candidate and submit a new one. When a list of three candidates nominated by a High Contracting Party is being considered in accordance with article 22 of the European Convention on Human Rights, the Panel shall make available to the Parliamentary Assembly in writing its views as to whether the candidates meet the criteria stipulated in article 21(1) of the Convention. This information is also confidential.

The ECHR has a much larger number of judges, as each State must have one. In addition, they serve full-time. These differences with the IAHSR are significant; however, there are some useful features of the procedure: the designation in each State of a nominating body with some degree of independence from the Executive, publicity for potential vacancies, interviews according to a standard format, and the creation of a standing Advisory Panel in the Council of Europe.

2) International Criminal Court

The ICC Advisory Committee began as an initiative of the NGO Coalition for the International Criminal Court (CICC). For a number of years, the Coalition advocated for such a panel, and also asked all nominees to complete questionnaires that provided additional information about their qualifications, held interviews with all the candidates, and organized public seminars with available candidates and experts, as well as public debates between candidates. In 2011, the Assembly of States Parties (ASP) established an Advisory Committee on Nominations.

The Advisory Committee must make its recommendations to States Parties and observers through the ASP. In its internal procedure, the Committee decided to conduct personal interviews with each candidate, in addition to reviewing curricula vitae and

Rome Statute. The evaluations are 1SDUDJUDSKV ORQJ DQG UHFRXQW experience relevant to the position. The Committee's work is facilitated by the specific criteria in the Rome Statute for judges, which include not only high moral character, independence and impartiality, but also established competence and extensive experience in

consultations and makes the final decision. The candidate so chosen is then voted on by the Human Rights Council.[20]

5) United Nations Treaty Bodies

As part of the process of strengthening the UN Human Rights Treaty Body system, the UN High Commissioner for Human Rights in 2012 recommended the following best practices for national nominations of expert members of treaty bodies, based on a multi year consultation with States and other stakeholders: 1) The nomination of candidates through an open and transparent selection process from among persons who have a proven record of expertise in the relevant area (through relevant work experience, publications, and other achievements), and the willingness to take on the full range of responsibilities related to the mandate of a treaty body member; 2) The avoidance of nominations or election of experts while they are holding positions in Governments or any other positions that might expose them to pressures, conflict

C. Proposals for the selection of candidates to the Inter-American Court of Human Rights

1) Introduction

Shortcomings of the current process and the existence of other international institutions that have taken steps to create an improved selection process guide the Panel in its present recommendations. Additionally, it is logical to conclude that, in a human rights system, the members of its principal organs should be chosen in conformity with the principles of transparency, capacity and reasonability. The Pan proposals fall into two broad categories: i) that States create a transparent, participatory, and open procedure at the national level, which allows for the selection of the best possible candidates that meet the normative requirements; and ii) that the OAS election process be improved to avoid many of the previously raised shortcomings and to ensure the election of Judges that meet the normative requirements and reflect the diversity of the region as a whole.

We are aware that these proposals go beyond the letter of the American Convention on Human Rights, but far from contravening the Convention, they aim to improve its operation and do not require its modification. Only the political will of the States themselves is necessary to introduce these rules into their national legal systems to reinforce the legitimacy, efficacy, and transparency of this supervisory organ of human rights.

At the same time, as stated by all the candidates, the Court and the Commission could also contribute to strengthen the institutionality and the transparency in the IASHR, for example, by self-regulating themselves in matters of ethics and professional conduct, and by applying these rules not only to Judges and Commissioners, but also to their lawyers, administrative personnel, interns, etc.

2) National processes

2.1. Each State should have a formal body for selecting candidates that is diverse, independent, and non-political in composition. Many States already have institutions that could undertake the nomination process by designating some of their members for this task; if not, the Panel finds that an institution of this type should be created. Whichever modality is chosen, members performing the selection should be independent, impartial, and knowledgeable about the purpose and duties of the Court. They should also have a strong background in the field of human rights. This body should ideally be representative of different constituencies within the State and its society (academia, professional, human rights organizations, etc.). It should be permanent or should be formed well in advance of upcoming elections

2.2 States should publish a call for candidates, explaining the nomination and election criteria and processes. Additionally, when States select and nominate their candidates for the Court, they should include information on the nomination procedure utilized at the national level to elect that person(s). This is important for the transparency and legitimacy of the selection process, as well as legitimacy of the IASHR

2.3 The selection of the nominees should be carried out with the full participation of all relevant stakeholders. In order to ensure that this happens, there would have to be a public call for candidates that fulfill all the requirements for service on the Court. This public call should be placed on the websites of the OAS and the Court, as well as being broadly disseminated nationally.

2.4

2.5 Candidates should be asked to provide information on the activities they plan to carry out at the same time as their duties as Judge. In the spirit of article 71 of the Convention, the Panel also recommends that States, as a matter of policy, should abstain from nominating persons who would[2] political authorities should only deviate from its advice with a public and reasoned decision.

2. 8 States should nominate at least two candidates for the election. Given the history of underrepresentation of women and overrepresentation of men in the Court, at least one candidate should be from the under-represented sex. This would guarantee the possibility of a true election in the General Assembly and allow voters the opportunity to elect candidates taking into account the need for human rights organs to reflect the diversity of those protected by their constituent and conventional instruments, including candidates from under-represented communities. This process must also ensure access to these positions to members of disadvantaged minorities or vunerable collectives in our hemisphere, such as indigenous communities, Afro-descendants, persons with disabilities

V. ANNEXES

A

Annex II. Panel Members ¶Biographies

Carlos AYALA (Venezuela) is a lawyer specializing in Public Law (Constitutional and Human Rights). He is a Professor of Constitutional Law and

- Academy on Human Rights and Humanitarian Law, American University Washington College of Law
- Santa Clara University, School of Law, International Human Rights Clinic
- The Columbia Law School Human Rights Institute

El Salvador
- Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico
- Colectiva Feminista por el Desarrollo Local
- Fundación de Estudios para la Aplicación del Derecho (FESPAD)
- Instituto de Derechos Humanos de la Universidad Centroamericana José Simeón Cañas (Idhuca)

Guatemala
- Centro de Acción Legal Ambiental y Social (CALAS)
- Convergencia por los Derechos Humanos[23]
- Plataforma Internacional contra la Impunidad
- Red de la No Violencia contra las Mujeres (REDNOVI)

Honduras
- Asociación de Jueces por la Democracia (Honduras)
- Centro de Investigación y Promoción de Derechos Humanos (CIPRODEH)

Mexico
- Centro de Derechos Humanos de la Montaña "Tlachinollan"
- Centro Diocesano para los Derechos Humanos Fray Juan de Larios
- Fundación para la Justicia y el Estado Democrático de Derecho (FJEDD)
- Grupo de Información en Reproducción Asistida (GIRE)
- Instituto de Liderazgo Simone de Beauvoir

Nicaragua
- Centro por la Justicia y Derechos Humanos de la Costa Atlántica de Nicaragua, CEJUDHCAN

Panama
- Alianza Ciudadana Pro Justicia

Peru

[23] Centro de Análisis Forense y Ciencias Aplicadas (CAFCA), Centro para la Acción Legal en Derechos Humanos (CALDH), Centro Internacional para Investigaciones en Derechos Humanos (CIIDH), Equipo de Estudios Comunitarios y Acción Psicosocial (ECAP), Instituto de Estudios Comparados en Ciencias Penales de Guatemala (I-2( )- 9.96 Tf 4echos

- Asociación Pro Derechos Humanos (APRODEH)
- Instituto de Defensa Legal
- Instituto de Democracia y Derechos Humanos de la Pontificia Universidad Católica del Perú
- Paz y Esperanza
- PROETICA, Capítulo Peruano de Transparencia Internacional

Regional

-Amnesty International
- Asociación Interamericana por el Medio Ambiente (AIDA)
- Asociadas por lo Justo (JASS-Mesoamerica)
- Center for Justice and International Law (CEJIL)
- Centro de Derechos Reproductivos (CRR)
- Due Process of Law Foundation (DPLF)
- International Service For Human Rights
- IPAS Centroamérica
- Open Society Justice Initiative (OSJI)
- Robert F. Kennedy Human Rights
- The Carter Center
- Washington Office on Latin America (WOLA)

Venezuela

- Acción Solidaria en VIH/sida
- CIVILIS Derechos Humanos
- Comité de Familiares de Víctimas de los Sucesos Febrero-Marzo de 1989 (COFAVIC)
- Observatorio de Derechos Humanos de la Universidad de Los Andes
- Programa Venezolano de Educación Acción en Derechos Humanos (PROVEA)