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**REPORT No. 382/21**  
**PETITION 100- 10**  
ADMISSIBILITY REPORT

JOSÉ MANUEL ZELAYA ROSALES *ET AL.*  
HONDURAS

Approved electronically by the Commission on August 13, 2021.

**Cite as:** IACHR, Report No. 382/21. Petition 100-10. Admissibility. Jose Manuel Zelaya Rosales *et al.* Honduras. August 13, 2021.

**I. INFORMATION ABOUT THE PETITION**

Position of the petitioners	José Manuel Zelaya Rosales and International Federation for Human Rights
Alleged victim	José Manuel Zelaya Rosales <i>et al.</i> <sup>1</sup>
Respondent State	Honduras
Rights invoked	Articles 5 (personal integrity), 8 (right to a fair trial), 11 (protection of honor and dignity), 22 (freedom of movement and residence), 23 (right to participate in government) and 25 (judicial protection) of the American Convention on Human Rights <sup>2</sup>

**II. PROCEEDINGS BEFORE THE IACHR<sup>3</sup>**

Filing of the petition	January 26, 2010
Notification of the petition	February 2, 2010
State's first response	March 31, 2010
Additional observations from the petitioner	July 6, 2010; April 13, July 11, September 21, and October 5, 2011; June 20, 2012; November 30 and December 5, 2014; March 16, 2015; and December 9 and 10, 2020
Additional observations from the State	May 10, and October 8 and 12, 2010; August 12, 2011; February 10, and September 20, 24 and 27, 2012
Warning about possible closing of the case	November 11, 2020
Response of the petitioners to the warning about the possible closing of the case	December 9, 2020
Precautionary measure lifted	July 31, 2013

**III. COMPETENCE**

<i>Ratione personae</i>	Yes
<i>Ratione loci</i>	Yes
<i>Ratione temporis</i>	Yes
<i>Ratione materiae</i>	Yes, American Convention (deposit of the instrument of ratification developed on September 8, 1977)

**IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL RES JUDICATA, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION**

Duplication and international <i>res judicata</i>	No
Rights admitted	Articles 5 (personal integrity), 7 (personal liberty), 8 (right to a fair trial), 11 (protection of honor and dignity), 17 (rights of the family), 22 (freedom of movement and residence), 23 (right to participate in government), 25 (judicial protection) and 26 (economic, social, and cultural rights) of the American Convention on Human Rights, in relation to Article 1.1 thereof (obligation to respect such rights)
Exhaustion of remedies or applicability of an exception to the rule	Yes, under the terms of Section VII.
Timeliness of the petition	Yes, under the terms of Section VII.

<sup>1</sup> The petitioners allege that human rights violations were committed against Mr. Manuel Zelaya Rosales, Enrique Flores Lanza, Patricia Rodas Baca, Rebecca Santos Rivera, Rixi Moncada Godoy, Edwin Araque and Eduardo Enrique Reina García; and against their relatives whose names are listed in the annex.

<sup>2</sup> hereinafter "the American Convention".

<sup>3</sup> The observations submitted by each party were duly transmitted to the opposing party.

## V. SUMMARY OF THE FACTS ALLEGED

### A. Position of the petitioners

1. The petitioners allege human rights violations to the detriment of José Manuel Zelaya Rosales, former president of Honduras (hereinafter referred to as “Mr. Zelaya Rosales”), and six other persons who held high government positions during his administration (collectively, “the alleged victims”). It is claimed that the alleged victims and their families suffered abuses perpetrated by state agents, such as arbitrary detentions, arbitrary expulsions from the country, illegal intrusions in their homes, cutoffs in the supply of basic public services, criminal prosecution without respect for applicable rules, political persecution, and smear campaigns; and that all of the above forced some of the alleged victims, together with their families, to leave the territory of Honduras. It is further claimed that the alleged victims were unlawfully removed from their posts.

2. Mr. Zelaya Rosales was legally elected at the polls to serve as the president of Honduras for a four-year term beginning on January 27, 2006. The other alleged victims held high government positions in his administration, for which they were legally appointed. The petitioners report that in the early hours of June 28, 2009, state agents illegally detained Mr. Zelaya Rosales and his minister of Foreign Affairs, Patricia Rodas Baca, and arbitrarily expelled them from the country; following these events, Honduran cities were militarized, and some media outlets were closed. Hours later, a letter was read in the National Congress, allegedly signed by Mr. Zelaya Rosales, in which he resigned from office; the ousted president made public statements from Costa Rica claiming that such letter was false. Subsequently, the Congress issued a decree questioning Mr. Zelaya Rosales' conduct for repeated violations of the Constitution and other pieces of legislation, and for failing to observe judgments and resolutions issued by adjudicatory bodies. The same decree appointed the president of the National Congress to serve as the Constitutional President of the Republic until January 27, 2010, the last day of the current constitutional term. The petitioners note that the coup d'état perpetrated in Honduras, internationally recognized as such, prevented Mr. Zelaya Rosales and the other alleged victims from holding their respective government positions.<sup>4</sup>

3. The petitioners allege that after these events, a systematic persecution against the alleged victims was initiated by media outlets supporting the actions of the Congress, and that violence was used against demonstrators protesting against the country's constitutional breakdown. They also claim that the alleged victims were prosecuted by prosecutors and judges for political reasons, and that arrest warrants were issued against them. In contrast, other people who also held high positions in Mr. Zelaya Rosales' cabinet, but who did not oppose the coup, were not subjected to similar proceedings. The petitioners claim that ordinary criminal proceedings were initiated, rather than the special proceedings applicable under Honduran law due to the positions they held, despite the fact that both the United Nations (UN) and the Organization of American States (OAS) continued to recognize the petitioners as holders of such positions; and that not all of the alleged victims were notified of their dismissal. They also claim that the proceedings against the alleged victims were based on unlawful evidence collected after agents of the Office of the Public Prosecutor, together with police and military officers, forcibly entered Mr. Zelaya Rosales' offices and took files and documents without following a proper chain-of-custody process. In addition, they claim that such proceedings were also based on statements made by the staff of those offices under threat of detention and prosecution as accomplices. They argue that the Office of the Public Prosecutor forced the alleged victims who were still in Honduras to move with their families to the country's interior and to abandon the country eventually.

4. They explain that in May 2011, the Agreement for National Reconciliation and Democratic Consolidation in the Republic of Honduras (the “Cartagena Agreement”) was signed between Mr. Zelaya Rosales and the government of Honduras, in which the government pledged to “cement the guarantees granted for the return of former government officials and former president José Manuel Zelaya Rosales, as well as other people affected by the crisis that are now abroad, in conditions of security and freedom, with full recognition

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<sup>4</sup> The Inter-American Commission stated that “on June 28, 2009, democratic and constitutional order in Honduras was interrupted” and, on the same date, “condemned the coup d'état and the interruption of the Honduran constitutional order and issued an urgent call for democratic order to be restored and for human rights, the rule of law and the Inter-American Democratic Charter to be respected.” It also urged “unqualified respect for the right to freedom of expression.” IACHR, Honduras: Human Rights and the Coup d'État, OEA/Ser.L/V/II. Doc. 55, December 30, 2009. Para. 17.

of their rights under the Honduran Constitution and its laws.” However, said agreement has been presumably implemented only in part. The criminal proceedings initiated against Mr. Zelaya Rosales were withdrawn, and the violation of his rights to due process and defense was acknowledged; however, administrative prosecution against him was maintained, and the other alleged victims continued to be prosecuted criminally and administratively for political reasons. They emphasize that the same case that was withdrawn with respect to Mr. Zelaya Rosales was still upheld against other alleged victims, and that the courts did not apply to their cases the same principles of due process used to support such withdrawal.

5. The petitioners invoke the exceptions provided for in Article 46.2 of the American Convention, that is “factual impossibilities; the illegitimacy of judicial authorities and prosecutors; the lack of conditions that guarantee the requirements of court independence and impartiality; and the ineffectiveness demonstrated by remedies under domestic law.” They argue that the judiciary and the Office of the Public Prosecutor demonstrated their bias against the alleged victims by issuing releases and making public statements supporting the coup; and that the Higher Court of Audit did so through statements by its officers and by legitimizing appointments made by the leaders of the coup d’état. They also stress that the lack of impartiality of the Honduran judiciary in the period following the coup was described in a report by the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as in a judgment of the Inter-American Court of Human Rights, in which Honduras was convicted for dismissing judges opposed to the coup.

6. The petitioners also note that, with no participation of the alleged victims, human rights organizations and other stakeholders filed eight claims of unconstitutionality against the legislative decree that removed Mr. Zelaya Rosales from office, and that all exceptions were rejected because the claimants lacked “direct, personal and legitimate interest.” Claims of unconstitutionality, writs of amparo and writs of habeas corpus filed in favor of the alleged victims or other persons affected by the coup were systematically rejected by the judiciary, usually on matters of form; or their resolution was delayed until their legal interest ceased to exist, which made these claims ineffective, as the IACHR itself found in its 2009 report on Honduras. They also claim that the Office of the Public Prosecutor failed to investigate the human rights violations committed during and after the coup d’état, and that on January 27, 2010, a legislative decree was adopted granting amnesty to ensure that those responsible for the constitutional breakdown were not held responsible. In their last communication dated December 9, 2020, the petitioners reported that, with the exception of the proceedings against Mr. Zelaya Rosales, the proceedings instituted against the alleged victims were still ongoing, and pending final judgment.

7. Below, the IACHR summarizes the individual allegations and information presented by the petitioners with respect to each alleged victim:

i. José Manuel Zelaya Rosales and family members

8. The petitioners allege that on June 28, 2009, at 5:15 a.m., military officers broke into Mr. Zelaya Rosales’ house, overpowered the guards in charge of his protection and inflicted violence against the property and persons in the house, including Mr. Zelaya Rosales’ youngest daughter. Afterwards, they kidnapped the then president with no court order and transferred him to an air base, where he was obliged to take a flight to Costa Rica at 6:10 a.m. The petitioners argue that a search and arrest warrant was issued later; however, military officers failed to comply with it anyway, since it provided, as required by Article 99 of the Constitution, that any search should take place between 6:00 a.m. and 6:00 p.m. Similarly, the military lacks the power to conduct arrests, and their collaboration was not required through a formal request made to the Ministry of Defense to assist in the enforcement of a court order. After his detention, Mr. Zelaya Rosales was never taken before judicial authorities, and his transfer to Costa Rica was carried out against his will, without any legal basis.

9. The Office of the Public Prosecutor brought criminal proceedings *sua sponte* against the military officers responsible of the kidnapping and expatriation, which resulted in a dismissal with prejudice issued by the Supreme Court of Justice based on “necessity” and an alleged absence of malice. During the trial against the military officers, Mr. Zelaya Rosales, being the victim of these actions, was neither summoned nor

heard; he was not given the opportunity to present his own allegations; and the judgement did not provide for any remedy in his or his family's favor.

10. Mr. Zelaya Rosales attempted to re-enter Honduras on July 5, 2009, by air and on July 24, 2009, by land; on both occasions, he was denied entry arbitrarily by military officers. On September 21, 2009, he was able to re-enter the country clandestinely, but was forced to remain inside the Brazilian Embassy in Tegucigalpa until his constitutional term of office ended on January 27, 2010. During the time he was in the diplomatic mission, he was tortured by the military, who used toxic gases, sound waves and powerful lights at night to try to force him out. The authorities also cut off the electricity, water and telephone services of the building and banned all kinds of visits in order to keep him incommunicado. On January 27, 2010, he moved to the Dominican Republic, where his forced exile continued until May 28, 2011.

11. Mr. Zelaya Rosales' family was affected by the disruption in family life caused by this arbitrary state action, and his family members also suffered arbitrary restrictions on their rights of movement and residence. In addition, his wife, mother, brother, and daughters saw their freedom of movement arbitrarily restricted when they tried to move to the Nicaraguan border on the day that Mr. Zelaya Rosales attempted to enter the country by land. The government's persecution forced his son to move to the United States, while his wife and daughters joined him in the Dominican Republic.

ii. Patricia Isabel Rodas Bacas and family members

12. According to the petitioners, on June 28, 2009, at about 6:00 a.m., Ms. Rodas Bacas noticed that her electricity and water services had been cut off, and that her house, as well as other nearby houses, were surrounded by military officers, while a helicopter overflew her house. She asked her assistant to contact the minister of Security and arrange for police intervention to guard her house, but the minister told her assistant that there was nothing that he could do. Helped by a friend, she managed to get her son and niece transferred to another place; however, she, her husband and another niece were afraid to leave because of the presence of soldiers surrounding the house. She then requested the assistance of the ambassadors of Cuba, Nicaragua and Venezuela, who came to her house to provide her with diplomatic protection; however, once the diplomats were inside, military officers forced the door with a rifle and entered the house. The officers violently separated her from her husband and the ambassadors. When she told them that she would not go with them without an arrest warrant, she was transferred against her will, and her husband was attacked when he tried to stop them. She was put in a car along with the Cuban ambassador, who refused to leave her side, and they were both taken to an Air Force sentinel site. She was then separated from the ambassador and taken to a building, where she was held by armed hooded men in civilian clothing until midnight, when a general informed her that she had neither been taken prisoner nor was being held hostage, but that she was being protected. Later, they allowed the Mexican ambassador to see her, and they gave her two options: to go to Mexico to apply for asylum, or to be charged by the Office of the Public Prosecutor. Ms. Rodas Bacas requested to speak with the staff of the Office of the Public Prosecutor, who never showed up; finally, she left for Mexico in a private jet.

13. The petitioners allege that Ms. Rodas Bacas was the victim of disappearance followed by forced expulsion, without an explanation of the charges filed against her and without any court order or application by a public prosecutor. They also stress that, while the alleged victim was missing, two writs of habeas corpus were filed in her favor and on behalf of other persons in a similar situation.<sup>5</sup> Said remedies were dismissed after the trial judge visited the military facilities and did not find her there. The petitioners claim that this judicial decision is arbitrary, since it was based on the conclusion that there were no illegal detentions because of the mere fact that the persons on behalf of whom the remedies were filed were not found in the facilities searched.

14. The petitioners also claim that on July 5, 2009, Ms. Rodas Bacas tried to enter Honduras by air along with Mr. Zelaya Rosales, but they were prevented from landing by military trucks present on the runway. On July 24, 2009, she attempted to enter Honduras by land, but was again prevented from doing so. On other occasions, when she attempted to enter by land, she was subjected to excessive checks without any justification.

<sup>5</sup> The other persons include the alleged victim Eduardo Enrique Reina.

She was finally able to return to her country on May 28, 2011, after the Cartagena Agreement; she has since been harassed by the forces associated with the coup, and a smear campaign was launched against her, in which she was accused of having an improper relationship with Mr. Zelaya Rosales. The petitioners also allege that Ms. Rodas Bacas and her family have been denied bank credits without grounds.

iii. Enrique Alberto Flores Lanza and family members

15. The petitioners report that Mr. Flores Lanza served as secretary of State in the Office of the Presidency and, among other functions, he was the national coordinator of the Citizen Participation Project called “Cuarta Urna” (Fourth Ballot Box).<sup>6</sup> On June 28, 2009, he learned that Mr. Zelaya Rosales' home was being invaded. He therefore left his home and managed to go unnoticed by the military officers who were headed to his residence and who eventually surrounded it with patrol cars. Mr. Flores Lanza reportedly remained in Honduras clandestinely for 15 days, during which he tried to organize a resistance front against the coup. For this reason, he was persecuted by security bodies, and a photograph of him was sent to the International Criminal Police Organization (INTERPOL) and circulated as if he were a criminal. He was later able to leave the country secretly by car and on horseback and reached Nicaragua.

16. After the signing of the Cartagena Agreement, Mr. Flores Lanza returned to Honduras, but 15 days later he was placed under house arrest, and a disproportionate bail of USD 2,000,000 (two million U.S. dollars) was set in his case. He was deprived of his liberty based on four criminal proceedings initiated against him for abuse of authority, forgery of documents, fraud and embezzlement of public funds in relation to the expenses of the “Cuarta Urna” project and its advertising. The petitioners note that these proceedings were initiated during his exile and that he was neither formally notified, nor a public defender was appointed to represent him. Therefore, his rights to due process and to defend himself in a hearing were violated. In addition to such criminal proceedings, nine proceedings were brought against him before the Court of Audit, which were described as “politically motivated” by the High-Level Commission of the OAS<sup>7</sup> and the OHCHR.

17. The petitioners say that the State has retaliated against Mr. Flores Lanza's attorneys, three of whom had their professional license suspended. They also note that the brother of another lawyer who had filed a claim on behalf of Mr. Flores Lanza was also mysteriously murdered. They allege that the persecution has continued over the years, since in 2015 a fifth criminal proceeding was initiated against him, and two judges were dismissed for failing to obey superior orders to imprison him.

18. After the coup, Mr. Flores Lanza's wife had to take refuge in her brother's house, together with her younger daughter; the house was raided three days later by a paramilitary group, who tied them up and threatened them with guns while demanding the money of the “Cuarta Urna” project. This fact was brought to the attention of the national commissioner for Human Rights, who refused to receive the complaint and to document it as an act of political persecution, considering it to be a common crime. Mr. Flores Lanza's family had to move to Nicaragua to join him in exile, which resulted in the forced separation of the family. The petitioners allege that Mr. Flores Lanza's younger children, who lived with him during the coup d'état, have needed therapy for the psychological damage suffered.

iv. Rebecca Patricia Santos Rivera and family members

19. The petitioners state that Ms. Santos Rivera, who served as state secretary for Finance, was outside Honduras on an official mission on the day of the coup. They explain that Ms. Santos Rivera stayed outside the country out of fear and that she supported Mr. Zelaya Rosales in his efforts to restore constitutional order. She was subsequently granted political asylum in Mexico. In May 2010, she chose to return to Honduras

<sup>6</sup> The Inter-American Commission explained that “this process began back in November 2008, when president Zelaya announced his intention to hold a referendum to consult citizens about the possibility of a fourth ballot box, which would run concurrently with the other three ballot boxes for the presidential, legislative and municipal elections scheduled for November 29, 2009.” In the fourth ballot box, Honduran citizens would decide on the advisability of convening a National Constituent Assembly to amend the Constitution. IACHR, “Honduras: Human Rights and the Coup d'État”, OAS/Ser.L/V/II. Doc. 55, December 30, 2009, para. 82.

<sup>7</sup> In June 2010, the General Assembly of the OAS adopted a resolution which charged the Secretary General with creating a High-level Commission to Honduras to analyze the evolution of the situation in that country.

to respond to three criminal proceedings related to irregularities in public procurement, which were initiated in her absence and of which she learned through the media. Arrest warrants were issued against her, so she was forced to enter Honduras through unofficial border crossings, thus risking her personal integrity. The day after her arrival in Honduras, she voluntarily appeared before the judge that had issued the arrest warrant, who read the indictment against her for the first time.

20. She was found not guilty in one of the criminal proceedings, but the other two continued, including precautionary measures such as the prohibition to leave the country and the obligation to report to the court twice a week, which made it impossible for her to return to work. In one of the proceedings, she filed a claim through accessory action related to the use of evidence unlawfully obtained by military officers during the coup. She then filed a writ of amparo, which the Constitutional Chamber of the Supreme Court of Justice rejected three years later. In a 2015 communication, the petitioners indicated that these proceedings had been paralyzed for over three years and that the initial hearings have not been held. In its communication dated December 9, 2020, the petitioners indicated that Ms. Santos Rivera remained formally indicted for fraud in public administration, and that her citizens' rights had been suspended from 2010 to that date. Such communication also reported that a writ of amparo filed in November 2018 in connection with this criminal proceeding was pending, as was a request for annulment filed in 2015 against a judgment passed on 2011 by the Higher Court of Audit, in which Ms. Santos Rivera was sentenced to pay damages for the injury caused to the State.

21. The petitioners allege that the persecution against Ms. Santos Rivera has had a negative impact on the health of her mother, two sisters and five nieces, since before the coup, her higher income level served to support her household.

v. Enrique Eduardo Reina García and family members

22. The petitioners report that Mr. Reina García served as minister of Communications and as private secretary of Mr. Zelaya Rosales. On June 28, 2009, in the early hours of the morning, he learned that a coup d'état was taking place, which he informed to several ambassadors and journalists. Such journalists told him that they had instructions not to publish any news about such events. He then went to the Spanish Embassy, where he remained for two days. The media reported that USD 3,000,000 (three million U.S. dollars) had been found in his office, but he was denied the opportunity to disprove that accusation. He was also offered the opportunity to remain in office under the new government but rejected it for considering it a coup d'état. Mr. Zelaya Rosales then asked him to travel to the United States to represent Honduras, which he did via El Salvador along "blind roads" to avoid immigration alerts. In the United States, he performed his functions from the Embassy of Honduras, without receiving any compensation; and in February 2010 he handed over the office to the elected government. He chose to stay outside Honduras for fear of persecution and was later appointed OAS representative in Bolivia. In 2013 he returned to his country, but his reinstatement has been hampered by a smear campaign launched against him by leaders of the coup, as well as by the fact that several judicial and administrative cases have been initiated against him. In a 2015 communication, the petitioners indicated that a complaint to claim wages for the months he worked without pay was pending.

23. They also report that while the alleged victim was in the United States, his wife was a victim of harassment in Honduras: the house in which she lived with their 11-month-old son was monitored, her phones were tapped, and the electricity, water and cable TV services were cut off. Another house where Mr. Reina García's mother lived with his older children was also surveilled by cars with tinted windows and no license plates, and their phones were tapped.

vi. Rixi Moncada Godoy and family members

24. The petitioners indicate that Ms. Moncada Godoy served as minister of Energy and general manager of the National Electric Energy Company, and that on June 28, 2009, she was in Choluteca performing functions related to the "Cuarta Urna" project when she learned on television that Mr. Zelaya Rosales had been kidnapped. She was alerted that the military was looking for her, so she took her son and left the hotel where they were staying to take refuge with a family who helped them. She then left for Nicaragua with her husband,

where they walked for five hours along non-official roads. From that country she collaborated with the international complaint made by Mr. Zelaya Rosales; she subsequently took part in a dialogue process between Mr. Zelaya Rosales and the new administration, with the Costa Rican president acting as a mediator. At that time, she learned that a warrant had been issued in Honduras for her arrest, with a notice issued to INTERPOL, in connection with a criminal prosecution for abuse of authority and fraud which had never been formally notified to her. On August 12, 2009, a request to revoke the arrest warrant was filed based on the fact that it had failed to meet the minimum requirements required by the Criminal Code, but such request was rejected.

25. Ms. Moncada Godoy and her husband returned to Honduras on February 25, 2010, as she could not bear to live in Nicaragua and to remain separated from her family members. Upon arrival, she voluntarily appeared before the court to respond to the allegations, and the criminal proceeding against her was then dismissed with prejudice. However, in a trial for the same crimes, the Higher Court of Audit declared her civilly liable for irregularities in lease agreements and sentenced her to pay over USD 1,000,000 (1 million US dollars). She filed an appeal for reversal, which was dismissed. In 2013, she filed a writ of amparo against an order of the National Banking and Insurance Commission that confirmed the refusal to open a savings account in her name, based on a "a political offence alert". In 2016, Ms. Moncada Godoy requested that a judgment be issued about said writ of amparo, after no decision had been made in three years.

26. Their family was seriously affected by the actions of the State, among other reasons, by their economic struggle to support two houses, one in Honduras and another in Nicaragua. In addition, the petitioners note that Ms. Moncada Godoy's husband was subpoenaed in 2014 by the Higher Court of Audit in an assets investigation and verification process, which proves their continued persecution. The petitioners also claim that after the coup d'état, Ms. Moncada Godoy's eldest son applied for an unpaid leave from his employment at the Ministry of Finance to deal with his family's special situation, but such leave was denied, and he was dismissed. However, in May 2010, the new administration requested that he be reinstated. In addition, the petitioners claim that Ms. Moncada Godoy's younger children were affected in terms of their school performance and mental health.

vii. Edwin Araque Bonilla and family members

27. The petitioners state that Mr. Araque Bonilla was serving as president of the Central Bank of Honduras when on June 28, 2009, at 6:00 a.m. he heard on the radio that Mr. Zelaya Rosales had been kidnapped. From that moment on, he began receiving threats through anonymous calls. The following day, he reported to his office, where the minister of Finance of the *de facto* government handed him a decree invalidating his post. In July 2009, he was informed by the press that he had been charged with forgery of documents, abuse of authority and embezzlement of public funds; and that an arrest warrant would be executed against him. He sent a lawyer to represent him, who was denied access to the file, even though his right to access such file was recognized by the regulations in force. For this reason, and because it was rumored that he would be apprehended and expelled from the country, he decided to leave Honduras. On July 30, 2009, he arrived in Guatemala by non-official lanes, and from there he took a plane to the United States. Government persecution continued through telephone calls and smear campaigns on the media. In April 2010, after the new government took office, he returned to Honduras to face the proceedings against him.

28. The court in charge of the criminal proceedings against Mr. Araque Bonilla dismissed all the charges, but a trial was subsequently initiated before the Higher Court of Audit for the same crimes. This administrative process remained open for five years pending a decision, as an extortion mechanism to limit the participation of Mr. Araque Bonilla in the political life of his country. The petitioners allege that Mr. Araque Bonilla continues to be affected in his public and private life because the judicial and administrative cases against him are still pending.

29. They further allege that Mr. Araque Bonilla's three daughters and son were affected, as they had to leave Honduras to join their father in the United States. In addition, they allege that Mr. Araque Bonilla's older sister also received telephone threats, and that she was separated from her brother for security reasons.



## B. Position of the State

30. The State considers that the petition must be rejected because the IACHR lacks jurisdiction *ratione personae* and *ratione materiae* to try it, based on the fact that the petitioners lack active legitimation; that the State has already been internationally condemned for the same facts; that the Commission is “biased”; that domestic remedies have not been exhausted and the claim was filed late; and that the petition is manifestly unfounded.

31. Honduras alleges that the petition attempts to make a political claim by a government entity look like a legal claim filed by natural persons. It argues that the actual intention behind the petition is for the Inter-American Commission to settle a dispute in which the executive branch considers that its constitutional powers have been infringed by the other two branches of government. Such dispute falls outside the jurisdictions *ratione personae* and *ratione materiae* of the IACHR, which were established to protect the rights of human beings, and not of government entities. It also argues that the petition refers mainly to concepts such as “coup d'état” and “*de facto* government”, which are strictly political in nature and lack concrete legal equivalents in human rights treaties and are therefore unrelated to protection systems. It argues that the intervention of the Inter-American Commission in this petition would violate the principle of non-intervention contained in Article 2 of the Charter of the United Nations.

32. It also argues that the alleged victims filed their petition as “one-person government entities,” and not as natural persons. In this regard, it stresses that the first statement was signed by Mr. Zelaya Rosales as “constitutional president of the Republic of Honduras” and by the other alleged victims as “members of Cabinet of the Constitutional Government of the Republic of Honduras, for a term of four years, initiated on January 27, 2006”; and notes that the petition was filed one day before the expiration of that term. Therefore, the State considers that the petitioners do not comply with the requirements set forth in Article 44 of the American Convention, which provides that petitions may only be lodged by “any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization.” It stresses that the government positions arguably held by the alleged victims were not recognized by the Honduran law, but by the Inter-American Commission, as evidenced by its report on Honduras published in 2009. It considers that, if a petition filed by governmental entities recognized as such by the IACHR was admitted, this would result in accepting the absurd notion that a State may sue itself. After the first statement, a non-governmental organization was included as a petitioner, but the latter also indicated that it was acting on behalf of “senior officials”. The State further claims that Mr. Reina García's status as an OAS officer was incompatible with his role as a petitioner and alleged victim.

33. The State also claims that it has already been sanctioned internationally for the facts included in the petition by means of a UN General Assembly resolution and an OAS Resolution dated July 1, 2009, which suspended Honduras from the Organization. It stresses that these measures have already caused serious economic consequences for the country, and that the IACHR would be setting a bad precedent if it admitted the petition to punish the State again for the same cause.

34. It further considers that the petition must be rejected because the Inter-American Commission is “biased” and therefore unable to act impartially. It explains that in its 2009 report, the IACHR stated in its *in loco* visit to Honduras that “judicial remedies were ineffective in protecting human rights” and that “the *de facto* authorities and the Supreme Court consistently deny the existence of those violations. It is that passiveness or tolerance that enables these violations to be perpetrated repeatedly with impunity.” It also stated that “the conditions necessary for effective protection and observance of the human rights of all inhabitants of Honduras will only be possible when a democratic government is fully restored in Honduras.” The State alleges that such statements demonstrate a position and prejudgment without having heard the party being denounced. Accordingly, it argues that, if it heard the petition, the IACHR would be violating the procedural principles of independence, impartiality, effectiveness and rigor. It considers that it would be unacceptable for the IACHR to decide not to comply with the American Convention or the principles that it requires the States to respect.

35. It also alleges that domestic remedies have not been exhausted, and that the alleged victims who claim to have been threatened should seek the protection of judges or state forces, instead of turning to ambassadors from other countries, who were obviously not the appropriate authorities to guarantee the enjoyment of their rights in Honduras. It claims that, while two writs of habeas corpus were filed in favor of some of the alleged victims, the decisions that rejected them were not appealed in due time and manner. It states that the petitioners claim to be exempted from the exhaustion requirement based on the judiciary's alleged lack of impartiality and the ineffectiveness of remedies. However, they provide no evidence other than merely citing reports by international and non-governmental organizations. It further emphasizes that the right to a fair trial was not suspended in Honduras, and that the alleged victims had the power to appoint legal representatives to act on their behalf in their country.

36. It also stresses that the writs of habeas corpus filed in favor of some of the alleged victims were resolved within a reasonable time, which demonstrates the effectiveness and independence of the justice system. It further asserts that the claims of unconstitutionality submitted by third parties who had no actual authority to represent the alleged victims were rejected in a timely and duly justified manner. It further adds that, despite the procedural inactivity of the alleged victims, the Office of the Public Prosecutor investigated *sua sponte* into the alleged forgery of Mr. Zelaya Rosales' signature in his letter of resignation, as well as his alleged abduction. It argues that the second case was decided in the first and second instance, and that it is possible for the Office of the Public Prosecutor to appeal the dismissal with prejudice through a writ of amparo. It also refers to the signing of the Cartagena Agreement and the fact that some of the alleged victims have voluntarily chosen to return to their country and appear before the Honduran courts.

37. The State further argues that the petition was filed prematurely, outside the time limits provided for in Article 32 of the Inter-American Commission's Rules of Procedure, and that it was only after such petition had been filed that some of the alleged victims agreed to appear before the Honduran courts to exhaust domestic remedies. It states that the petition can only be decided by the IACHR after the proceedings have been completed with respect to all the alleged victims; and that, otherwise, the IACHR would be used by the defendants to avoid being held accountable before a Honduran court of justice. It further emphasizes that the petition was filed over six months after the events that caused the alleged grievances.

38. It also alleges that the petition is manifestly ill-founded, as there was no coup d'état, but rather the authorities were forced to react after the alleged victims engaged in a conduct contrary to the country's constitutional order. It explains that the crisis that led to the events of June 28, 2009, had begun months earlier, when Mr. Zelaya Rosales threatened to dissolve the Congress and the Supreme Court of Justice unless certain individuals were appointed to the Supreme Court. Such individuals had not participated in the selection process previously convened by a nominating board composed mainly of representatives of civil society. It stresses that among the persons intended to be illicitly appointed was Mr. Flores Lanza's wife.

39. The State adds that Mr. Zelaya Rosales sought to promote a constitutional reform to be re-elected as president, in violation of Article 239 of the Constitution, which not only prohibited presidential re-election, but also established that "any person who violates this provision or proposes its reform, as well as those who support it directly or indirectly, will immediately be dismissed from their respective positions and will be barred for ten (10) years from performing any public function." It also cites Article 374, which prohibits the reform of constitutional articles relating to the presidential term and the prohibition of a re-election. It stresses that Mr. Zelaya Rosales continued to promote such constitutional reform even after he was warned by his own advisors and by the National Human Rights Commission, the Attorney General, the Electoral Court, and the Supreme Court that such reform was illegal. It adds that all the alleged victims, albeit with varying degrees of responsibility, consciously and voluntarily engaged in behaviors aimed at disrupting the constitutional order and establishing a new political system. Therefore, it asserts that the damage claimed by the alleged victims is nothing more than the inevitable consequence of their own illegal conduct.

40. The Truth and Reconciliation Commission, which was established in 2011, concluded that "the democratic institutional system of Honduras was not effective in resolving the crisis and preventing Mr. Zelaya Rosales' violent dismissal, not because it failed to act and make decisions, but because the decisions made by the authorities were not respected and obeyed by the president of the Republic, José Manuel Zelaya." The State

asks the IACHR whether a country's institutions should allow the establishment of a system that is contrary to the Constitution, the rule of law and the American Convention itself. It adds that the military officers responsible for the arrest and transfer of Mr. Zelaya Rosales to Costa Rica were acquitted, based on the fact that they acted out of necessity. The above-mentioned decision states that "indeed, a situation of great real and imminent danger occurred in Honduras, which, had it continued, would have resulted in the government's institutional collapse, a situation of ungovernability, and a confrontation between Hondurans, with the consequent loss of valuable human lives" and that the individuals accused acted "with a justifiable end in mind, which was preserving the democracy of the Republic of Honduras and preventing a bloodshed, possibly even saving the life of Mr. Manuel Zelaya Rosales himself." The State further denies that the arrest warrant against the former president was issued by the court after it had been executed.

41. The State also indicates that Mr. Zelaya Rosales dismissal was carried out in accordance with the parliamentary procedures provided for by the applicable law. It adds that, even if the decree that removed him from office were to be considered unconstitutional, that situation would have been remedied on October 30, 2009, when the Congress voted against reinstating the former president after he himself proposed this measure to the Zelaya-Micheletti negotiating committee.

42. It also cites a report of the Human Rights Commission of the legislative branch which concluded that "the violations denounced did not exist, since the alleged victims were not arrested, detained or held by Honduran police authorities or state agents, and their houses were not searched, except for that of former president Mr. Manuel Zelaya Rosales, which was searched after a court order had been issued to arrest him. Mr. Zelaya Rosales even remained detained for a few hours on the presidential plane." The State adds that the amnesty decree and the Cartagena Agreement ensured that the alleged victims would not be prosecuted for political reasons or for attempting to illegally perpetuate themselves in power. But it clarifies that this does not cover possible acts of corruption, for which they must respond before the Honduran courts. With regard to the fact that some proceedings against Mr. Zelaya Rosales were dismissed, but this was not the case for other alleged victims, it explains that the courts acknowledged that Mr. Zelaya Rosales' right to defense was violated after he was expelled from the country; and that this circumstance was different from that of other individuals who left Honduras of their own will. It also considers it inadmissible that the State is being held responsible for actions taken by media outlets with regard to the alleged victims. It further indicates that it has not violated the political rights of the alleged victims, and that the alleged victims claim a right not provided for in the American Convention, that is, the right to remain in office against the provisions of the Constitution.

43. The State adds that the alleged victims are engaging in unfair conduct by insisting that a petition be admitted when it concerns a situation that was resolved internationally, after the Cartagena Agreement had been signed and the suspension of Honduras from the OAS had been lifted.

## **VI. COMPETENCE *RATIONE PERSONAE*, DUPLICATION OF PROCEDURES AND OTHER ALLEGATIONS**

44. The State objects that the petition was filed by governmental entities to claim their own rights, and not by natural persons. However, it is clear to the Inter-American Commission that the alleged victims filed the petition as natural persons, although they also mentioned the government positions they considered to be holding at that time. Neither the American Convention nor the IACHR's Rules of Procedure prevent a natural person from submitting a petition on their own behalf simply because they held a government position in the State in question. Similarly, the Inter-American Commission notes that it is the rights of the alleged victims that were violated according to the petition, and not those of government entities. As to the State's objection to Mr. Reina García's status as an official of the OAS General Secretariat while the petition was in process, the IACHR notes that neither the American Convention nor its Rules of Procedure establish any limitation in this regard; nor do such limitations arise from the internal rules of the Organization.<sup>8</sup>

<sup>8</sup> See [General Standards to Govern the Operations of the General Secretariat](#), Subchapter B: Status and Obligations of All Staff Members and Limitations on their Activities; and Staff Rules of the General Secretariat, Chapter I: Obligations and Rights.

45. The State also affirms that it was already sanctioned internationally for the facts that gave rise to the petition through a UN General Assembly resolution and its suspension from the OAS.<sup>9</sup> The Inter-American Commission notes that the proceedings that led to the adoption of such measures against the *de facto* government of Honduras were not jurisdictional or quasi-jurisdictional or meant to establish human rights violations against particular persons. Therefore, the international sanctions referred to do not in any way amount to international *res judicata* that could render the petition inadmissible under the provisions in Article 47(d) of the American Convention.

46. Regarding the IACHR's "bias" allegation to hear the petition because of its report issued in 2009, the Commission has previously determined that neither the Convention nor the Rules of Procedure of the Commission require the Commission to declare the inadmissibility of a case when the subject of the case has previously been addressed in a general report.<sup>10</sup> The Commission must have the ability to include this information even where the situation involves a previously initiated or potential future case under the individual petition system. Otherwise, the Commission would be forced to exclude from its general reports on countries the consideration of entire segments of the human rights situation in those countries.<sup>11</sup> The Commission has also referred to the nature of the pronouncements that it makes when performing monitoring functions, indicating that "under the American Convention, the main function of the Inter-American Commission is to observe and defend human rights in the region."<sup>12</sup> It has also explained that this monitoring function must be seen as complementary to its other powers, such as the processing and examination of individual petitions alleging the violation of human rights.<sup>13</sup>

47. The IACHR's statements included in the reports published to fulfill its monitoring mandate are not adjudicatory in nature, as are the decisions it adopts when hearing individual petitions. For this reason, general reports do not require the prior procedures established by the American Convention and the Inter-American Commission's Rules of Procedure to process individual petitions. Additionally, it cannot be held that the publication of a monitoring report related to the subject of an individual petition constitutes grounds for the IACHR or any of its members to be prevented from hearing such petition. The ultimate purpose of the inter-American system, which is protecting human rights, would be seriously affected if any person were prevented from accessing the individual petition system based on statements that the Inter-American Commission had made when performing its monitoring function. This position would unreasonably restrict the essence of the IACHR's main function and render the most important human rights promotion and protection mechanisms ineffective.<sup>14</sup>

48. The proceeding and analysis of this petition has been carried out with complete independence from any previous pronouncement and in accordance with the procedures of the individual petition system. The IACHR has already concluded in a previous case that, given its distinct legal nature, decisions made when

<sup>9</sup> It was not Honduras as a member state of the OAS, but rather the *de facto* government that was suspended from participating in the political bodies of the Organization. The General Assembly decided on July 5, 2009, to suspend the Honduran state from the exercise of its right to participate in the Organization of American States, with immediate effect, in accordance with Article 21 of the Inter-American Democratic Charter; it reaffirmed that "the Republic of Honduras must continue to fulfill its obligations as a member of the Organization, in particular with regard to human rights"; and urged "the Inter-American Commission on Human Rights to continue to take all necessary measures to protect and defend human rights and fundamental freedoms in Honduras." OAS, [press release C-219/09](#), July 5, 2019.

<sup>10</sup> IACHR, Report No. 5/97, Petition 11,227. Admissibility. National Patriotic Union. Colombia. March 12, 1997 ("IACHR. Admissibility. National Patriotic Union"), para. 69.

<sup>11</sup> IACHR, Report No. 5/97, Petition 11,227. Admissibility. National Patriotic Union. Colombia. March 12, 1997 ("IACHR. Admissibility. National Patriotic Union"), para. 74.

<sup>12</sup> IACHR, Report No. 66/15, Petition 1436-11. Admissibility. Emilio Palacio Urrutia *et al.* v. Ecuador. October 27, 2015 ("IACHR. Admissibility. Emilio Palacio Urrutia *et al.*"), para. 33. In that report, it added that "in order to fulfill this mandate, the IACHR was given the authority to monitor the situation of human rights in the region and recommend that the OAS Member States take measures that contribute to the protection of human rights in the countries of the hemisphere. The decisions and reports it issues pursuant to this authority, especially those issued through its different thematic rapporteurships, are based on the thorough study and deliberation of the information received, and their purpose is to promote the national implementation of the applicable human rights standards and contribute to the capacity-building of the countries in that respect. It also plays a preventive role, through the early alert of situations that jeopardize human rights in the region." *Idem*.

<sup>13</sup> IACHR. Admissibility. Emilio Palacio Urrutia *et al.*, para. 34.

<sup>14</sup> IACHR. Admissibility. Emilio Palacio Urrutia *et al.*, para. 35.

performing its monitoring function are not binding nor constitute a prejudgment with regard to the decisions to be taken pursuant to an individual petition process.<sup>15</sup>

## VII. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

49. The petitioners recognize that the alleged victims did not exhaust all domestic remedies, but invoke exceptions to that requirement based on their demonstrated ineffectiveness, the factual impossibility of filing them, and the lack of legitimacy, independence and impartiality of the Honduran authorities. In turn, the State rejects the applicability of such exceptions and indicates that the petition must be rejected because the domestic remedies have not been exhausted and because the petition was filed prematurely or extemporaneously.

50. The IACHR has previously indicated that, in cases which involve possible violations of human rights that are prosecutable *ex officio*, and when state agents may be implicated in the alleged facts, the State has the obligation to investigate them. This burden must be assumed by the State as its own legal duty, and not as a management of private interests or that depends on the initiative of the latter or the provision of evidence by them.<sup>16</sup> With regard to the alleged arbitrary arrest and expulsion of Mr. Zelaya Rosales, according to the file, an *ex officio* investigation was initiated, which ended on February 18, 2010, with a second instance decision confirming the dismissal with prejudice of all charges against the accused individuals. At that time, the State indicated that such decision could be challenged by the Office of the Public Prosecutor through a writ of *amparo*, but did not provide any information to confirm it. Regardless of such decision, the Inter-American Commission has maintained that the exhaustion requirement in principle refers only to regular remedies, not extraordinary ones. Therefore, the IACHR considers that the requirements set forth in Article 46.1(a) of the American Convention were met, since the second instance decision was the last step in the ordinary criminal proceeding. As that final decision was issued after the petition had been submitted, the Commission concludes that the requirement set forth in Article 46.1(b) of the Convention is also met.

51. The petition also contains multiple complaints of actions by state agents that can be prosecuted *ex officio*, such as the illegal and arbitrary detention and expulsion from the country of Ms. Rodas Bacas; violence inflicted against the alleged victims or their family members; unlawful breaking and entry, and property damage; arbitrary cutoffs in public services in the residences of the alleged victims or their family members; acts of unlawful surveillance; and abuse of authority to arbitrarily prevent the alleged victims from re-entering the country. With respect to these complaints, the IACHR lacks information on the appropriate criminal investigations and must therefore assess how much time has elapsed since the State became aware of such allegations, at least since this petition was notified to the State. Under these circumstances, for purposes of admissibility, the Inter-American Commission considers that the exception provided for in Article 46.2(c) of the American Convention is applicable to such allegations. When considering the time elapsed between the dates on which the facts allegedly occurred and the date on which the petition was filed, under the circumstances of the present case, the IACHR also concludes that the complaints were filed within a reasonable period of time under Article 32.2 of its Rules of Procedure.

52. With regard to the alleged unlawful dismissal of Mr. Zelaya Rosales from his post as the Honduran president and the impediment for the other alleged victims to hold the positions to which they had been appointed, according to the file, this complaint was included in several claims of unconstitutionality filed by third parties who were not acting as representatives of the alleged victims. These complaints were rejected for lack of active legitimation, which the petitioners question, since they consider that the unlawful interference with the right of the people to elect their president concerns every Honduran person. In any case, the petitioners allege that Mr. Zelaya Rosales, who could be considered the most direct stakeholder, was expelled from Honduras against his will and prevented from returning on two occasions; and that he was then forced to remain at the Brazilian Embassy in Tegucigalpa until the end of the term for which he had been elected. The State points out that the alleged victims were able to appoint legal representatives to file remedies in Honduras

<sup>15</sup> IACHR. Admissibility. National Patriotic Union, para. 73. For example, in this admissibility report, the Inter-American Commission reached different conclusions than those it had previously presented in the context of an annual report.

<sup>16</sup> IACHR, Report No. 159/17, Petition 712-08. Admissibility. Sebastián Larroza Velázquez and family v. Paraguay. November 30, 2017; para. 14.

on their behalf, regardless of where the alleged victims were located. In spite of this, the IACHR considers that, for purposes of admissibility, the alleged unlawful interference with Mr. Zelaya Rosales' freedom of movement, and the impact that this had on his ability to go to court, justify applying the exception provided for in Article 46.2(b) of the American Convention to the requirement that remedies under domestic law must be exhausted. Since the petition was filed while the situation that gave rise to this claim was ongoing, the Inter-American Commission also concludes that this claim was filed in a timely manner under Article 32.2 of its Rules of Procedure.

53. With regard to the claim that the alleged victims had been subjected to politically motivated judicial and administrative proceedings, which were based on unlawful evidence and were defective as a result of a number of procedural irregularities, it is not a contested fact that some of these proceedings have ended definitively after the petition was filed. Accordingly, the aspects of the petition related to such proceedings comply with the requirements set forth in Article 46.1(a) and (b) of the American Convention. As alleged by the petitioners in their communication from December 2020, which was not challenged by the State, there are still active judicial and administrative proceedings against the alleged victims, except for Mr. Zelaya Rosales. With respect to the complaints related to these proceedings, the Inter-American Commission considers that, for purposes of admissibility, the exception provided for in Article 46.2(c) of the American Convention is applicable. Since the complaint concerns an alleged situation of ongoing persecution that was current at the time that the claims were filed, the IACHR also considers that the complaints were lodged in a timely manner, under Article 32.2 of its Rules of Procedure.

54. The IACHR recalls that the provisions of the American Convention that provide for exceptions to the exhaustion requirement are, by their nature and matter, rules with autonomous content *vis à vis* the substantive rules of the American Convention. Therefore, the applicability of the exceptions to that rule should be decided separately and prior to the analysis of the merits of the case, since it involves a different assessment than the one used to determine the violation of Articles 8 and 25 of the Convention. Consequently, the decision to apply these exceptions to some aspects of the petition does not imply a prejudgment of the merits of the matter or the veracity of the allegations.

### VIII. ANALYSIS OF COLORABLE CLAIM

55. The petitioners claim that state agents conducted a systematic persecution against the alleged victims and their family members, and that in some cases they incurred in arbitrary and illegal detentions with no judicial control; expulsions from the country without legal basis; arbitrary denials of re-entry into the country to Honduran nationals; unjustified acts of violence; unlawful breaking and entry, and property damage; arbitrary cutoffs in public services; acts of unlawful surveillance; and judicial and administrative prosecution based on unlawful evidence and without following applicable rules of procedure, due to the government positions held by the alleged victims. It is also alleged that some of the alleged victims were forced to leave or remain outside the country because of persecution against them; and that between June 28, 2009, and January 27, 2010, Mr. Zelaya Rosales and the other alleged victims were illicitly prevented from holding the government positions for which they had been elected or to which they had been appointed.

56. Article 7.5 of the American Convention states that “any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power,” and Article 22.5 of the same instrument provides that “no one can be expelled from the territory of the State of which he is a national or be deprived of the right to enter it.” The Inter-American Court has further determined that Article 11.2 of the American Convention is violated when state agents enter into a residence against the will of its occupants and without legal authorization.<sup>17</sup> The IACHR has also recognized that certain public services such as electricity and water “determine the exercise of human rights.”<sup>18</sup> The Inter-American Commission has also established that the procedures that are based on illegally-obtained evidence may violate the guarantees established in the American Convention.<sup>19</sup> In addition, the Inter-American Court has said that forced displacement violates the

<sup>17</sup> IACHR Court. *Escué Zapata v. Colombia*. Merits, reparations, and costs. Judgment of July 4, 2007, paras. 95-97.

<sup>18</sup> IACHR. Special Rapporteurship on Economic, Social, Cultural and Environmental Rights. Report “Business and Human Rights: Inter-American Standards”. November 1, 2019; para. 115

<sup>19</sup> IACHR. Report No. 1/95. Merits. Case 11,006. *Alán García v. Peru*. February 7, 1995, sect. V.B(2).

right to family protection recognized under Article 17 of the American Convention;<sup>20</sup> and that arbitrary dismissals may violate the rights guaranteed by Article 23.1(c) of the Convention.<sup>21</sup>

57. In view of these considerations, and after examining the elements of fact and law presented by the parties, the IACHR considers that the allegations made by the petitioners are not manifestly unfounded and require a substantive analysis, since, if confirmed true, the facts alleged could constitute violations of Articles 5 (personal integrity), 7 (personal liberty), 8 (right to a fair trial), 11 (protection of honor and dignity), 17 (rights of the family), 22 (freedom of movement and residence), 23 (right to participate in government), 25 (judicial protection) and 26 (economic, social and cultural rights) of the American Convention in relation to Article 1.1 thereof (obligation to respect such rights).

## **IX. DECISION**

1. To declare this petition admissible in relation to Articles 5, 7, 8, 11, 17, 22, 23, 25 and 26 of the American Convention, in relation to Article 1.1 thereof.

2. To notify the parties of this decision; to proceed with the merits of the case; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 13<sup>th</sup> day of the month of August, 2021. (Signed:) Antonia Urrejola, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay, Esmeralda E. Arosemena Bernal de Troitiño, Joel Hernández, and Stuardo Ralón Orellana, Commissioners.

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<sup>20</sup> IAHR Court. *Yarce et al. v. Colombia*. Preliminary objections, merits, reparations, and costs. Judgment of November 22, 2016, para. 246.

<sup>21</sup> IAHR Court. *López Lone et al. v. Honduras*. Preliminary objections, merits, reparations, and costs. Judgment of October 5, 2015, para. 238.

**ANNEX**  
**FAMILY MEMBERS OF THE ALLEGED VICTIMS**

**Manuel Zelaya Rosales**

1. Xiomara Castro Sarmiento (wife)
2. Héctor Zelaya Castro (son)
3. Zoe Zelaya Castro (daughter)
4. Xiomara Zelaya Castro (daughter)
5. Hortensia Rosales Sarmiento (mother)
6. Marco Antonio Zelaya Rosales (brother)

**Patricia Rodas Bacas**

7. Rodolfo Gutiérrez Gonzales (husband)
8. Braulio Gutiérrez Rodas (son)
9. Margarita Baca Sarabia, widow of Rodas Alvarado (mother)

**Enrique Alberto Flores Lanza**

10. Sonia Marlina Dubón (wife)

**Rixi Moncada Godoy**

11. Enrique Eduardo Arias Guillén (husband)
12. Ramón Ernesto Arias Moncada (son)
13. Marcela Arias Moncada (daughter)
14. Carlos Enrique Arias Moncada (son)

**Edwin Araque Bonilla**

15. Alicet Araque Bonilla (sister)