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## **REPORT No. 13/25**

### **PETITION 530-22**

#### **REPORT ON ADMISSIBILITY**

**RACHEL CARDONE-BARNETT & SONS**  
**UNITED STATES OF AMERICA**

Approved electronically by the Commission on March 12, 2025.

**Cite as:** IACHR, Report No. 13/25. Petition 530-22. Admissibility. Rachel Cardona-Barnett and sons. United States of América. March 12, 2025.

## I. INFORMATION ABOUT THE PETITION

<b>Petitioner:</b>	Rachel Cardona-Barnett
<b>Alleged victims:</b>	Rachel Cardona-Barnett and sons
<b>Respondent State:</b>	United States of America <sup>1</sup>
<b>Rights invoked:</b>	Articles I (life, liberty and personal security), II (equality before law), III (religious freedom and worship), V (protection of honor, personal reputation, and private and family life), VII (protection for mothers and children), VIII (residence and movement), X (inviolability and transmission of correspondence), XII (education), XIII (the benefits of culture) and XXV (protection from arbitrary arrest) of the American Declaration on the Rights and Duties of Man <sup>2</sup>

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

<b>Filing of the petition:</b>	March 23, 2022
<b>Notification of the petition to the State:</b>	July 11, 2023
<b>State's first response:</b>	February 16, 2024

## III. COMPETENCE

<b>Competence <i>Ratione personae</i>:</b>	Yes
<b>Competence <i>Ratione loci</i>:</b>	Yes
<b>Competence <i>Ratione temporis</i>:</b>	Yes
<b>Competence <i>Ratione materiae</i>:</b>	Yes, American Declaration (ratification of the OAS Charter on June 19, 1951)

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

<b>Duplication of procedures and international <i>res judicata</i>:</b>	No
<b>Rights declared admissible:</b>	Articles II (equality before the law), V (protection of honor, personal reputation, and private and family life), VII (protection for mothers and children), XVIII (fair trial) and XII (education) of the American Declaration
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	Yes, in the terms of Section VI
<b>Timeliness of the petition:</b>	Yes, in the terms of Section VI

<sup>1</sup> Hereafter "United States," "U.S." or "the State"

<sup>2</sup> Hereinafter "the Declaration" or "the American Declaration"

<sup>3</sup> Each party's observations were duly forwarded to the other party.

## V. THE PARTIES' POSITIONS

### The petitioner

1. Ms. Cardona-Barnett, in her capacity as the petitioner and alleged victim, claims that domestic authorities have failed to provide adequate and timely protection for both her and her four children against domestic violence perpetrated by her ex-husband.

2. The petitioner accounts that in 2019, a court in Cleveland, Ohio, granted the dissolution of her marriage and authorized her relocation to Arizona with her children, who at the time were six, five, five, and three years old, respectively. As part of the agreement her ex-husband was relieved of all financial obligations toward the children and was awarded the marital home, which was jointly owned. Additionally in 2020 authorities issued a protective order in her favor after she reported that her ex-partner repeatedly contacted her and threatened to *"go to Arizona and kill her."*

3. However in 2021 during the custody proceedings, the UCCJEA Court ruled that the petitioner had to share custody with her ex-husband. She claims that although the children expressed fear of their father after witnessing severe episodes of domestic violence, the court failed to give due weight to their statements. She asserts that, because of living with their father, the children began suffering from depression, anxiety, and enuresis. Furthermore, she claims that her ex-husband denied them access to mental health services, arguing that *"no one needs to know what happens in my home."*

4. The petitioner states that during that same year, She filed multiple petitions before the Maricopa County Domestic Relations Court requesting emergency orders to allow her children to receive mental health care and to modify visitation arrangements until they stabilized. She also sought a custody modification while allegations of abuse were being investigated. However, the judge denied all her requests.

5. She clarifies that it was not until September 2021 that the Glendale City Court granted her and her children a protective order, after her ex-husband chased her inside the children's school and was found in the parking lot by police with a loaded firearm.

6. Despite the aforementioned, the petitioner questions why the shared custody ruling remains in effect, and she claims that the trial to modify this situation has been repeatedly postponed, which She attributes to the misconduct of the presiding judge and delays caused by her ex-husband's attorney. Finally, she states that on July 3, 2022, a worker from the Department of Child Services contacted her and informed her that the investigation into her case was still ongoing.

7. Based on the foregoing, the petitioner argues that the authorities have failed to protect both her and her children from the abuse committed by her ex-husband. She asserts that they are trapped in Arizona and continue to be victims of domestic violence, while judicial authorities have failed to adopt timely and effective measures to guarantee their safety. She claims that both her mental health and that of her children have been severely affected. Furthermore, she argues that her children's right to education has also been violated, as they lack the proper conditions to study in a safe and healthy environment, leading to significant emotional distress and despair.

### The United States

8. The State, for its part, argues that the petition is inadmissible, as the petitioner has not demonstrated that they have exhausted domestic remedies, in accordance with Article 20(c) of the Commission's Statute and Article 31 of its Rules. It points out that, on the contrary, the information provided shows that the process is still ongoing before the family court.

9. Furthermore, if the IACHR determines that the petition meets the exhaustion requirement, the State maintains that it would still be inadmissible because the alleged facts do not constitute human rights

violations attributable to its authorities. It considers that the petitioner seeks to have the Commission intervene in a private custody dispute between them and the mother of their children.

10. The State emphasizes that, although vague and unsubstantiated accusations against local government officials are mentioned, the core of the claim is based on judicial decisions within the custody litigation. According to the State, analyzing the merits of the petition would require the Commission to interfere in family law matters, which exceeds its mandate and requires specialized resources and expertise that it does not possess.

11. Likewise, the State notes that to assess the case the Commission would need to examine a significant amount of evidence that the petitioner has not submitted. It asserts that this information is available to the petitioner, but that the federal government has limited access to state family court documents due to confidentiality laws governing these proceedings.

12. The United States adds that without this basic information the Commission cannot properly assess the dispute, nor can the State effectively respond to the allegations. It recalls that, pursuant to Article 28(4) of the Rules, petitions must include specific details about the alleged facts, including the date and location, which the petitioner has failed to provide.

13. Finally, the State argues that the petitioner's allegations do not demonstrate that any act by its authorities has violated the invoked rights. It asserts that the claim is based on vague statements, insufficient evidence, and personal opinions regarding family law proceedings. For these reasons, the State requests that the IACHR declare the petition inadmissible.

## **VI. ANALYSIS OF EXHAUSTATION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION**

14. In the instant case the petitioner essentially challenges the lack of timely and effective measures to safeguard her rights and those of her four children in the face of alleged domestic violence. It notes that Ms. Cardona-Barnett claims that the judge of the Maricopa County Domestic Relations Court failed to provide effective protection, despite her having repeatedly reported the harm she and her children were experiencing. Furthermore, she emphasizes that the custody proceedings remain pending a final decision.

15. The Commission acknowledges that it is not competent to review judgments issued by domestic courts acting within their jurisdiction, provided they comply with due process and judicial guarantees. However, under its mandate it has the authority to declare a petition admissible and examine its merits when domestic proceedings may have resulted in violations of the rights protected by the American Declaration.

16. However, according to the State, the information provided demonstrates that the petitioner has not exhausted domestic remedies, given that the case is still awaiting resolution in the family courts.

17. In this regard, the Commission recalls that, as a general rule, the petitioner is only required to exhaust ordinary judicial remedies at the domestic level. Therefore, the IACHR considers that when irregularities are alleged throughout various stages of a legal proceeding—such as the lack of adequate protective measures within a custody process—it is not necessary to file an extraordinary remedy or an additional legal action to fulfill the requirement established in Article 31.1 of its Rules of Procedure.

18. Based on this, the Commission observes that both parties agree that the matter remains unresolved in the family courts. In the IACHR's view, since the petitioner has reported acts of violence since 2020, it was the authorities' responsibility to ensure a prompt resolution to protect the rights of the alleged victim and the children. Additionally, the State had the duty to investigate and sanction any reported acts of violence. However, the Commission notes that as of 2024 the custody proceedings remained unresolved, nor had the potential responsibility of the alleged aggressor been clarified. Furthermore, the information submitted

by the petitioner does not indicate that the delay is attributable to her, but rather to the actions of the officials responsible for administering justice.

19. As a result, considering the context and the characteristics of this case, the Commission concludes that it has sufficient elements to believe that the exception set forth in Article 31.2.c) of the IACHR's Rules of Procedure is applicable in this case, and that the filing of the petition on March 23, 2022, was done in a reasonable time, under the terms of Article 32.2 of the IACHR's Rules of Procedure.

## **VII. ANALYSIS OF COLORABLE CLAIM**

20. The Commission acknowledges that it is not competent to review judgments issued by domestic courts acting within their jurisdiction, provided they comply with due process and judicial guarantees. However, the Commission reiterates that, under its mandate, it has the authority to declare a petition admissible and examine its merits when domestic proceedings may have resulted in violations of the rights protected by the American Declaration.

21. Furthermore, the Commission recalls that the State has an obligation to ensure an effective and timely response to reports of domestic violence, particularly when they involve children, in accordance with international standards. In this case, the Commission notes that the petitioner has reported a series of situations requiring prompt and effective attention from the authorities to protect her rights and those of her children. In the Commission's view, it is necessary to examine these allegations at the merits stage to determine whether there were omissions on the part of the State that may have impacted any of the rights or guarantees enshrined in the American Declaration.

22. Considering the foregoing, the Commission will proceed with a substantive analysis of the case, ensuring full respect for due process and the right of defense of both parties. After assessing the arguments presented by the parties, the IACHR considers that the claims submitted by the petitioner are not manifestly groundless, and *prima facie* may constitute violations of the rights recognized in Articles II (Right to Equality Before the Law), V (Right to Protection of Honor, Personal Reputation, and Private and Family Life), VII (Right to Protection for Mothers and Children), XII (Right to Education), and XVIII (Right to a Fair Trial) of the American Declaration.

23. Finally, regarding the alleged violation of Articles I (right to life, liberty and personal security), III (right to religious freedom and worship), VIII (right to residence and movement), X (right to inviolability and transmission of correspondence), XIII (right to the benefits of culture) and XXV (right of protection from arbitrary arrest) of the American Declaration, the Commission considers that no *prima facie* evidence has been provided to clarify the possible violation.

## **VIII. DECISION**

1. To find the instant petition admissible in relation to Articles II, V, VII, XII and XVIII of the American Declaration;

2. To declare the petition inadmissible with respect to Articles I, III, VIII, X, XIII and XXV of the American Declaration; and

3. To notify the parties of this decision; continue with the analysis of the merits 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 12<sup>th</sup> day of the month of March, 2025. (Signed:) Andrea Pochak, Vice President; Arif Bulkan, Second Vice President; Roberta Clarke, and Gloria Monique de Mees, Commissioners.