

FINAL REPORT OF THE INDEPENDENT PANEL
TO EVALUATE CANDIDACIES FOR THE
INTER-AMERICAN HUMAN RIGHTS SYSTEM BODIES

May 29, 2025

Members of the Panel SIDH 2025:

- Alejandro Chehtman
- Ariela Peralta
- Gabriela Rodríguez
- Juan Méndez
- Margarette Macaulay
- Robert Goldman

Evaluation of the Candidates

The Panel has evaluated the background and trajectory of each candidate in light of the requirements of the ACHR for the position of Commissioner of the IACHR, in accordance with the text of the treaty and the interpretation made by successive editions of the Independent Panel. A detailed description of the scope of each criterion used by the Panel can be found in Annex 2-a of this report.

Evaluation of the Carlos Bernal Pulido

Candidate for reelection

Procedure before the Panel: The candidate Carlos Bernal Pulido, a Colombian national, was nominated for reelection by Peru. Bernal Pulido was elected during the 51st Regular Session of the OAS General Assembly on November 12, 2021, for a four-year term from January 1, 2022, to December 31, 2025.

The candidate Bernal Pulido received an invitation to participate in the Panel's evaluation process via a communication dated April 7, 2025. The invitation requested that he respond to the questionnaire prepared by the Secretariat and take part in an interview with the Panel members. In a response dated April 8, the candidate declined the invitation, stating that he would not participate in the process and questioning the integrity and impartiality of the Panel members and the legitimacy of the Panel's work, referring to it as a "self-proclaimed" group of experts. It is worth noting that the 2025 evaluation Panel is composed of three former IACHR Commissioners who served as Presidents during their terms, one expert appointed by the UN Human Rights Council to serve on the Group of Human Rights Experts on Nicaragua, and two distinguished academics who have held or currently hold deanships at law faculties of renowned universities in the region. The Panel also ensures linguistic, geographic, and legal system diversity, as well as gender parity.

As is standard Panel practice, when any of its members believe their involvement in the evaluation might present a conflict of interest or an appearance of bias, they recuse themselves from assessing the relevant candidate. In this context, Margarette May Macaulay recused herself from the

evaluation of candidates Bernal Pulido and Caballero Ochoa, as she served as Commissioner concurrently with part of their first term.

Another point raised by candidate Bernal Pulido in his response declining to participate was that his qualifications should not be reassessed, as he has already served for over three years. However, it is important to highlight that the Panel's practice has been to apply stricter oversight standards to candidates seeking reelection, as their past behavior and performance provide insight into whether they can meet the criteria established by the ACHR and other international standards. Accordingly, the Panel systematically evaluates reelection candidates—both to the IACHR and the Inter-American Court—based on “their performance and achievements during their first term,”¹ as well as “other relevant aspects of their prior service.”²

Throughout its reports published between 2015 and 2024, the Panel has consistently expressed concern regarding candidates who do not participate in the evaluation process.³ Failure to attend interviews, respond to the questionnaire, or provide the requested documentation has been cited as an obstacle to conducting a comprehensive, objective, and transparent assessment.⁴ As was the case during his initial nomination in 2021, in which he participated only partially, the Panel regrets candidate Bernal Pulido's decision not to engage in the current evaluation. His absence prevents the Panel from gaining deeper insight into his views and performance during his first term and requires that the evaluation be conducted solely based on public information and submissions from civil society organizations.

Candidate Bernal Pulido is the only individual who did not appear before the Panel in 2025 and also the only one to reject participation in the evaluation out of the 18 candidates nominated for positions within the IAHRs during the past three election cycles (2023–2025).

The Secretariat received four communications from civil society organizations regarding candidate Bernal Pulido's trajectory and profile, all of which questioned his suitability for reelection to the IACHR.

a) High moral character

Given the candidate Bernal Pulido's absence, the Panel was unable to receive specific information on this aspect regarding his first term as a member of the IACHR.

¹ *Final Report of the Independent Panel to Evaluate Candidacies for IACHR Bodies 2021 (Final Report 2021)*, p. 16; *Final Report of the Independent Panel to Evaluate Candidacies for IACHR Bodies 2023 (Final Report 2023)*, p. 23.

² *Final Report 2023*, p. 42.

³ See, in this regard, *Final Report of the Independent Panel for the Election of Judges to the Inter-American Court of Human Rights, 2018 (Final Report 2018)*, p. 21; *Report of the Independent Panel of Experts for the Evaluation of Candidates for the Inter-American Commission on Human Rights, 2019 (Final Report 2019)*, p. 21.

⁴ *Id.* Moreover, in the *Final Report of the Independent Panel of Experts for the Evaluation of Candidates to the Inter-American Court and Commission on Human Rights 2021 (Final Report, 2021 Panel)*, the non-appearance of candidate Bernal Pulido for an interview with the Panel led it to conclude: “On the other hand, the decision to recuse himself from participating in the interview with the Panel and his subsequent actions—including the submission of an open letter to the media based on partial and erroneous information in which he questioned the evaluation process carried out by the Panel—raise reasonable doubts as to whether the candidate possesses the specific qualities required for the position of Commissioner, including the ability to foster dialogue and build consensus to advance human rights.” (p. 36)

The Panel has no knowledge of any disciplinary sanctions for professional misconduct. Nor is there any record indicating any kind of sanction, ethical breach, or professional impropriety.

However, one civil society organization questioned the moral character of candidate Bernal Pulido, noting that he had been denounced by 36 human rights organizations due to deficiencies in his performance as rapporteur for El Salvador.⁵ These organizations, mainly from El Salvador and Honduras, requested that the IACHR's Board of Directors remove him from his role as rapporteur for El Salvador. According to their statement, the request was based on various actions by the Commissioner that indicated bias in favor of the Salvadoran State, in disregard of Article 15.7 of the IACHR Rules of Procedure. The letter addressed to the IACHR Board of Directors was submitted to the Panel along with other relevant information that the organization considered important for the evaluation of the candidate.

The Panel will revisit this issue under the criteria of independence and impartiality, as other civil society organizations also referred to the candidate's role during his mandate as rapporteur for El Salvador on the IACHR.

b) Recognized competence in human rights

● *Academic background and professional experience*

The Panel is aware, based on public information available on the IACHR website, that candidate Bernal Pulido holds a law degree from Universidad Externado de Colombia, a Doctorate in Law from the University of Salamanca, Spain, and both a Master's and a Doctorate in Philosophy from the University of Florida, United States. He is a professor at the University of Dayton, Ohio, United States, and at the Universidad de la Sabana, Colombia. He also served as a Justice on the Constitutional Court of Colombia from 2017 to 2020. Candidate Bernal Pulido has an extensive academic career, having taught at Universidad Externado de Colombia, Macquarie University in Sydney, Australia, and the University of Florida. He has also been a visiting professor at the law schools of the Sorbonne in Paris, Paris X (Nanterre), and the University of León (Spain), as well as a visiting researcher at the law faculties of Yale University, King's College London, and the Max Planck Institute for Comparative Public Law and International Law in Germany.

In addition, he is a prolific author of books, journal articles, and book chapters on topics related to the protection of human and fundamental rights, democratic constitutionalism, constitutional creation and change, the ontology of law, and the theoretical foundations of civil and state liability.

● *Knowledge of Inter-American standards and challenges of the IAHRs*

According to public information available on the IACHR website, candidate Bernal Pulido serves as Thematic Rapporteur on the Rights of Persons with Disabilities, as well as Country Rapporteur for Costa Rica, El Salvador, Paraguay, and Trinidad and Tobago. As with the other evaluation criteria, in light of the candidate's absence, the Panel will assess Bernal Pulido's competence and

⁵ The referenced letter was submitted to the IACHR on February 21, 2025 (Civil Society Letter) and is held by the Panel's Secretariat as part of the information submitted to the process by one of the civil society organizations.

performance based on publicly available information gathered by the Secretariat and submissions received from civil society organizations.

In his public presentation before the OAS Permanent Council and its member states, candidate Bernal Pulido outlined what he considers to be the challenges faced by the IACHR. Broadly, he stated that the Commission is experiencing significant challenges in ideological, operational, and methodological terms, and he called upon “OAS member states, as stewards of the System, to promote an internal transformation of the Commission.”⁶ Regarding specific challenges, candidate Bernal Pulido claimed he had been discriminated against by the IACHR majority due to his ideological positions, although he considers that he has fulfilled his mandate in a “diligent and independent”⁷ manner, guided by four principles: being thorough, objective, and ideologically neutral; requiring that IACHR decisions be grounded in Inter-American legal norms and available evidence; and granting States a margin of discretion to resolve human rights matters in accordance with their cultural values and standards.⁸ Methodologically, candidate Bernal Pulido has criticized the IACHR’s use of legal sources and the work carried out by the Executive Secretariat in handling information and the case system. He has argued, in particular, that the IACHR should “emphasize conciliation over confrontation [with States]”.⁹

Additionally, all candidates were asked in the Panel’s questionnaire to express their views on the IACHR’s interpretations of the ACHR and whether any of those interpretations should be corrected. In his public presentation, candidate Bernal Pulido acknowledged that he had frequently resorted to issuing dissenting votes to express disagreement with what he considers “legal errors or inappropriate actions”¹⁰ by the IACHR majority. Indeed, research into the history of dissenting votes at the IACHR shows a marked increase in such votes since Bernal Pulido’s election. Out of 260 reports adopted by the IACHR—including annual, country, and thematic reports—only 15 have included dissenting votes. Of these, just 6 were issued prior to 2019, while the remaining 60% were adopted between 2020 and 2023. Bernal Pulido authored 7 of the 9 dissenting votes issued during that period, occasionally joined by other Commissioners.¹¹

It is worth noting that neither the ACHR nor the IACHR Statute clearly defines which types of decisions Commissioners may issue separate votes on, nor when such votes may be made public. To establish a framework on this matter, the IACHR adopted Resolution 2/22, in which it appears to accept that separate votes are permitted in connection with chapters of the IACHR’s annual reports, country reports, and thematic reports.¹² These documents are in addition to final reports within the individual petitions system, as well as reports adopted under Article 50 of the ACHR, which introduce cases to the Court. The same applies to precautionary measures and resolutions

⁶ *Presentation by candidate Carlos Bernal Pulido of Peru during the special session of the Permanent Council to hear presentations by candidates to the IACHR for the 2026–2029 term (Presentation by candidate Bernal Pulido before the OAS Permanent Council), May 14, 2025, https://x.com/oea_oficial/status/1922674382993805592?s=48*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *This information was drawn from the document Main Findings: Analysis of Public and Confidential Reasoned Votes in Country, Thematic, and Annual Reports of the IACHR, held by the Panel, which will be published shortly and that assesses the reports and votes adopted until 2023.*

¹² *IACHR, Resolution 2/22, Reasoned Vote (Resolution 2/22, Reasoned Vote), August 8, 2022, available at <https://www.oas.org/es/cidh/decisiones/pdf/2022/resolucion-2-22-voto-razonado.pdf>*

adopted by the IACHR. However, there is no clear guidance on whether Commissioners may issue separate votes on other forms of expression, such as press releases. Resolution 2/22 clarifies that only separate decisions may be published, including annual, country, and thematic reports; Article 50 (when the case is submitted to the Court) and 51 reports; precautionary measures; and formal resolutions.

The majority of Bernal Pulido's dissenting votes have been issued in the context of annual, country, and thematic reports. In several of these, the issues addressed relate to his disagreements over the scope of sexual and reproductive rights of women and girls. Specifically, he argues that the majority's positions fail to respect the right to life of pregnant individuals; he rejects the notion of "forced motherhood" as applied to minors who become pregnant due to rape and are unable to access abortion due to absolute bans in certain States; and he opposes the IACHR's stance against the criminalization of obstetric emergencies. Additionally, he disputes the existence of rights to gender identity and same-sex marriage, and argues that conscientious objection should be protected not only for individuals but also for institutions. Finally, he objects to the IACHR's position on comprehensive sexuality education, claiming it infringes on parents' rights to educate their children. In general, candidate Bernal Pulido contends that the IACHR's interpretations violate the principles of good faith and *pacta sunt servanda*, infringe upon States' margin of appreciation to define public policies on these matters according to the principle of subsidiarity, and are based on rights that do not exist in the ACHR.¹³ The Panel understands that neither the margin of appreciation nor the principles of *pacta sunt servanda* or subsidiarity should be used to justify authoritarian excesses, the weakening of checks on the abuse of power, or the breakdown of the rule of law.

His dissenting votes have also focused on challenging the IACHR's historical methodology for collecting information used in country reports or in chapters IV and V of the annual report. He has likewise questioned the IACHR's assessments, for example, of the justifications provided by States for declaring states of emergency, arguing that such assessments violate the principle of subsidiarity and encroach on States' discretion in resolving human rights issues. He has further challenged the transparency, legitimacy, and effectiveness of the IACHR's work, disputing the conclusions and recommendations of country reports and the annual report on the grounds that they, in his view, do not comply with applicable procedural and treaty norms.¹⁴

Finally, it must be noted that candidate Bernal Pulido has developed a practice of appending dissenting votes to IACHR press releases and other communications that do not constitute formal decisions of the Commission, thereby undermining their legitimacy and weakening their impact.¹⁵

For the Panel, the disproportionate use of dissenting votes is a matter of serious concern, as it calls into question the authority and legitimacy of decisions issued by this collective body. Furthermore, some of the interpretations expressed by candidate Bernal Pulido in his votes contradict international standards upheld by the Inter-American Court of Human Rights, in both contentious and advisory jurisprudence. Similarly, the rules of interpretation of treaty norms promoted by the

¹³ This information was drawn from the document *Main Findings: Analysis of Public and Confidential Reasoned Votes in Country, Thematic, and Annual Reports of the IACHR*.

¹⁴ *Id.*

¹⁵ Information obtained from research conducted by the Secretariat based on submissions from civil society organizations.

candidate conflict with well-established jurisprudence of the Inter-American Court, which holds that the ACHR must be interpreted in light of the *pro homine* principle, rejecting literal interpretations of the instrument and promoting an evolutionary approach that considers changing circumstances and the specific facts of each case.

On the other hand, in the Panel's view, the repeated issuance of dissenting votes to dispute the IACHR's working methodology and to question the legitimacy of its recommendations is not conducive to ensuring the institution's effectiveness. In practice, this undermines the IACHR's impact, with the unavoidable result of reducing the protection afforded to victims—the ultimate beneficiaries of the Inter-American human rights system.

- ***Diligence and other relevant skills***

Regarding his dedication and diligence, candidate Bernal Pulido engages in academic activities in addition to fulfilling his duties as Commissioner. The Panel does not know whether the candidate is involved in other professional activities and has not received any information to that effect from other sources.

Another aspect to consider as part of the complementary skills required to serve as Commissioner—and one which the Panel has assessed in previous years, especially in relation to candidates seeking reelection—is the ability to work as part of a collegial body. It is worth noting that during the evaluation of his initial nomination, this Panel concluded that it had “reasonable doubts as to whether the candidate possessed the specific qualities required for the role of Commissioner, including the ability to foster dialogue and build consensus in the field of human rights.”¹⁶ An objective assessment of candidate Bernal Pulido's work during his term as Commissioner appears to confirm the Panel's original concerns. Indeed, in his public presentation before the OAS Permanent Council, the candidate emphasized his decision to make extensive use of dissenting votes to challenge the decisions of the IACHR, and stated that, in his view, for the Commission to be effective, it must undergo transformational change—and that he is the person with the vision to lead that process.¹⁷

For the Panel, this approach does not appear compatible with the role expected of a member of a collegial body such as the IACHR. The intent behind having seven experts serve on the Commission was that those elected would negotiate solutions and build consensus, without eliminating diversity of opinion. This aspect of candidate Bernal Pulido's conduct—his failure to foster dialogue and consensus—was also highlighted by civil society organizations that submitted information to the Panel. As an example, they cited his separate vote on Resolution 2/22 regarding dissenting votes.¹⁸ As previously noted, in that resolution, the majority of the IACHR reached a consensus on which dissenting votes in decisions could be published, excluding press releases. In contrast, candidate Bernal Pulido opposed this decision in a separate vote and, in practice,

¹⁶ *Final Panel Report 2021*, p. 36.

¹⁷ *Presentation by candidate Bernal Pulido before the OAS Permanent Council, May 14, 2025.*

¹⁸ *CIDH, Resolution 2/22, Reasoned Vote. Additionally, information submitted by civil society organizations to the Panel's Secretariat.*

published the reasons for his dissent regarding a press release on the social media platform X after the resolution had entered into force.¹⁹

Regarding knowledge of or experience with legal systems other than his own, candidate Bernal Pulido pursued postgraduate studies at the University of Florida and currently teaches at the University of Dayton, leading the Panel to assume that he has been exposed to the U.S. legal system.

As for his language skills, public information available on the IACHR website indicates that his native language is Spanish and that he also has fluent knowledge of English

c) Independence, impartiality and absence of conflicts of interest

Candidate Bernal Pulido, in his public presentation before the OAS Permanent Council, stated that, if reelected, he would be thorough in reviewing the matters brought before him and neutral and objective from an ideological standpoint.

On the other hand, civil society organizations that submitted information to the Panel questioned Bernal Pulido's impartiality and independence, focusing on his activities as Rapporteur for El Salvador. In particular, they argue that Bernal Pulido's dissenting opinion in the report State of Emergency and Human Rights in El Salvador discredits the testimony of victims and civil society organizations, undermining their legitimacy. They further allege that the IACHR failed to apply a rigorous methodology in selecting the sources included in the report.²⁰ According to one of the submissions, this position is incompatible with the serious human rights situation affecting the country since the declaration of the state of emergency. Indeed, they state that the IACHR had sufficient information to support the conclusions of the report, as these organizations "have documented and submitted information to the IACHR, both publicly and privately, regarding thousands of reports of human rights violations (6,889 to date) over the past three years, including arbitrary detentions, due process violations, enforced disappearances, torture, mistreatment, cruel, inhuman and degrading treatment, and even alleged extrajudicial executions in detention centers (380 to date)."²¹ They also note that candidate Bernal Pulido's dissenting vote, by delegitimizing civil society organizations, "covertly placed them in a more vulnerable position before a government that persistently harasses and intimidates them."²²

Civil society organizations have also stated that, in public interventions, candidate Bernal Pulido has supported State positions—even when they contradict the recommendations of the IACHR. As an example, they highlight his testimony before the Tom Lantos Human Rights Commission of the United States Congress regarding the state of emergency in El Salvador,²³ where they say he stated that the emergency "has been an effective policy for reducing gang-related crime," without acknowledging the serious human rights violations committed under that context, thereby contradicting the IACHR's report.²⁴ Another example they repeatedly cite is the public hearing during the IACHR's 191st period of sessions on democratic institutions in El Salvador, where he

¹⁹ See: <https://x.com/carloslbernal/status/1784409129341145563>

²⁰ Information submitted by civil society organizations to the Panel's Secretariat.

²¹ *Id.*

²² *Id.*

²³ *Id.* Véase la audiencia en <https://www.youtube.com/watch?v=ChTW-gm-5SI>

²⁴ *Id.*

appeared to justify the figure of reelection, even though in that country, reelection would have been carried out in breach of constitutional norms.²⁵

Additionally, as previously noted, 36 civil society organizations from El Salvador and Honduras requested that the IACHR leadership remove candidate Bernal Pulido from his role as Rapporteur for El Salvador for three reasons: 1) limited contact with civil society in the country and a lack of interest in promoting constructive dialogue, as well as insufficient openness to address the concerns raised by victims of human rights violations in the country; 2) his dissenting votes undermine the integrity of his agenda as Rapporteur and key decisions regarding the human rights situation in El Salvador; and 3) the adoption of public positions that discredit the work of civil society and contradict the IACHR's conclusions and recommendations concerning that country.²⁶

The Panel regrets that by declining to participate in the Panel's evaluation process candidate Bernal Pulido was unable to respond to these allegations. These complaints and allegations could affect the candidate's independence and impartiality, thereby impacting one of the core criteria for serving a second term as Commissioner of the IACHR.

d) Contribution to the balanced and representative composition of the organization.

In evaluating this criterion, the Panel considers the balanced composition of the IAHR bodies in terms of gender, representation of different geographic regions, population groups, and legal systems across the hemisphere. In his public presentation before the OAS Permanent Council, candidate Bernal Pulido stated that, if reelected, he would contribute to ensuring that the decisions of the IACHR are grounded in the legal sources of the IAHR. In this regard, the Panel notes that, as a distinguished academic, Bernal Pulido—if reelected—could contribute to enriching the technical and legal discussions within the framework of the IACHR's work, given his experience as a professor at universities in Colombia and the United States.

e) National nomination process

In his public presentation before the OAS Permanent Council, the candidate only mentioned that he was honored to have been nominated by Peru, without providing any information about the procedure that led to his nomination.²⁷ Moreover, the Panel lacks additional information to fill this informational gap.

It is noteworthy that Colombia, the country of which candidate Bernal Pulido is a national, nominated another candidate who was also evaluated by the Panel and did not support Bernal Pulido's reelection. The candidate acknowledged in his public presentation before the OAS Permanent Council that his nomination by a State other than his own nationality was an exceptional practice within the IAHR.

Conclusion

²⁵ IACHR, Hearing, El Salvador: Democratic Institutions, November 12, 2024, available at <https://www.oas.org/es/cidh/sesiones/audiencia.asp?Hearing=3770>

²⁶ *Civil society letter (held by the Panel's Secretariat)*.

²⁷ *Presentation by candidate Bernal Pulido before the OAS Permanent Council, May 14, 2025.*

The Panel concludes that during his first term as Commissioner, candidate Bernal Pulido has exercised his functions in a manner that raises genuine and reasoned concerns regarding his ability to strengthen the collegial work of the IACHR if reelected.

Firstly, regarding his competence in human rights, there is no doubt that candidate Bernal Pulido is an accomplished jurist with specific academic publications and work in constitutional law, comparative law, and international human rights law. However, based on the information received by the Panel and academic research demonstrating this, it is clear that the candidate has maintained an interpretative stance on certain substantive matters that contradict the Inter-American jurisprudence articulated by the Inter-American Court of Human Rights. Furthermore, his positions are in direct conflict with well-established principles of that jurisprudence, particularly those affirming that the ACHR must be interpreted in light of the *pro homine* principle, promoting an evolutionary interpretation that accounts for changes over time and circumstance, and considers the facts of each specific case. Likewise, the candidate's extreme position on the application of the margin of appreciation granted to States—which seeks to restrict the IACHR's scope of competence even in the face of serious human rights violations—is unprecedented in the historical practice of both the IACHR and the Inter-American Court, and is also contrary to how this principle is applied even in other regional systems, such as the European one.

Additionally, the disproportionate use of dissenting opinions in nearly all IACHR decisions, including press releases and social media posts, reinforces the concerns expressed by this Panel regarding whether the candidate possesses the specific qualities required for the role of Commissioner—namely, the ability to foster dialogue and build consensus on human rights matters as part of a collegial body.

Moreover, his repeated dissenting opinions questioning the IACHR's working methods and casting doubt on its independence and impartiality undermine the legitimacy of this body and erode its credibility and effectiveness in fulfilling its core mandate: the protection of human rights for millions across the Americas.

In sum, after conducting a stricter evaluation of Bernal Pulido's performance during his first term as Commissioner, the Panel concludes that, despite his expertise in international human rights law and academic trajectory, the candidate has systematically undermined the credibility of a collective body such as the IACHR, rather than seeking to strengthen its effectiveness through dialogue. The Panel observes that his conduct has objectively tended to erode the cohesion, credibility, and prestige of the body he was elected to serve on. For these reasons, the Panel concludes that candidate Bernal Pulido does not meet the essential criteria to be reelected for a second term.