

OEA/Ser.L/V/II.

Doc. 241

11 September 2019

Original: Spanish

REPORT No. 214/19

PETITION 1730-09

REPORT ON ADMISSIBILITY

ALICIA TRINIDAD PAZ MEZA
HONDURAS

Electronically approved by the Commission on September 11, 2019.

Cite as: IACHR, Report No. 214/19, Petition P-1730-09. Admissibility. Alicia Trinidad Paz Meza. September 11, 2019.



I. INFORMATION ABOUT THE PETITION

Petitioner	Alicia Trinidad Paz Meza
Alleged victim	Alicia Trinidad Paz Meza
Respondent State	Honduras
Rights invoked	Articles 7 (personal liberty), 8 (fair trial), and 25 (judicial protection) of the American Convention on Human Rights ¹

II. PROCEEDINGS BEFORE THE IACHR²

Date of filing	August 20, 2009
Notification of the petition	June 15, 2016
State's first response	May 9, 2017
Additional observations from the petitioner	June 16 and 18, July 11, 2018
Additional observations from the State	April 10, 2019

III. COMPETENCE

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

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

Duplication of procedures and International <i>res judicata</i>	No
Rights declared admissible	Articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 11 (privacy), and 25 (judicial protection) of the American Convention, in connection with its Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects)
Exhaustion or exception to the exhaustion of domestic remedies	Exception set forth in Article 46.2.c apply, in the terms of Section VI
Timeliness of the petition	Yes, in the terms of Section VI

V. SUMMARY OF ALLEGED FACTS

1. Alicia Trinidad Paz Meza, the petitioner and alleged victim, asserts the responsibility of the State of Honduras for it violated her rights to due process, humane treatment, and effective judicial protection in a criminal trial filed against her, during which she was held in temporary detention. She claims that, in prison, she was subjected to torture and cruel, inhuman, or degrading treatment.

2. The alleged victim, a lawyer, indicates that on August 3, 2002, at a special assembly of the Lawyers Association for which she was present, members decided to substitute the Association's Board of Directors and remove the 15 judges of the Honduran Supreme Court of Justice. Subsequently, the ousted Board of Directors filed an appeal with the Court for Contentious Administrative Matters (*Juzgado de Letras de lo Contencioso Administrativo*), seeking to nullify the new provisional Board of Directors elect and the Ethics Committee of the Lawyers Association. It also filed a complaint before the Public Prosecutor's Office

¹ Hereinafter "American Convention" or "Convention."

² The observations submitted by each party were duly transmitted to the opposing party.

against the new members, including the alleged victim, although she claims she never accepted her appointment. On August 9, 2002, the public prosecutor's office requested the pretrial detention of the new members of the Board of Directors and the Ethics Committee of the Lawyers Association, for crime against the State to the detriment of internal security, and contempt to the detriment of public administration.

3. The alleged victim submits that on August 14, 2002, she was summoned to testify about the assembly, before the criminal court (*Juzgado Unificado de lo Penal*) of Francisco Morazán department. According to her, only in court was she formally accused—she thought she had been summoned as a witness. The hearing began on August 16, after which the court ordered the alleged victim's detention and summoned the parties for an initial hearing on August 20, 2002. Thus, the alleged victim was taken to the investigative police headquarters, where she was held for six days. At the hearing on August 20, the court concluded that there was enough evidence of the commission of the crimes for which the Public Prosecutor's Office had brought charges, as well as enough evidence to find the alleged victim guilty of these charges. The court granted the alleged victim temporary precautionary measures instead of an order of detention pending trial, that prevented her leaving the country without the court's permission and demanded that she appears in court once a month, and ordered her release from prison.

4. On September 16, 2002, Court of Appeals No. 1 upheld a resolution dated August 20, 2002, regarding the alleged victim's criminal responsibility and the precautionary measures. The alleged victim filed an appeal, but it was dismissed on September 20, 2002. She indicates that on September 25 and October 23, 2002, she presented an amparo action against the judgment given on September 16, 2002, before the Supreme Court of Justice. The outcome of these recourses is unknown. On June 23, 2003, the prosecuting attorney filed a complaint against the alleged victim, whereas the defense filed a motion to dismiss. On June 26, 2003, the criminal court granted the motion to dismiss in favor of the alleged victim, given the violation of her right to due process in that the request for a preliminary hearing was overdue. It also ordered the release of the alleged victim and lifting of the precautionary measures. However, on January 7, 2005, the Court of Appeals No. 1 overturned the decision granting the motion to dismiss, after an appeal filed by the prosecutor's office. As a result, on February 9, 2005, the alleged victim filed an amparo action. On November 9 that year, the court ruled in her favor, upholding the decision to dismiss the case because the offense attributed to her, contempt, had extinguished. The alleged victim claims that on September 29, 2002, the State ruled to dismiss the cases filed against the other 16 lawyers prosecuted for the same offenses; but her case remained open until May 4, 2006, when she was finally acquitted and given a letter of definitive release, after a motion to dismiss was granted.

5. The alleged victim asserts that she was summoned to the initial hearing to testify about the facts and that only once in court was she formally accused. According to her, she was deprived of the right of defense, and blatant violations of due process, the right to judicial protection, the adversarial principle, and the principle of equality were committed at the hearings. She submits that the public prosecutor's office failed to investigate and to consider the notice of appearance filed by the alleged victim. She alleges having been deprived of liberty without conclusive or reasonable evidence of the criminal offenses she was charged with.

6. Furthermore, the alleged victim claims that in prison, she suffered physical and psychological harm from the National Investigative Police. She alleges having been put in the same cell as a notorious and dangerous criminal. She explains that she was handcuffed, shackled, and forced to walk like this, that every 45 minutes late at night, she was briefly interrogated as well as forced to undress in part and photographed. According to her, she was splashed with water containing urine and feces, and her meals were contaminated. She claims having been threatened with a weapon and not allowed to attend to her physiological needs. She moreover indicates that the legal proceedings filed against her damaged her reputation and honor given the purported media coverage of the case. In this regard, she claims that the Committee for the Defense of Human Rights filed on her behalf a *habeas corpus* petition with the Supreme Court of Justice. Allegedly, it was not processed. The motives are unknown. She submits that on August 26, 2002, the human rights prosecutor's office initiated an investigation into the violation of her rights, including her living conditions in prison; but it was suspended without reason. She further indicates that she tried to

access the case file in order to learn about the progress of the investigations, but she was denied access despite a written request.³

7. The State indicates that the alleged victim was acquitted and is now clear of the abovementioned charges. It contends that the alleged victim's actions at the assembly of August 3, 2002—as well as those of the other persons accused—were aimed at changing the composition of the Judiciary, which meant an imminent risk to democracy and the principles governing the rule of law. It contends that the alleged victim's court-ordered detention was based on the claims filed by the public prosecutor's office regarding the existence of clues proving the alleged victim's involvement in the crimes attributed to her, and the harshness of the punishment to be given. It submits that in November 2005, the Supreme Court of Justice upheld the dismissal of the case. The State submits that the abovementioned legal proceedings were held pursuant to the applicable legal rules, in accordance with due process and the right to a fair trial. It adds that her formal accusation was based on the request presented by the public prosecutor's office within the scope of its mandate and was substantiated before the competent courts.

8. In regard to the alleged victim's claims on psychological and physical maltreatment in prison, the State argues that in the records of the National Investigative Police there is not any relevant health report and that the public prosecutor's office has informed that according to its records, the alleged victim has not filed any complaint. Accordingly, it claims that the human rights violations alleged here have not been proven.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

9. As to the criminal trial, the Commission observes that on June 26, 2003 the criminal court ruled to dismiss the case in favor of the alleged victim. However, on January 7, 2005, Court of Appeals No. 1 reversed the dismissal. Therefore, the alleged victim lodged an *amparo* action, granted on November 9 that year. On May 4, 2006, she was acquitted, and released from prison. Thus, the Commission deems that the domestic remedies were exhausted under Article 46.1.a of the Convention. However, as the IACHR received the petition on August 20, 2009, the petition does not meet the timeliness requirement foreseen in Article 46.1.b of the Convention.

10. Regarding the claims of the alleged victim's having been subjected to torture and inhuman and degrading treatment in prison, the Commission observes that she alleges that the persons responsible were not investigated or punished, although the human rights prosecutor's office was aware of the purported harm inflicted on the alleged victim. The Commission reiterates that in petitions referring to acts of torture and violations of the right to humane treatment, a criminal investigation and trial is the adequate and effective remedy to be pursued by the State. Therefore, the Commission believes that the exception to the requirement to exhaust domestic remedies foreseen in Article 46.2.c of the American Convention applies in this case. The IACHR moreover believes that the petition was filed within a reasonable time and that the requirement on timeliness must be declared met.

VII. COLORABLE CLAIM

11. In view of the elements of fact and law presented by the parties and the nature of the matter brought to its attention, the IACHR deems that, if proven, the alleged facts regarding detention conditions—acts of torture and cruel, inhuman or degrading treatment—, as well as the lack of investigation and punishment of the persons responsible may establish violations of the rights protected through articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 11 (privacy), and 25 (judicial protection) of the American Convention, in accordance with its Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects).

VIII. DECISION

1. To declare the instant petition admissible in relation to Articles 5, 7, 8, 11, and 25 of the American Convention, in accordance with its Articles 1.1 and 2; and

³ She even sent a letter to the human rights ombudsman in June 2008, requesting information on the investigation that the public prosecutor's office had filed through the same ombudsman's office.

2. To notify the parties of this decision; to continue with the analysis on 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 9th day of the month of September, 2019. (Signed): Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández García, First Vice President; Antonia Urrejola, Second Vice President; Margarete May Macaulay, Francisco José Eguiguren Praeli, Luis Ernesto Vargas Silva, and Flávia Piovesan, Commissioners.