
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 68/2021**

Precautionary Measures No. 1068-20
Irán Almaguer Labrada regarding Cuba
August 28, 2021
(Extension)
Original: Spanish

I. INTRODUCTION

1. On June 22, 2021, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for an extension of precautionary measures filed by the Institute on Race, Equality and Rights Humans (“the representatives”) in favor of Irán Almaguer Labrada (proposed beneficiary), brother of Yandier García Labrada (beneficiary of precautionary measures), urging that the State of Cuba (hereinafter “the State” or “Cuba”) protect his rights. According to the request, the proposed beneficiary is at risk due to the threats, intimidation and harassment to which he is reportedly being subjected as a result of his relevant position within the Christian Liberation Movement (MCL) and because he demands justice in favor of his brother in the current context of Cuba.

2. In the terms of Article 25(5) of the Rules of Procedure, the IACHR requested information from the State on June 8 and July 29, 2021. The State did not provide any response. On August 6, 2021, the proposed beneficiary’s representation submitted additional information.

3. Upon analyzing the submissions of fact and law furnished by the representatives, the Commission considers that the information presented shows *prima facie* that the beneficiary is in a serious and urgent situation, given that his rights to life and personal integrity are at risk of irreparable harm. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requests that Cuba: a) adopt the necessary measures to protect the rights to life and personal integrity of the beneficiary. To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiary, and protect his rights in relation to acts of risk attributable to third parties, in accordance with the standards established by international human rights law; b) adopt the necessary measures so that the beneficiary can carry out his activities without being subjected to acts of violence, intimidation and harassment in performance of his work; c) consult and agree upon the measures to be adopted with the beneficiaries and their representation; and, d) report on the actions taken to investigate the alleged events that led to the adoption of these precautionary measures, so as to prevent them from reoccurring.

II. BACKGROUND INFORMATION: PRECAUTIONARY MEASURES IN FORCE RELATED TO THIS MATTER

4. On January 7, 2021, the IACHR decided to grant precautionary measures in favor of Yandier García Labrada. According to the request, the beneficiary, who is an activist and member of the Christian Liberation Movement (MCL), is being held in the “El Típico” prison for “contempt and public disorder.” It was alleged that in the context of his deprivation of liberty, he did not receive adequate medical attention in the face of beatings received during his detention.

5. Upon analyzing the allegations of fact and law provided, the Commission considered that the information presented demonstrated *prima facie* that Mr. Yandier García Labrada was in a serious and urgent situation, since his rights to life and personal integrity were at risk of irreparable harm.

Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission asked Cuba to: a) adopt the necessary measures to protect the life and personal integrity of Mr. Yandier García Labrada, in particular, guaranteeing that his detention conditions comply with applicable international standards; b) consult and agree upon the measures to be implemented with the beneficiary and his representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of this resolution and thus avoid their repetition.¹

6. Subsequently, the IACHR did not receive any type of response. The representation submitted additional information on May 18, 2021.

III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES

1. Information provided by the representation

- *Beneficiary Yandier García Labrada*

7. On May 18, 2021, the representation reported that the beneficiary was still deprived of his liberty in the “El Típico” prison. Mr. García’s family has reportedly not been able to visit him due to COVID-19 restrictions. Telephone communication are limited, and they only allow him to make one call per month for five minutes. His family members expressed concern and indicated that prison conditions are poor. It was indicated that the high temperatures to which Mr. García Labrada is exposed in prison have increased his asthma attacks.

8. Mr. García Labrada is allegedly constantly harassed and intimidated by State Security agents. Although he is sponsored by a lawyer from a collective law firm, his defender has not been able to access the file because the Prosecutor’s Office alleged that “it is not complete.” His relatives do not know the status of the process. At the beginning of June 2021, the beneficiary reportedly called his brother *Yohaini Labrada* to inform him that they had changed his section within the prison. It was indicated that the beneficiary was transferred to the section where there are prisoners sentenced for common crimes such as murder.

9. On July 23, 2021, a prison guide reported to Mr. García Labrada that a sentence of five years in prison was handed down against him for the crimes of “contempt, attack on authority and spread of epidemics.” That same day, the family learned the information through a brief telephone call from the beneficiary to his brother *Yohani Labrada*. When the brother tried to comment on the current situation in Cuba, and ask for details of the sentence, the call was cut off. From that day on, the family has allegedly not been able to contact the beneficiary, and they have not been able to access his file or any document that corroborates the sentence imposed.

- *Proposed beneficiary Irán Almaguer Labrada*

10. Mr. *Irán Almaguer Labrada* is the brother of Mr. Yandier García Labrada (beneficiary of precautionary measures) and has been an activist of the Christian Liberation Movement (MCL) since 2000. As Coordinator of the MCL in the towns of Manatí, San Andrés, and Alfonso, he carries out activities to promote and defend human rights.

11. Mr. Irán Almaguer Labrada allegedly requires permanent treatment for his vision as he suffers from retinitis pigmentosa. Therefore, every five months he receives the corresponding care. However, for

¹ IACHR, Resolution No. 5/21 MC 1068-20 - Yandier García Labrada regarding Cuba, January 7, 2021. Available in: <http://www.oas.org/es/cidh/decisiones/pdf/2021/resolución%205-2021.%20mc-1068-20%20c b.pdf>

a year and a half they have denied him access to treatment despite his requirements. In addition, the State Security authorities have used his health situation as a factor to intimidate him, since on occasions he has been detained for a short time, they have warned him that, if he continues with his activism, they would deny him medical treatment. The last time that the proposed beneficiary went to the public clinic to request access to his treatment was in early February 2021. At the health center, the head of the ward told him that they were not working and asked him not to continue insisting. The representation stressed that this occurred despite the fact that it was evident that they were providing attention to the public.

12. According to the representation, since his affiliation to the MCL, Mr. Irán Almaguer Labrada he has been the victim of threats, persecution, intimidation, and short-term detentions for his work in defense of democracy and human rights in Cuba. However, the intimidation against him reportedly intensified since the deprivation of liberty of his brother Yandier García Labrada, and the consequent actions he has taken to demand justice.

13. According to the representation, from January 2021 the proposed beneficiary is deprived of his liberty at least once a month for short periods. While deprived of liberty, he is reportedly held incommunicado from his family, causing constant suffering and stress to his wife, who is blind and has hypertension, and to their 14-year-old daughter. For example, at the beginning of May 2021 he was allegedly detained for a couple of hours in the Police Unit of the San Andrés Town. Later, at the beginning of June 2021, he was summoned to appear at the Third Unit of Holguín. The summons did not contain further details or reasons for which he was summoned. The proposed beneficiary reportedly did not attend the summons.

14. On June 10, 2021, the proposed beneficiary was detained while leaving his home at around 12:00. He was allegedly taken to the local Police Unit and was deprived of his liberty for approximately three hours, during which time the State Security officer allegedly insulted and strongly threatened him to cease his activities with the MCL and put an end to all protest action in favor of his brother Yandier García Labrada. The officer allegedly accused him of being “head of the MCL” and threatened to deprive him of his liberty, warning him that his “cell was ready waiting for him.” In addition, according to the representation, he told him that if he continued to protest on behalf of his brother, he would be sentenced to 12 years in prison.

15. The proposed beneficiary was purportedly detained on July 21, 2021, around 9 a.m. while he was at his home located in San Andrés. His representation indicated that he was not informed of the reasons for his arrest, and that he was transferred to the Police Unit known as “El Anillo” in the city of Holguín, located 20 km from his home.

16. Finally, the representation specified that the proposed beneficiary remained incommunicado and deprived of liberty until July 23, 2021, the date on which he was released at around 2:40 pm. While he was detained, the representation indicated that he was placed in a cell alone and that he was interrogated twice by State Security officials. One of the interrogations was carried out at dawn. They further warned him that he would be imprisoned for “continuing his activism” and insisted that he remain silent about the current situation in Cuba, as they knew that he had commented on it. According to his representation, they told him that if he continued to “incite the population” they would prosecute him.

2. Information provided by the State

17. The Commission requested information from the State on July 21, 2021, in order to obtain its observations on the extension request. To date, no response has been received, and the terms granted have expired.

IV. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM

18. Precautionary measures are one of the mechanisms of the Commission for the exercise of its function of overseeing compliance with human rights obligations, as established in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. The precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

19. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The purpose of precautionary measures is to preserve the rights at risk until the petition pending before the inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, in this way, to prevent the alleged rights from being violated, a situation that could render the final decision innocuous or detract from its useful effect (*effet utile*). In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, to implement the remedies required. In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

20. The Commission recalls that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists.²

21. As a preliminary matter, the Commission deems it relevant to clarify that, in this proceeding, it is not called upon to determine whether there have been violations to the rights of the proposed beneficiaries. In this sense, the Commission will not rule on the alleged arbitrariness of the detentions or the various procedural and substantive questions following the allegations around the detention. The Commission is also not called upon to rule on the attribution of criminal or other liabilities regarding the persons involved in this matter. The analysis carried out by the Commission herein relates exclusively to the requirements of seriousness, urgency, and risk of irreparable harm established in Article 25 of its Rules of Procedure, which can be resolved without making any determinations on the merits as this is

² In this regard, for example, referring to provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to assess, *prima facie*, whether an extremely serious and urgent situation exists. I/A Court H.R., Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Resolution of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

specific to the petition and case system.

22. While the representation has requested the “extension” of these precautionary measures, the Commission recalls that a requirement for this is that the facts alleged in the request for extension have a “factual connection” with the events that justified the initial adoption of the precautionary measures.³ In this regard, the Commission identifies that the proposed beneficiary Irán Almaguer Labrada is the brother of the beneficiary Yandier García Labrada, and is also a member of the Christian Liberation Movement (MCL) like his brother. Likewise, the representation has indicated that the situation of the proposed beneficiary is linked to the actions he has taken to demand justice for his brother and beneficiary Yandier García Labrada (vid. *supra* para. 12). In this sense, the Commission considers that there is a “factual connection” for the following reasons: (i) the affiliate relationship of the proposed beneficiary with the current beneficiary; (2) both the proposed beneficiary and the beneficiary belong to the same Movement in Cuba; and (3) the proposed beneficiary has been taking actions to demand justice for the current beneficiary of precautionary measures. Thus, risk factors similar to those faced by the beneficiary Yandier García Labrada have been alleged, which could be related to the reasons developed. Thus, for the Commission, the requirement of “factual connection” has been met and it proceeds to the analysis of the procedural requirements.

23. When analyzing the procedural requirements, the Commission considers the current context of Cuba. In this regard, it is highlighted that the Commission has consistently identified that human rights defenders in Cuba are often deprived of their liberty in allegedly arbitrary manners under certain types of criminal offenses—such as contempt, public attacks, and disorder—and are sometimes subjected to attacks, threats, and mistreatment within its prisons.⁴ Recently, near the end of 2020, the Commission expressed its concern about the escalation of criminalization and harassment against activists, journalists, and artists in Cuba,⁵ reiterating the State of Cuba’s obligations in terms of freedom of expression, as well as personal liberty and security.⁶

24. On July 15, 2021, the IACHR and its Special Rapporteurships condemned the State’s repression and the use of force during peaceful social protests in Cuba. Both appeal for dialogue and listen to the citizens’ demands.⁷ On July 23, 2021, the IACHR Office of the Special Rapporteur for Freedom of Expression communicated its concern over the reports received on serious human rights violations in the context of the protests that began on July 11 in Cuba.⁸

25. Similarly, the Commission considers that the State has not provided any response regarding the precautionary measures granted and extended in 2021, and the time deadlines have expired. In this regard, the Commission indicates and following the Inter-American Court that the State’s failure to comply and to report all the measures adopted in compliance with its decisions is extremely serious given the

³ In this regard, see: IACHR, Resolution 10/17, Precautionary Measure No. 393-15 Detainees in “Punta Coco” regarding Panama, March 22, 2017, para. 28; and I/A Court H.R., Fernández Ortega et al. regarding Mexico. Resolution of Provisional Measures of November 23, 2010, considerandum 19.

⁴ IACHR, Special Report on the Situation of Freedom of Expression in Cuba, 2018, paragraph 136.

⁵ IACHR, Press Release No. 280-20. The IACHR and its Office of the Special Rapporteur express grave concern over the increase in criminalization and harassment of activists, artists, and independent journalists in Cuba, available at <https://www.oas.org/en/iachr/expression/showarticle.asp?artID=1191&IID=1>, Washington, November 23, 2020.

⁶ IACHR, Press Release No. 286-20, The IACHR rejects the arbitrary operation against the San Isidro movement in Cuba and reiterates its international human rights obligations, available [in Spanish] <http://www.oas.org/es/cidh/prensa/comunicados/2020/286.asp>, Washington, November 28, 2020.

⁷ IACHR, Press Release No. 177-21, The IACHR and Its Special Rapporteurships Condemn State Repression and the Use of Force during Peaceful Social Protests in Cuba, and Call for Dialogue on Citizen Demands, available at http://www.oas.org/en/IACHR/jsForm/?File=en/iachr/media_center/PReleases/2021/177.asp

⁸ IACHR, The Office of the Special Rapporteur expresses concern over the reports of serious human rights violations in the context of the protests in Cuba, July 23, 2021, available at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1205&IID=1>

legal nature of these measures that seek to prevent irreparable harm to persons in serious and urgent situations.⁹ The duty to inform constitutes a dual obligation that requires, for its effective fulfillment, the formal presentation of a document on time and the specific, true, current, and detailed material reference to the issues on which that obligation falls.¹⁰

26. The above precision is relevant for the purposes of analyzing the validity of the risk identified by Resolution 5/2021 regarding Yandier García Labrada in Cuba. In this regard, the Commission observes that the representation has indicated that: (i) he has limitations in communicating with his relatives, with communication cut-offs occurring (vid. *supra* para. 7 and 9); (ii) it was alleged that he is harassed and intimidated by State Security agents in his conditions of deprivation of liberty (see *supra* para. 8); and (iii) his lawyer or relatives have not been allowed access to the complete file from the Prosecutor's Office despite having already been convicted (vid. *supra* paras. 8 and 9). In view of the information presented and the lack of a State response, the Commission reaffirms the precautionary measures currently in force and reiterates that the State of Cuba must respond to the IACHR within the granted timeframe.

27. Considering the previously identified context, the continuing lack of response from the State within the framework of the precautionary measures in force, and the ongoing risk to the beneficiary, the Commission will proceed to analyze the situation of the proposed beneficiary Irán Almaguer Labrada.

28. When considering the requirement of seriousness, the Commission observes that the proposed beneficiary, in addition to being the beneficiary's brother, and demanding justice for his situation (vid. *supra* para. 12), is allegedly an activist of the Christian Liberation Movement (MCL) since 2000. As part of such Movement, the proposed beneficiary carries out activities to promote and defend human rights in Cuba (vid. *supra* para. 10). In this regard, the proposed beneficiary's representation reported on the following events against him in 2021:

- i. State authorities refused to provide medical treatment for his vision as a way to "scare him" (vid. *supra* para. 11).
- ii. The proposed beneficiary was subject to short-term detentions in May, June and July 2021, during which he was:
 - a. held incommunicado from his family (vid. *supra* para. 13),
 - b. insulted and threatened "strongly" by the Security officers with a view to "ceasing his activities" (vid. *supra* para. 14), and
 - c. transferred to police units far from his home, even 20 km away (vid. *supra* para. 15).
- iii. The last reported detention on July 21, 2021, was extended by 3 days. During that period, the proposed beneficiary was held incommunicado and placed in a cell alone and interrogated on two occasions, including at dawn (vid. *supra* para. 16).

29. When analyzing the information alleged by the representation, the Commission understands that the facts faced by the proposed beneficiary seek prevent him from reporting or disseminating what is happening in Cuba, in general, and continuing with his demand for justice for his brother, in particular (see *supra* paras. 12 and 14). The representation has indicated that at various times the proposed beneficiary has received threatening or intimidating messages with a view to preventing him from "continuing with his activism" (see *supra* para. 16). Such messages are particularly serious in the current

⁹ I/A Court H.R. Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia. Provisional Measures. Order of the Inter-American Court of Human Rights of February 7, 2006. Considerandum 16, and Case of Luisiana Ríos *et al.* (Radio Caracas Televisión – RCTV). Provisional Measures. Resolution of the Inter-American Court of Human Rights of September 12, 2005. Considerandum 17.

¹⁰ *Ibidem*

context of the country, and the hostile environment that exists towards anyone who seeks to promote human rights in the country. In the same way, to the extent that the proposed beneficiary is held incommunicado during his detentions, the Commission highlights what was indicated by the Inter-American Court by describing the prolonged isolation and coercive incommunicado detention per se as forms of cruel and inhuman treatment, damaging to mental and moral integrity of the person and the right of every detainee to respect due to the inherent dignity of the human being.¹¹ As the Inter-American Court stated, the detention together with being incommunicado not only prevents anyone from observing the persons' living conditions and health while in detention, but is also a curtailment of the detained person's procedural guarantees.¹²

30. The Commission notes that, despite having requested information, to date no communication has been received from the State of Cuba. The Commission regrets the lack of response from the State, which prevents the Commission from learning the State's position regarding this request and any actions implemented in order to address the risk described. At the same time, and according to the information provided by the applicants, the risk described has been attributed to State agents. On the other hand, since the Commission through this procedure is not called upon to determine the sources of the threatening acts or whether such acts are attributable to State actors, when assessing this request, the Commission does take into account the seriousness of the possible participation of State actors, per the allegations herein, as this would place the proposed beneficiary in a vulnerable situation.

31. Under these circumstances and in light of this analysis, the Commission considers, bearing in mind the applicable *prima facie* standard and the current context of the State of Cuba, that it has been sufficiently proven that the rights to life and personal integrity of Irán Almaguer Labrada are at serious risk.

32. Regarding the requirement of "urgent situation," the Commission deems that it has been met given that the information provided suggests that the risk faced by the proposed beneficiary is likely to continue and exacerbate over time as he continues with his activities in the current context of Cuba. The Commission lacks specific information from the State to assess any actions that may have been taken to address the alleged risk. There is also no available information to indicate whether the alleged situation has been properly mitigated or no longer exists. The Commission, given the analyzed situation, considers that it is necessary to implement immediate protection measures.

33. As regards the requirement of irreparable harm, the Commission considers that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

34. Finally, as regards the allegations on the health of the proposed beneficiary, the Commission has not obtained sufficient elements to conclude that his health is at risk under the terms of Article 25 of the Rules of Procedure.

IV. BENEFICIARY

35. The Commission declares Irán Almaguer Labrada the beneficiary, who is duly identified in these proceedings.

V. DECISION

¹¹ I/A Court H.R. I/A Court HR. Matter of Juan Sebastián Chamorro *et al.* regarding Nicaragua. Provisional Measures. Order of the Inter-American Court of Human Rights of June 24, 2021. Considerandum 36 [only in Spanish].

¹² *Ibidem*.

36. The Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Cuba:

- a) adopt the necessary measures to protect the rights to life and personal integrity of the beneficiary. To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiary, and protect his rights in relation to acts of risk attributable to third parties, in accordance with the standards established by international human rights law;
- b) adopt the necessary measures so that the beneficiary can carry out his activities without being subjected to acts of violence, intimidation and harassment in performance of his work;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representation; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of these precautionary measures, so as to prevent them from reoccurring.

37. The Commission also requests that the Government of Cuba kindly inform the Commission, within a period of 15 days as of the date of this communication, on the adoption of the precautionary measures that have been agreed upon and to periodically update this information.

38. The Commission emphasizes that, pursuant to Article 25(8) of the Rules of Procedure of the Commission, the granting of precautionary measures and their adoption by the State do not constitute a prejudgment regarding the possible violation of the rights protected in the American Convention and other applicable instruments.

39. The Commission instructs the Executive Secretariat of the IACHR to notify this resolution to the State of Cuba and the representatives.

40. Approved on August 28, 2021 by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Edgar Stuardo Ralón Orellana; and, Joel Hernández García; members of the IACHR.

Tania Reneaum Panszi
Executive Secretary