



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

2022 INTER-AMERICAN HUMAN RIGHTS MOOT COURT COMPETITION

Hypothetical Case: Climate Change and Human Rights: Impacts, Responsibilities, and Opportunities

Inhabitants of Murujuy, Colibritón, et al. v. State of Iraca and the United States of Chaco

Description and context of the State of Iraca and the United States of Chaco (USC)

1. Iraca is a country in the Americas whose territory has been inhabited throughout history by multiple Indigenous peoples with a thriving millenary civilization who acquired knowledge of agriculture, architecture, art, astronomy, and engineering. This led to its development, as evidenced by archaeological studies and current applied knowledge. Sicuara, the capital of Iraca, is in a desert region that the Indigenous peoples made habitable. It has about 60 km² of land suitable for food production, which is why it was one of the most important pre-Hispanic cities in the region.
2. Iraca declared independence in 1822. Its 24 million inhabitants include an Indigenous population of at least 50 Indigenous peoples, as well as a significant Afro-descendent population. Together, those who define themselves as belonging to an Indigenous or Afro-descendent people represent 19% of the country's total population.
3. Iraca's territory covers an area of 2 million km², plus numerous islands and islets. It shares a border with the United States of Chaco (USC) and boasts a rich biological diversity, making it the second most biologically diverse country in the world. However, it is also the country with the highest number of endangered species. Historically, it has produced peanuts, corn, cocoa, sugar, and tobacco, which were and continue to be essential to its economy.
4. The USC, which gained independence in 1795, is today one of the world's major economic and military powers. This was achieved especially thanks to its vast territory of 11 million km², with ample biodiversity, which allowed the country to develop its coffee, henequen, and rubber industries in the nineteenth century, and to the sound investment of revenues, which boosted various domestic sectors. One of the priorities set in Trancoso, its capital, was the development of social policies emphasizing respect for individual rights. The USC is Iraca's main trading partner and its most important border, and the two countries share a coastal zone on the Pacific Ocean.
5. The Constitution of Iraca was adopted by the Constitutional Convention in 1997, after a participatory process that was unique in the country's history. The constitution expressly



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

recognizes the human rights—both civil and political—of all persons, as well as economic, social, cultural, and environmental rights. It also established that hydrocarbon and mining extractive activities of all types are of national interest and a priority for the State.

6. Iraca has led the negotiation of international treaties on human rights, environmental protection, and climate change. It is a member of the OAS and was among the first States to ratify all the human rights treaties and their protocols. It ratified the American Convention on Human Rights in 1977, accepting the jurisdiction of the Court, and ratified the Protocol of San Salvador in 1990. In addition, it supported the UN Declaration on the Rights of Indigenous Peoples in 2007 and the OAS Declaration in 2016.
7. The USC is a member of the OAS, having ratified the American Convention in 1979 and the Protocol of San Salvador in 1991. It also voted for the adoption of the UN and OAS Declarations on the Rights of Indigenous Peoples in 2007 and 2016, respectively.
8. Iraca and the USC are States Parties to the United Nations Framework Convention on Climate Change (UNFCCC) and have signed and ratified its Protocols. Both States have participated in all the Conferences of the Parties (COP) of this Convention, since the first one in Berlin in 1995. The Congress of Iraca ratified the Paris Agreement in February 2016 and the Escazú Agreement in November 2018. The USC signed these agreements in March 2016 and December 2018, respectively.

Economic situation and history of the extractive and energy sector

9. Iraca is immensely rich in oil, gas, and coal, with the sector accounting for 25% of the country's Gross Domestic Product. This sector is concentrated in the northwest and began to be developed in the 1950s, following the discovery of large oil deposits. Domestic fuel production supplies the entire domestic market and 70% of production is exported, especially to the USC, Europe, and Asia. Several companies operate in the sector, with the State Fossil Fuel Company [*Empresa de Fósiles del Estado*] (EMFOS) being the most important, as it manages 64% of the entire market. Private equity firms, mostly transnational, control the rest of the market.
10. EMFOS was founded in 1943 to promote all oil, gas, and coal activities in Iraca. It had a monopoly in the sector for two decades, until the national government opened the market in 1972. Reforms were made and national and foreign private companies began to operate there. Today, EMFOS's main partner is NOXXE, which has 36% of the market share.
11. Since 1952, EMFOS has launched the most important oil projects in the Murujuy region. It started with prospecting and exploration activities. Oil exploitation began in 1972, with the operation of hundreds of wells, extending to the surrounding municipalities, including Colibritón, a USC city on the Iracan border. Iraca was one of the world's leading exporters at



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

the height of the oil boom in the 1970s, leading the global association that set the price per barrel of oil.

12. The USC has also been an oil-producing country. Its oil sector has been under development since the 1940s, when large deposits were discovered along the Iracan border. In the 1950s, a group of individuals founded the NOXXE company, entirely with private capital, to exploit oil and gas deposits. In 1972, this company began operating in Iraca, taking advantage of the fact that its government shared technical information and maps when it discovered that the deposits in its territory extended into Iraca. Largely because of this, NOXXE increased its capital and began operating in other countries.
13. Murujuy was also an important region for agricultural and organic honey production, and a well-known sustainable tourism hub since the 1940s—activities linked to the millenary tradition of Indigenous peoples like the Izamales. Ancestral crops remain predominant thanks to knowledge passed down through the generations. According to the 2002 national census, these agricultural and tourism activities directly employed 60% of the Indigenous population and indirectly employed thousands of others.
14. Iraca's energy sector also grew in parallel to the oil sector, especially with coal as the main fuel for electric power, which currently accounts for 30% of total national energy production. In 1987, five coal-fired power plants began operating in the country, one of which was located 60 km from Murujuy. This brought electricity to rural areas and to urban areas that had developed haphazardly, such as Murujuy. With electricity, community schools were able to offer evening and night schedules, tripling their student enrollment.
15. Starting in the 1970s, the USC, as part of its territorial planning, established priority zones for petroleum and extractive activities, designating the Colibritón area and its surroundings as a key area for the development of the USC's oil and gas industry. Given the extensive urban development that resulted from the oil industry expansion and population growth, the demand for energy quintupled. A coal-fired thermoelectric power plant was built and began operating in 1980.
16. Recognizing that this development was important for the region and that its economic growth and broad social policies were attracting many people from other countries, the USC began to pursue policies and programs supporting other States, helping to improve domestic policies. This also allowed it to share the benefits that its population enjoyed. Its development bank—in addition to the oil and gas operations—was essential to financing Iraca's infrastructure and social projects. The USC constantly intervened in multilateral banks to provide Iraca with favorable loan conditions and debt support.
17. To support capacity building, Iraca and the USC launched a study abroad scholarship program in 1972, enabling Sinforosa Osorio Vásquez and 14 others to travel from Iraca to the USC to



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

continue their education. Since the extractive sector was a priority, half of the students pursued postgraduate studies related to this field. As a complement to their studies, the scholarship included the opportunity to work at the most important oil companies in the USC, after which the students had to return to their country of origin and apply what they had learned.

18. When Sinforosa finished her graduate degree, she worked for NOXXE, with the research team in Izamal. There they discovered that the burning of oil was affecting the world's climate. It was eye-opening information that they shared in June 1973 with the company's General Management and Board of Directors. Management, concerned about the impact the information would have on their business, prohibited the research team from sharing, publishing, or speaking further about the matter directly or indirectly; anyone who failed to comply would be subject to administrative and disciplinary proceedings and possibly imprisonment. Sinforosa finished her scholarship in 1975 and returned to Iraca.
19. In September 1973, NOXXE organized a confidential meeting with the Private Council of Fossil Fuel Companies (PCFFC) to inform them of the research. Subsequently, NOXXE, industry partners, and PCFFC encouraged research into whether and how the burning of fossil fuels was affecting the global climate, and every six months they shared a confidential report between PCFFC management and all member companies. To strengthen their research departments, they created special grants and funded the best universities, which carried out confidential projects in this area. These donations were the idea of PCFFC and NOXXE's Board of Directors, with the participation of the heads of each of the oil and gas and extractive companies in the sector.
20. John Wills, chairman of PCFFC's board of directors, was also CEO of Cars of the Future, inventors and leading global manufacturers of a wide variety of vehicles. Upon receiving the news at PCFFC, John called an urgent and strictly confidential meeting of his board of directors and investors. On November 30, 1973, at the Cars of the Future meeting, John and the NOXXE scientific team explained that the burning of oil, particularly gasoline, was raising the temperature of the planet and that it would continue to worsen. The marketing director immediately pointed out that this information affected the sale of all their products and that therefore they had to keep the information out of the public domain at all costs. The board and the investors reached a consensus and agreed unanimously to: (a) keep the information completely confidential, not to be published or shared externally, particularly with authorities, the media, or civil society organizations; (b) create at least 15 strategic think tanks over the next 15 years, through which they would confidentially share and disseminate information about their sector, rejecting any information about how the burning of coal, oil, and gas, or any of their derivatives, caused climate change, and about its impact on the planet; (c) form a strategic partnership with PCFFC and all the companies to jointly lobby in all countries and help decision-makers regulate in the interest of their sector; (d) create and support



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

development agencies with funding for education and health assistance in the countries where their subsidiaries operate.

Impacts on people and nature

21. In mid-1986, inhabitants of Murujuy and surrounding areas began to report that the water tasted and smelled strange, like metal. Sheep and other farm animals showed strange symptoms, such as deformities and a fourfold increase in the mortality rate of offspring in their first year. Residents remarked that they had to go to the doctor more and more, as they began to experience headaches, fever, and stomach pains. Since that year, crop yields have declined, and by 2010 they harvested 70% of what they used to, as reported by the local university. In the Colibritón newspapers, on the other side of the border, there was a report with official information about air and water pollution, advising people to use caution and that, to be safe, it was better to buy water or at least boil it, but not to drink it directly from the tap because it was unhealthy.
22. People in Murujuy had been complaining of breathing problems since 1988 and reporting that their orchards and crops were dying. A group led by Aristobulo Daza and Hermencia Alba, made up of public and private schools, pediatric associations, student groups, and the Izamal people, filed a complaint with the authorities. They shared information on the measures being taken in Colibritón, where NOXXE had been fined for air and water pollution from the oil wells and the thermoelectric plant and had to install filters to prevent pollution, including in the oil wells and in the chimneys of the thermoelectric plant.
23. The Murujuy prosecutor's office responded that there was no crime because it required evidence of some particular harm that warranted an investigation. The police station responded that its officers were very busy and that it was not within their duties to handle matters relating to breathing difficulties or animals, so they referred the complainants to the health center and to the ministry of agriculture. At the health center, the doctor on duty stated that the increase in visits for respiratory illnesses was out of the ordinary, but that it was due to the recent cold weather.
24. In 1992, the Earth Summit was held in Rio de Janeiro, Brazil. It was attended by missions from all the States, including Iraca and the USC, as well as United Nations entities, organizations, and the private sector. In view of the scientific evidence of global warming and other climate changes linked to greenhouse gas emissions, the States agreed that actions were needed to stabilize greenhouse gas concentrations at a level that would prevent dangerous human-induced interference with the climate system. No concrete mandatory actions were identified, given the uncertainty as to what measures should be taken, by whom, and how. Actions were agreed upon for the more developed countries, including the USC, which were



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

to report periodically, while the other countries, such as Iraca, were to start implementing measures to address climate change.

25. PCFFC took a 30-person delegation to the Rio Conference that John Wills—now the USC’s ambassador to Brazil—had put together with the help of experts from the USC, Iraca, and other developing countries, in order to understand and establish positions. This group met with all the government delegations, including Iraca’s, highlighting the scientific uncertainty and contending that it was excessive to ask for measures to be implemented until more information was available. They underscored the importance of continuing research and voluntarily agreeing on actions, without the need to demand short- and long-term measures, which would generate losses in the millions of dollars for developing countries such as Iraca. After all, the USC’s companies were the largest foreign investment these countries had ever seen and with it, Iraca financed the electrification of rural areas and new social projects in health, education, and free low-income housing. These projects were essential for cities such as Murujuy where, thanks to NOXXE, 35% of the city’s economy depended directly on the company’s activities.
26. A group of people from Murujuy, led by Alirio Garzón Cárdenas, who received an award for caring for endemic butterflies, attended the Rio Conference with funding from NOXXE, and EMFOS. Hermencia Alba, founder of the Murujuy Air and Water Coalition, and a dozen other members of the Coalition were not allowed to attend. The Coalition, made up of 25 organizations from Murujuy and surrounding municipalities, requested authorization and financial support from the authorities of Iraca and the USC, NOXXE, EMFOS, universities, and other entities to attend the Conference and present the report on the death of fish and birds since the oil companies and coal-fired power plants began operating 20 years earlier. When PCFFC learned of Hermencia’s and the Coalition’s request, it sent a letter to the foreign ministries of the USC and Iraca recommending that they not authorize their participation because the negative message against the industry—which was unsubstantiated and scientifically uncertain—would affect the joint agenda of the governments.
27. In 1994, NOXXE and PCFFC created and financed the Center for Thought and Dissemination of the One Truth [*Centro de Pensamiento y Difusión de la Única Verdad*] (CEPEDIUA) and bought El Ojo, the largest media consortium in Iraca. Aware that such investments and support could be misinterpreted by the press and by organizations and other entities, they did so anonymously. They also strengthened their advertising campaigns, highlighting their companies’ environmental and sustainable projects.
28. In the same year, given the importance of having a healthy and pollution-free environment, a group of teachers and mothers in Murujuy decided to document the diseases they and their families had. They realized that there were more people with cancer, especially of the



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

respiratory system, in the city and its surroundings. These diseases affected children and adolescents in particular.

- 29.** When they asked other mothers and teachers from Colibritón, with whom they are very close because they share the border area, they learned that the people of Colibritón had been seeing impacts to their health, water, and air caused by oil and thermoelectric operations for years. The information was corroborated by scientific research from other countries showing that people and communities around oil and coal plants could experience negative health impacts similar to those experienced by the people of Murujuy. In fact, this is why, in other countries, these industries were not located in populated areas. The women of Murujuy concluded that the illnesses of their children, friends, relatives, and others were not a coincidence, but were interrelated and linked to the polluting activities.
- 30.** In 1995, the Murujuy Air and Water Coalition invited and supported a scientific group from the USC and other countries to visit and study the area. In its conclusions, the international delegation congratulated the Iraca authorities, since the air and water standards and indices were in line with those required by the World Health Organization. It also commended them for their coordination plan with the Colibritón border authorities. However, it expressed serious concern that the air and water quality in Murujuy were among the worst in the region and in the world, given that standards and indices were not being enforced. In contrast, the scientific delegation highlighted Colibritón's pollution monitoring efforts, including the program to end flaring in the oil zone and the relocation of residents living within 5 km of the oilfield, as examples of actions needed for the entire border. These were implemented at the request of the USC's environmental and health authorities and would be paid for by NOXXE, as part of a fine imposed against the company.
- 31.** The scientific delegation presented its conclusions to the authorities of Iraca and the USC. Iraca's health and environmental departments jointly responded that they did not know the situation was so serious, but that they could imagine; after all, the area was already known as a sacrifice zone by the national and municipal authorities and by the company. The Iraca authorities said they were certain that all the pollution was coming from trucks on the road, since it was a very busy border crossing, so there was not much that could be done. In any case, because the cities were on the coast, the pollution was blown out to sea by the wind and therefore did not affect the cities or their inhabitants. The department of energy objected to this information, arguing that it had not been gathered in an official manner or following official protocols. It also claimed that it was a campaign by the USC investors to deprive Iraca of tourists.
- 32.** The USC government, in line with its policies, created a ten-year program to improve air and water monitoring in the area, including the installation of air quality meters. Iraca was pleased



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

to accept them. These monitors operated at odd times and when the power went out, which was every three days, they were left without data.

- 33.** CEPEDIUA and El Ojo analyzed the international delegation's findings, profile, and experience. They found that the vast majority were from the USC and that the participants from Murujuy had belonged to the NOXXE union and had been removed from the company for their unfounded criticism of air pollution and for manipulating monitoring data. CEPEDIUA and El Ojo launched a communication campaign highlighting the benefits of oil and coal and society's inability to survive without them. Matilda Ramírez, a journalist for El Ojo, provided information on renewable energy options and the possibility of replacing fossil fuels. El Ojo's management accused her of acting against her own company, stating that these projects were from other countries and did not apply to the national reality. At the end of that month and without further explanation, they canceled her contract. El Ojo also did not publish and never made reference to the international delegation's findings, arguing that they lacked scientific rigor and contradicted official data.
- 34.** In 2004, ten-year-old Ramón López, a native and inhabitant of Murujuy, was diagnosed with a malignant tumor and died the following year. His mother Maricruz Silva asked at the hospital if they knew of similar cases. They led a healthy life, consuming food traditionally grown by their families, without chemicals, as people had been doing in Murujuy for over 3,000 years. Maricruz confirmed that hospitals and health centers had reports of tracheal, bronchial, and lung tumors at rates not seen elsewhere and in children from families that had no history of this type of cancer.
- 35.** In 2005, Maricruz Silva and dozens of relatives of people from Murujuy and Colibritón with cases similar to Ramón's founded the Movement for the Protection of the Environment and Human Rights. The Movement planned its first binational meeting on July 25 to 31, 2009, to share information, learn about the health and air situation, and agree on a joint work plan. The meeting was to be attended by the Murujuy Air and Water Coalition, among dozens of other organizations. The meeting was postponed due to record flooding that affected the city and the entire rural area, causing millions in losses from the destruction of crops and bee hives. Maricruz Silva's house and those of her parents and sisters flooded, and they lost everything; their crops and beehives were destroyed, and their animals drowned.
- 36.** The binational meeting was finally held in January 2010 to share information on the environmental and health situation, including the incidence of diseases and the effects on the inhabitants, mainly in Murujuy. Research was also presented from the last 12 years on the impacts of droughts and floods, including the one that had occurred the previous year. The event was attended by Dr. Sinforosa Osorio Vásquez, an expert on climate change and a member of the United Nations Intergovernmental Panel on Climate Change (IPCC), who



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

concluded that these impacts were related to climate change brought about by the burning of fossil fuels. Other speakers included Bel Tepic, president of the leadership council of the Izamal people, who reported that the soil fertility of the land had decreased by 65% since 1995. Students from the border area universities presented similar data. The farmers' association shared that they had lost 40% of their income in the last five years due to the diminishing quality and quantity of their products. Intense droughts also brought a white moth infestation in 2003, and farmers had again lost their crops due to the floods in recent months. Given the seriousness of the situation, they founded the Safe Climate Collective. They presented a joint action plan that included communication with Iraca and USC authorities, requesting actions to understand and address the climate change impacts that they had begun to experience and that aggravated the existing effects of air and water pollution.

- 37.** In 2010, the Safe Climate Collective presented its proposals to the governments of Iraca and the USC, prioritizing the need and urgency of having emergency response plans, because the impacts of climate change were already being felt and the scientific community said they were on the rise. Iraca was receptive to the proposals, agreeing with some of them. But it argued that it was impossible to implement them immediately, as the Movement was requesting, because of the need to cut back on research and risk management while recovering from the recent economic crisis of 2008. The USC replied months later, concluding based on its analysis of the information that there was no scientific certainty that the harm had been caused by climate change, and recommending that they handle the information with caution to avoid creating panic. It also recommended and funded a program to improve agricultural practices and water management.
- 38.** In Iraca, floods and droughts worsened every year, confirming the warnings of the scientific community and severely affecting crops and tourism. In 2010 two tropical storms hit the area, causing millions of dollars in losses, including the collapse of major bridges and roads and the near total loss of the hospital built by NOXXE. Children in need of cancer care and respiratory treatments had to go to the regional hospital 100 km away or stop receiving medical care.
- 39.** In 2011, floods destroyed the cabins that had been built ten years earlier through community work. Sea levels continue to rise, and salt deposits remain in the soil, burning corn, peanut, and bean crops. People in Murujuy noticed that the water did not return to its previous level. In fact, much of the coastal area remains flooded year-round. This worried the Izamal people because their territory and cultivable areas have shrunk every year since then; they have fewer products to eat and sell, and poverty has risen. Malnutrition among children has also increased, as they no longer have access to good food.
- 40.** The situation was different in the USC, where farmers and the tourism industry received support after the floods thanks to insurance and Colibritón's mitigation projects. They also have a coastal protection plan and a system of locks to control water levels in case of flooding,



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

which prevents the sea level from affecting arable land. This is particularly useful given the scientific community's projections of sea level rise, which will affect the entire coastal zone.

41. In addition, the USC government announced that due to coal pollution and the impact on climate change, it would close its coal-fired power plant in Colibritón and other similar plants over the next 20 years. This was feasible given that energy efficiency and reasonable energy use efforts had reduced demand, and renewable solar and wind energy from community projects could provide the remaining energy.
42. Recently, there have been very intense heat and cold waves in both Iraca and the USC. The intense heat, which increases due to solar radiation and changes in winds, has led to asthma attacks and other effects requiring urgent medical attention, especially in children and people with respiratory problems. This also happens during cold snaps, forcing people to spend more money on heating to prevent further illness.
43. Iraca and the USC submitted their nationally determined contributions (NDCs) to the UNFCCC secretariat in 2015 and updated them in 2020, in a timely manner. Iraca set emissions mitigation targets, including reducing emissions from deforestation. They did not include emissions related to the hydrocarbons and energy sector, arguing that it was very low and that they lacked the technology to measure it. They claim to be in compliance with the Paris Agreement as their targets fall within the average level of ambition and commitment of the other States. The USC reported on the effort to control emissions from the oil industry and to close coal-fired power plants, such as the one in Colibritón, and pledged to reduce emissions by 20% by 2030, considering 2010 emission rates.

National legal actions

44. In November 2011, six hundred members of the Safe Climate Collective, mostly from Murujuy and Colibritón, and including 250 children and members of the Izamal people, sued the State of Iraca in a class action for constitutional protection. They sought acknowledgment of the violation of their human rights due to the impacts of climate change and asked that the State be ordered to: redress the harm caused; implement effective plans to address the risks and prevent greater impacts in the future; reduce climate change emissions, particularly from the oil and energy sector; transition from coal to cleaner energy sources; establish a fund to support the health of people affected by oil and thermoelectric operations, who are experiencing greater health impacts due to climate change; and support alternative programs for traditional agriculture in Murujuy.
45. The court dismissed the lawsuit for lack of jurisdiction over the USC individuals, as well as lack of evidence of harm to their human rights and of how climate change and emissions affected them. The court also held that the State of Iraca had no obligation to reduce emissions because it was not listed in Annex 1 of the UNFCCC. The judge noted that it had been



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

scientifically proven that developed countries had contributed the most and that they should be held accountable. The Safe Climate Collective appealed the decision, which was upheld by the Supreme Constitutional Court of Iraq.

46. The Safe Climate Collective also filed a constitutional class action lawsuit in the USC courts, based on the same arguments as the one filed in Iraq. The Court dismissed it in relation to the Iraqi individuals, finding that it was not competent to entertain matters outside its jurisdiction. Regarding the individuals from the USC, it dismissed the claim on the grounds that there was no causal link between the harm alleged and the government's actions. In relation to the future harm alleged by the plaintiffs, the Court concluded that, since it had not materialized, the Court could not rule on the matter.

Proceedings before the inter-American system

47. On January 8, 2013, the group of six hundred inhabitants of Iraq and the USC, including 250 children and members of the Izamal people, all part of the Safe Climate Collective, filed a joint petition with the IACHR against the States of Iraq and the USC, alleging the violation of Articles 4 (right to life), 8 (right to a fair trial), 19 (rights of the child), 21 (right to property), 25.2 (right to judicial protection), and 26 (healthy environment), in relation to the obligations contained in Articles 1.1 and 2 of the Convention, derived from the actions and omissions of both States regarding measures to address the climate crisis.
48. On January 18, the Commission forwarded the request to the States of Iraq and the USC to reply to the petitioners' allegations and arguments within three months. The States replied jointly, contending that the Commission had no jurisdiction to hear the case, because it seeks to hold each State responsible for actions that occurred outside its jurisdiction and in relation to the rights of persons under the jurisdiction of another State. In addition, they presented all the information about their plans and programs in compliance with the Paris Agreement and other climate commitments.
49. Considering the urgency and relevance of the case (because some of the alleged victims are children), as well as the serious structural issues to be addressed, in August 2016 the Commission decided to consolidate the admissibility and merits stages of the petition.
50. In October 2021, the Commission published Merits Report No. 34/21, declaring the petition admissible based on the time and place of the facts and finding the States of Iraq and the USC responsible for the human rights violations alleged in the petition under the American Convention. According to the Commission, the USC is exceptionally responsible in relation to the victims located outside its jurisdiction. This is because the harm is serious and affects the victims' human rights, because there is a causal link between these rights violations and the actions and omissions of the USC, because of the USC's clear control of the activities that



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

caused the harm, and because the harm could have been prevented. Accordingly, the Commission ordered:

- the State of Iraca to: immediately implement the legal framework applicable to activities within its territory that affect climate change, in particular the effective supervision and control of activities in the oil and gas sector, prioritizing the Murujuy area; review its policies, plans, and programs to address climate change, including NDCs, ensuring that the sectors that produce the most emissions are included, and increasing the ambition of those actions by prioritizing the effective protection of human rights; implement a closure plan for the coal-fired power plant operating in Murujuy and other fossil fuel power plants, preventing further harm, both now and in the future; implement an epidemiological surveillance program in the area where oil and gas activities take place and where coal-fired power plants operate, in order to thoroughly evaluate the extent to which the health and lives of the victims have been adversely affected and the actions taken to guarantee their rights; design and implement effective adaptation plans at the national level, prioritizing the coastal areas of Murujuy, that consider traditional knowledge and promote social justice, and that address current and future risks and impacts of climate change; promote, with the participation of the Izamal and other Indigenous and Afro-descendent peoples, and based on their life plans, measures to protect their territories from climate change impacts; in the areas of Iraca where the sea level has risen permanently, provide for climate change remediation measures for the victims who have lost their land and territory; ensure measures to address health care and other risks that victims may face due to climate change impacts.
- the USC to: immediately review and implement the legal framework applicable to activities within its territory that affect climate change and have an impact outside its territory, including the effective control, supervision, and oversight of the oil and energy activities of companies operating in its jurisdiction; review its climate change policies, plans, and programs, including NDCs, ensuring that their level of ambition and effectiveness is commensurate with its climate responsibility, and that they protect victims' human rights; collaborate with the State of Iraca by sharing information and knowledge for the evaluation and closure of the coal-fired power plants that still operate there; collaborate with the State of Iraca by providing timely, appropriate, and complete information and technical assistance regarding the impacts of fossil fuels on climate change and alternatives for implementing a fair transition; collaborate with the State of Iraca by providing information and technical assistance to develop effective national adaptation plans that address current and future climate change risks and impacts, prioritizing the coastal areas of Murujuy, considering traditional knowledge, and promoting social justice; implement, in collaboration with the State of Iraca, measures to respect, remedy and protect the



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

territories of the Izamal communities and other indigenous peoples from the impacts of climate change, with the due participation of the Izamal indigenous people and other indigenous peoples and Afro-descendants, based on their life plans; in relation to the areas of Iraca where the sea level has risen in an irremediable way, to provide measures of climate change reparation for the victims who have lost their lands and territory; ensure health care and other measures regarding risks that victims have to face due to the impacts of climate change.

- 51.** After meeting the deadlines established by the Commission under the American Convention and the Commission's rules of procedure, and since neither Iraca nor the USC complied with the recommendations, the Commission submitted the case to the jurisdiction of the Inter-American Court of Human Rights on January 5, 2022, alleging the violation of the same articles cited in the IACHR's report on the merits.
- 52.** On January 7, 2022, in keeping with its rules of procedure, the Court served notice on the victims, granting them two months to file a brief containing their pleadings, motions, and evidence. Upon receipt of the victims' brief, the Court forwarded it to the State on March 8 for its observations, granting it a two-month deadline.
- 53.** Having received all the information, and in accordance with its rules of procedure, the Court scheduled a hearing for May 23, 2022.