CASO MARICRUZ HINOJOZA E OUTRAS

VS.

REPÚBLICA DE FISCALÂNDIA

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ABREVIATURAS

& +	&DVR +LSRWpWLFR
&$'+ RX &RQYHQomR	&RQYHQomR $PHULFDQD GH 'LUHLWR
&('$:	&RQYHQomR 6REUH D (OLPLQDomR G
	GH 'LVFULPLQDomR &KRQU
&,'+RX &RPLVVmR	&RPLVVmR ,QWHUDPHULFDQD GH 'LU
&RQVWLWXLomR	&RQVWLWXLomR 3ROtWLFD GH)LVFD
&W$'+	&RUWH $QDD GH 'LUHLWRV +XPDQRV
&W('+	&RUWH (XURSHLD GH 'LUHLWRV +XPD
&W,'+ RX &RUWH	&RUWH ,QWHUDPHULFDQD GH 'LUHLW
-XQWD	-XQWD GH 3RVWXODomR
2&	2SLQLmR &RQVXOWLYD
218	2UJDQL]DomR GDV 1Do}HV 8QLGDV
3 (	3HUJXQWDV GH (VFODUHFLPHQWR GR
3ULQFtSLRV %iVLFRV	3ULQFtSLRV %iVLFRV GDV 1jDo}HV 8
	3 € +° 0

REFERÊNCIAS BIBLIOGRÁFICAS

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%2 9 , 1 2 $ OE HUWR *Evidential Issues Before the Inter-American Court of Human Rights* (P 5 H Y L V W D G D) D F X O G D G H G H ' L U H L W R V + X P D Q R V Y R O Q ž

%8 = $, ' $ O Ju ri G e A *Juicio de Amparo e Mandado de Segurança: Contrastes e Confrontos* (P 5 H Y L V W D G D) D F X O G D G H G H ' L U H L W R G D 8 Q L Y H U V L G D G H G H

& + $ ' $ 0 % 8 . $ = Y L N R S R E R O H U R *Serious Offences And The Right To Trial Within a Reasonable Time* (P (V V H [+ X P D Q 5 L J K W V 5 H Y L H Z Y R O Q ž

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(V S D Q K D *El recurso de amparo* (P 7 U L E X Q D O & R Q V W L W X F L R Q D O G H (V S D

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. $ ' (/ % $ & + 6 W H U D Q *International Law and the Incorporation of Treaties into Domestic Law* (P * H U P D Q < H D U E R R N R I , Q W H U Q D W L R Q D O / D Z Y R O

. $ = $ = , 0 P W D *Claimant's Duty: Actori Incumbit Probatio.* (P % X U G H Q R I 3 U R R I 5 H O D W H G , V V X H V $ 6 W X G \ R Q (Y L G H Q F H % H I R U H , Q W H U Q D V

. , 5 % < 0 L F K D H O *Modes of Appointment and Training Judges - A Common Law Perspective* (P & , < / H D U E R R N 8 Q L Y H U V D O $ V S H F W V R I - X G L F L D O , Q G H S H

. 2 7 8 % < - 5 & K D U O H V *General Principles of Law, International Due Process, and the Modern Role of Private International Law* (P ' X N H - R X U Q D O R I & R P S D U D W L Y H / D Z Y R O

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2 1 8 0 X O K O H U L H V *Glossário de termos do Objetivo de Desenvolvimento Sustentável 5* S

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Gregory vs. United Kingdom

À honorável Corte Interamericana de Direitos Humanos,

$ 5HS~EOLFD GH)LVFDOkQGLD YHP WHPSHVWLYDPHQV

'LUHLWRV +&XPDQRV DSUHVHQWDU GHIHVD H UHTXHUHU TXH VH

VXSRVWDV YtWLPDV 0DULDQR 5H[0DJGDOHQD (VFREDU 0

DTXL UHSUHV&RQWDGR SHOD &RPLVVmR ,QWHUDPHULFDQD GH 'LUHLWRV +X

SRU DEVROXWD DXV

QRYR WH[WR FRQVWLWXLoRQDO QD VHJXQGD 3UHVLGHQW
VHX H[HUFtFLR WUDQVLWyULR FRQIRUPH GHWHUPLQDo
&RQVWLWXLomR DWp TXH RXWUD VHMD HOHLWD QR PHGLQLWLYR
1R XVR GH VXDV DWULEXLo}HV R 3UHVLGHQWH 2EUHJy
HVFROKD GRV 6HFUHWiULRV GH (VWDGR H GR &KHIH GD &DVD &LYLO H GR &KHIH GR *DELQHWH 0LOLWDU
5HS~EOLFD GLVVR 2EUHJyQ GHFODURX DEHUWDPHQWH V
FRUUXSomR GH VHX JRYHUQR
1D VHTXrQFLD GLYHUVRV VHWRUHV FDGD YH] PDLV RUJXOKRVRV GH VXD 1DomR H GH VHX JRYHUQR
VXJHULQGR D FRQFHSomR GH XP PHFDQLVPR LQWHUQDFLR
5HS~EOLFD QD OXWD FRQWUD D LPSXQLGDGH $VVLP QDVFH
(P LQXVLWDGD FRQGXWD D HQWmR 3URF\p0U U0pRO QG

1.1.1. PETIÇÃO 255-17: MARIANO REX

2 (VWDGR p R LQGLVSHQViYHO SHUDQWHRWULEXQDO GH MXVWLoD GR
IXQGDPHQWDO GR GHVFXPSULPHQWR GH SUHFHLWR
p SUHFLVRO KHUQHSHUWXQLGDGHV H D SRVVLELOLGDGH
LQWHUQDPHQWH

$VVLP D &RUWH QmR SRGH VHU XWLOL]DGD FRPR XPD
D VXSRVWD YtWLPD FRQVLJD R UHVXOWDGR TXH D IDYRUHF
VXEVLGLiULR FRDGMXYDQWH H FRPSOHPHQWDU

1.1.2. PETIÇÃO 110-17:MAGDALENA ESCOBAR.

1R TXH WDQJH DRV IDWRV GD VXSRVWD YtWLPD 0DJGD
HVJRWDPHQWR GH UHFXUVRV LQWHUQRV ,VWR SRUTXH
SHUDQWH D &,'+ R SURFHVVR GH QXOLGDGH QmR KDYLD VL
1HVWH VHQWLGR HVWD &RUWH YHVMi+ RGHFLGLXRQ HR /yQH] È
YV 3HHURXWURHV R SUD]R UD]RiYHO D TXH VH UHIHUH R DUW
HP UHODomR j GXUDomR WRWDO GD SULVmR SUHYHQWLYD GHPRQVWUDGR
$GPLQLVWUDWLYR EPTXDO IRL VHQWHQFLDGR QR GLD
HOD DSUHVHQWRX SHWLomR DR WULEXQDO HP VXD YtWLPD VHT
GH VXD DomR HP SULPHLUD LQVWkQFLD FRPHTXHQWH WHHYDH GRXL
FpOHUH HDQiOLVH LQWHUSRVWD GLYLGXDOL]DGD
6XEVLGLDULDPHQWH HP QmR VHQGR R HQWHQGLPHQ
DEVROXWRV HVTXHLHQWHO HO DomRj DDVXSRVWD GLFULPLQDomR SUD
TXDO SRGHULD VHU XP GRV UHTXLVLWRV SDUD DSOLFDomR
DSUHFLDU TXDWUR FULWpULRV FRQVROLGDGRV HP VXD MXU
$VVLP FRQIRUPHGVHURQjRVTXHRWWDQJHLRODGomR& DUWL
no FDVR HP FRPHQWR REVHUYDQGR DV SHFXOLDULGDGHV G
WRWDOPHQWH SODXVtYHO TXH R IHLWRMDXLQJDGRmR WHQKD

& W , '*López Álvarez vs. Honduras* †
& W , ' + *Wong Ho Wing vs. Peru* †
& W , '*Acosta Calderón vs. Equador* † *Suárez Rosero vs. Equador* *Argueles et al vs. Argentina* †
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1.1.3. PETIÇÃO 20918: MARICRUZ HINOJOSA E OUTRAS.

4XDQWR DRV IDWRV TXH GL]HP UHVSHLWR jV SHUHTXHQVm
DPEDV ILX]HUDP XPD YLD HUU{QHD SDUD LPSXJQDU DV GHFL
'HVVD IRUPD DR PHVPR WHPSR UHDOLPHQWDUDP FRP MXOJDGR LPSURFHGHQW
)DJVH PLVWHU GHVWDFDU TXH HQWUH RV GRLV SURFHVVRV WUDQVLWDGRV &RUWH
MXOJDU LPSURFHGHQWH R UHFXUVR DILUPRX TXH DV VXS
LUUHJXODULGDGHV SRU PHLR GR SURFHVVR GH 1XOLGDGH
1R FDVR *UDQGH YHULILFRX VH XPD GHFLVmR SURIHULGD HVWD &RUWH R (VW
VXSRVWD YtWLPD WHYH D RSRUWXQLGDGH GH LQWHUSRU
LQWHUQD DVVLP FRPR QR SURFHVVR QR TXDO R (VWDGR IRL FRQGHQDGR 3URFH
0DULFUX] H 6DQGUD UHFRUUHUDP jV LQVWkQFLDV LQWHUDPHULFDQDV VXSHULR
HVJRWDQGR DVVLP RV UHFXUVRV LQWHUQRV GH IRUPD UD]RiYHO &RQGHQD
(VVD &W,'+ SRUWDQWR GHYH VHU DEVROYLGR GH FRQWUDGLWyULR GHFODUDQGR
+RQGXUDV GHVILQLU TXH D GHFLVmR GHVIDYRUiYHO QR FDVR
SRU VL Vy R HVJRWDPHQWR GRV UHFXUVRV LQWHUQRV
QHJDGR SRU PRWLYRV UHOHYDQWHV H LPSURFHGLWyULRV VRE
YtWLPDV R DFHVVR DRV UHFXUVRV LQWHUQRV
(P VXPD QmR Ki FRPR QHJDU TXH UHFXUVRV LQWHUQRV
YtWLPDV &RQVHTXHQWHPHQWH L D IDOWD GH LQWHUHVV
GH GHVWLQWXODUQRPL L D QmR HVSHUD GH 0DJDOHQD SHO

& + †
& W , 'G*rande vs. Argentina*
& W , 'G*odínez Cruz vs. Honduras* †
& + †

LPSHWUHX H D QmR LQWHUSRVLomR GH XP UHFXUVR FRU

DFDUUHWDUDP QD LQIUDomR GR DUWLJR GD &$'+

GD &$'+(QTXDQWR R DUWLJR GHPDQGD TXH RV (VWDGI

Prh &•2 RF RQ BWHUD YLRODo}L

1R FDVR 3DODPDVUD&KLOHDUHQVHQWRXTXH DDOLQHSHQG
TXDOTXHU MXL] FRQWD FRP XP SURFHVVR GLVFLSOLQDU HP
SRVVXL VDOYDJXDUGD FRQWUDGLWyULR VXPXODU H[LVWHQFLDO IRUD
)LVFDOkQGLD TXH SURSRUFLRQD UHFXUVRV QHFHVViULRV
VXDV IXQo}HV RUPD TXH DV GHPDQGDV SURFHVVXDLV VHMDP
2XWURVVLP R DOFDQFH GDV JDUDQWLDV MXGLFLDLV H
GHYH VHU DQDOLVDGR HP UHODomR DRV &RQWURODGRUHV GR
HVWDELOLGDGH H LQDPRYLELOLGDGH GRV MXt]HV QmR p D
GLUHLWRV KXPDQRV DGPLWH TXH RV MXt]HV VHMDP GHVWL
FRPR QR SUHVHQWH FDVR

2 3RGHU -XGLFLDO GH)LVFDOkQGLD UHXQLX WRGDV DV
LPSDUFLDOLGDGH VHJXLQGR R 3DFWR ,QWHUQDFLRQDO
H MXRJMDXL] 0DULDQR L D &RUWH 6XSUHPD DWUDLX FRU
JHUDO H GH JUDQGH LPSDFWR VRFLDO SRU WUDWDU GH XP
GD LQYHVWLJDomR IRL SULPHLUDPHQWH
GLVFLSOLQDU H SRU ILP LLL D VDQomR GH GHVWLWXL
TXDOLILFDGRUHV

& W ,.'Palamara Iribarne vs. Chile †
& W , 'Apitz Barbera et al vs. Venezuela †
& W (' Langborger vs. Suécia †
$ * 1 8 *Princípios Básicos Relativos à Independência da Magistratura* †
& W , 'Palamara Iribarne vs. Chile †
&W , 'Reverón Trujillo vs. Venezuela †
$ * 1 8 *Pacto Internacional sobre Direitos Civis e Políticos.* $ U W † ž
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(VWD &RUWH Mi GHFLGLX QR FDVR 7ULEXQDO &RQVWLV
JDUDQWLU D LQGHSHQGrQFLD GH TXDOTXHU MXL] HP XP (V
FRQVWLWXFLRQDO HP UD]mR GD QDWXUH]D GRV DVVXQWRV
1R HQWDQWR FRQVWLWXFLRQDOLVWDV HP FRPHQWR 0DULDQR QmR
HP TXH R UHFXUVR GH DPSDURXVH GHVFRQVLGHUDGR LQWURGXWLYR KX
VREUHWXGR XPD IXQGDPHQWDO FRQWURYpUVLD VHQVLEHOPHQWH GLY
UHVSRQVDELOLGDGHV FRPR VXJHULX SDUD DOLPHQWDU GLVFXVV
7RGDYLD HQWHQGR TXH UDFLRFtQLR QmR SRGH FRQGHQDU R TXH DL FR PDJLVW
LQGHYLGDPHQWRV SUREDWyULRV e XPD JDUDQWLD YLQFX
DVVLP DV GHFLV}HV TXH yUJmRV LQWHUQRV DGRWDUHP TX
GHYLGDPHQWH IXQGDGDV HP SUHFHGHQWHV DGPLWUiULDV 'HVWD PDQHLUD QmR
SURWHomR GD SHVVRD IUHQWH DR H[HUFtFLR DUELWUiULR

VHQWHQoDV GHILQLWLYDV HPLWLGDV SRU WDLV DXWRULG

HIHWLYDPHQWH RV GLUHLWRV QHOD GHFODUDGRV RX UHFR

3RGHH DEVWUDLU WDPEpP TXH D 5HS~EOLFDSGHV)LVFD

TXDQGRRVRL DYRFDGR SHOD &RUWH 6XSUHPD R IH] GH IRUP

GH HVWDEHOHFHU SUHVVXSRVWRV H FULWpULRV GH]}DHVPGH

VHJXUDQoD MXUtGLFD FRUUHWD H IXQFLRQDO DGPLQLVW

GLUHLWRRQ IRUPH HQWHQGHX D &W,'+ HP 7UDEDOKDGRUHV 'H

$ &$'+XWLRVL]DHUPRV ³MXL] RX WULEXQDO FRPSHWHQW

DUWLJRV H³FRPSHWrQFLD´ FRPR PpWRGR SDUD MXOJ

SHQD GHLVDmRHIRUPDGD QmR VHU HFRQVLGHUDGSDUDFXWrQR

RULJHPRU FRQVHJXLQWH DR DWUDLU R FDVRQDDRXUDL&RRU

DR DFHVVR j MXVWLoD SHUVHJXLQGR ILP OHJRQVRQDHQGHF

DR GLUHLWR LQWHUQDFLRQDO GRV GLUHLWRV KXPDQRV

$ UD]RDELOLGDGH GR SUD]R GHYH VHU DSUHFLDGD FR

SULPHLUR DWR SURFHVVXDO DWp TXH VHMD SURIHULGD

LQVWkQFLD FXHQSRXDOPHQWH VHHUVDSUHVHQWDGRRX

SDUD GHWHUPLQDU D UD]RDELOLGDGH GRHSUD]RFRQGLDO

FRQIRUPH HVVH TXHTXHVWLRQDPHQWR HP SDUD]WLFDGHH SRUR

UHDOL]DGD H QmR KRXYH GHPRUD SRU SDUWH GDV DXWRUL

& W , 'Claude Reyes et al vs. Chile †

& W , 'Trabalhadores Demitidos do Congresso vs. Peru †

& W , 'Usón Ramírez vs. Venezuela 9RWR FRQFRUGDQWH GR MXL] *DUFtD 5DPtUH] †

2 GLUHLWR GH VHU MXOJDGR SRU XP MXL] RX WULEXQ
GHYLGR SURFHVR&RQWHQFLRVR(GXDUGR'LHULDLWRV +XPDQRVQL&W('-
LPSDUFLDOGGRDYGHDVHSHFWRV L R VXEMHWLYR HP TXH R
SUHFRQFHLWRV RX SUHFRQFHLWRV RX SUHFRQFHLWRV RX

(QWUHWDQWR FRPR R FDVR IRL OHYDGR HUURQHDI
UHFRPHQGDGDoHFDV GHVWD OLGH R (VWDRGSUHFHVVRPHGWV
GR MXL] 0DUHLYDQRmRD LQGHSHQGHQWH $ IRUWH LQVWLWXFL
SRGHUGHVPRQVWUDP TXH HP)LVFDOkQGLD RV WUFLEXQDLV
LQWHJUDO GH PHGLGDV GH UHSDUDomR SURSRVLEDQGR H
Rabis tuo
ante[112] @Q 0

3HOR H[SRVWR FRPSURYDDF G0UH@ð…PL•#YR5PÐ Q`p `R@

2 UHIHULGR LQVWUXPHQWR PHQDORQDGTDXHSRDUFXDPXWDXtGLRH
FRPSHWHQWHY LDPHQWH HVWDEHOHFLGR HP OHL

1R SUHVHQWH FDVR D DXWRULGDGH GR ž 7ULEXQDO
SDUD FRQKHFHU GD 3HWLomR GH 1XOLGDGH GH $WRGD$GPLQ
QD &RQVWLWXLomR DVVLP FRPR D FRPSHWS QHDMXOJDUO
DSHODomR SURSRVWD SHOR $GYRJDGR GR 3RGHU ([HFXWL
6XSUHPDXH SURIHULX D GHFLVmR FRQFOXVLYD GD GHPDQG

e HVWDEHOHFLGR WDPEpP D QHFHVVLGDGH GH XP M
IDWRUHV TXH VmR SUp UHTXLVLWRV GR HVWDGR GH GLUHL

$TXL FDEH UHVVDOWDU TXH R OHJLVODGRU GH)LVFDO
j HVVHV HOHXPHQWRV TXH D HVFROKD GRV 67pD JUHVDWULDGRV
SRU PHLR GH YRWR GD PDLRULD TXDOLILFDGD GH € GR
$VVHPEOHLD /HJLVODWLYD TXH HOHJHP R FDQGLGDWR
HVSHFLDOPHQWH SHDGH DJXDUDUHIDJRU p R SURFHGLPHQWR
GHPDLV LQVWkQFLDV

1R PDLV FRQVLGHUDQGR TXH D *de facto* UFRLPDROHHDUGHHRGHMHY
JUDX GH SHUQRSFoDmVR GH)LVFDOkQGLD HVWD ILFD GHPRQV

&W,'+ *Noguera et al vs. Paraguai* †
&W,'+ *Carvajal Carvajal et al vs. Colômbia* †
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(&262&8LtQFRV GH %GHQ&RQWD -XYGLFLDLV H

VLGR SRVWHULRUPHQWH UHYRJDGR LFQDXWWkHQFLDU UHXTXHU

IRULDQLFLDOPHQWH DGPLWLGD GH PRGR TXH D VDXOSHRJVDWDR

YtWLpPEDD VHDGDtHYRFXRP QHmTR MXVWLILFDGR RX REMHWLYR

7HPVH HQWmR TXH D 5HS~EOLFD GH)LVFDOkQGLD R

LPSDUFLDOLGDGH GH VHX DSDUHOKR MXGLFLiULR SDUD GLU

2 DUWLJR ž IHDPDSUDDLRQGLDD]RUiYHVSHLWR&RGRLWXDGH 'LUHL

+XPDQRV GD 2UJDQL]DomR GDV 1GHOiUHQLWVHQLFGLVFDVHHQWHWpDF

DOWHUQDWLYDPHQWH XPD DERUGDJHP VLQJXODUL]DGD SD

1D PHVPD WRDGD Ki H[WHQVD MRXULVSUXGrQFLDXQLFDXHGHYS

GHWHUPLQDU D UD]RDELOLGDGH GR WHUPR XWLOL]DGR S

GXUDomR JOREDOEGHP SHRVDQRVHSDQRWDFUL WpULRV GH FRPSOH[L

DWLYLGDGH SURFHVVXDOQGXRWDQGDXWXHGXKVDRGRLVGQRVSURYRF

QD VLWXDomR MXUtGLFD GD SHVVRD HQYROYLGD

7DLV FULWpULRV IRUDP LQHLFLDOPHQWHSKHWDOHQWDDE]WDQGHFL G

H QRV PHVPRV HQWHQGLPHQWRVPRERSS+DXWD

& + †

& W $ ' *Alfred Agbesi Woyome vs. Gana* †

8 1 2 ' & *Comentários aos Princípios de Bangalore de Conduta Judicial* †

2 1 8 *Girjadat Siewpersaud vs. Trindade e Tobago* (P & R P L Wr GH 'LUHLWRV +XPDQRV

& W , ' G *arranza Alarcón vs. Equador* G *ómez Virula et al vs. Guatemala* †
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& W , ' G *enie Lacayo vs. Nicarágua* †

& W , ' P *ovo Indígena Xucuru e seus membros vs. Brasil* †

& W , ' V *alle Jaramillo et al vs. Colômbia* †

& W , ' H *eliodoro Portugal vs. Panamá* †

& W , ' 7 *rabalhadores da Fazenda Brasil Verde vs. Brasil* †

& W (' *Motta vs. Itália* †*Ruiz Mateos vs. Espanha,* †

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$VVLP SDUWLFLSDomR QD YLGD S~EOLFD HVSHFLDOPH
S~EOLFDV HpGLXGPDD FKDYH SDUD R HPSRGHUDPHQWR GDV F
SURPRomR GD LJXDOGDGH RX GHVLJXDOGDGH SHUDQWH R (VWDGR GH)LV
FDGD YH] PDLV D SDUWLFLSDomR IHPLQLQD HP VXD DGPLQ
2UDD 6UD 0DJGDOHQD RFXSRX R FDUJR GH FKHIH GR 3
GH PRGR TXH QmR Ki FRPR VXVWHQWDU TXH HOD WHQKDPV
JrQHURV VXD VXEVWLWXLomR HVWDWLVWLFD XPD YH] TXH (VFREDU HV
WUDQVLWyULD GHVGH VXD UDWLILFDomR QHQmR PDLV FXPS
3RUWDQWR RV HDGHV VXDV SUHUURJDWLYDV IXQFLRQDLV S
3UHVLGHQWH 2EUHJyQ GHFLGLX SHOD FRQYRFDomR GD -XQ
GD 5HS~EOLFD VrQFLD GH REMHomR SRU SDUWH GD $VVHPE
LPSXJQDGR GHPRQVWUD TXH HVVDV RSLQL FGHQGDXFWHDU WDGD
2XWURVVLP QR TXH WDQJH DR GLUHLWR DR WUDEDOK
(VWDGR GHYH FXPSULU RE HHQDWHVSHUR StFLR SDUD D HPTXHJDELC
DVVHJXUH RE VHUYLoR j GLJQLGDGH HXPDQD GR VSHVVRD KXPDQD

QR 'LVWULWR GHHVFRUEHQD HQWmR D DIRLHJSDoLmGRLGDHLGWRRHD(R
WUDEDOKR PHQRV DLQGD TXH LVVR WHQKD RFRUULGR HP
$VVLPWHUHLR H[SRVWR D ILP GH GHVWDFDU TXH R (VW
PRGR D UHVSHLWDU WRGDV DV JDUDQWLDV GR GHYLGR SURFHVVR
GD &$'+ EHP FRPRHFTHXUHWDIGHRXQGD MXGLFLDOYSHRVHHOD
GH PDQHLUD MXVWD H HILFD] SURSRUFLRQDQGR GHVWD I

2.3. PETIÇÃO 209-18: MARICRUZ HINOJOZA E OUTRAS CONTRA O ESTADO DE FISCALÂNDIA

$ DWXDomR GR (VWDGR GH)LVFDOkQGLDGpLUHRLOWRDVGDXS
VmR DVVHJXUDGRV DR SRYR QR SODQR QRUPDWLYR LQWH
1HVWHQGD RDJRXHUQRR SURPRomR H IRUWDOHFLPHQWR GR
SUHYHQLU H HUUDGLFDUDLQGRFRHUIRSUomRLPDUFLDO H UHQ
FXQKR SHVVRDO HP SURO GRV LQWHUHVVHV GD FROHWLYLC
$VVLP HP REVHUYkQFLDRj ,QWHUDPHULFDQDV&RQYHQGL
FRQWD FRP RUJDQLVPRV GHQRPLQDGRV -XQWDV GH 3RVWX
OHJLVODomR SUySULD D TXDO OKHV FRQIHUHHOXWmRRQRPL
FDQGLGjD3WXRHXVDGRUD *HUHRXGDUSVHF-DEUQGRVDPSD~QEHOLLFDRVFRP

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&7,7 *Right To a Fair Trial and Due Process in the Context of Countering Terrorism* (P 3XEOLFDWLRQ 6HU
%DVLF +XPDQ 5LJKWV 5HIHUHQFH *XLGH
2($ *Convenção Interamericana Contra a Corrupção* DUW ,,
027$ 1(72 -RVp GH $QGUDGH 2 SULQFtSLR GD LPSHVVRDOLGDGH H
%UDVLOHLUD 5HYLVWD ÆPELWR -XtGLFR Qž
2($ *Convenção Interamericana Contra a Corrupção* DUW ,,,
& + 1RWD GH URGDSp

VHXV LQWHJUDQWHV HQWHQGHUDP SRUWDQWR SDUD VXDV WUDGLo}HV VXD
HILFLrQFLD

'HVWD PDQHLUD WDLV TXH HPEDVRX D SUHWHQVmR GDV VX
ILJXUDUHP QD OLVWDGD SUHVLGrQFLD QRV YROXPHV GH 3UDGR &XUD
5HS~EOLFD H D SRVWHULRU IUXVWUDomR GR UHFXUVR GH D

(P VHX UHODWyULR D &RPLVVmR LPSXWD UHVSRQVDE
VXSRVWD YLRODomR DRV QRPHV ELVDYyHV GRV &DVWHOR3DQ
+XPDQRV YrP VHQGR DQDOLVDGRV MXQWDPHQWH FRP RV
GH DFHVVR jV IRQWHV GH LQIRUPDomR GR (VWDGR ,QWHUQDFLRQDO

1R TXH OKH FRQFHUQH D FRQGXomR GR SURFHVVR
UHFRQKHFLGR FRPR DOJR LQHUHQWH DR SULQFtSLR GH
VH DSUHVHQWDU FRPR XPD YLD DSWD SDUD R H[HUFtFLR HI

1HVVH FRQWH[WR DVVLP FRPR HVWDEHOHFLGR SHOR
TXH FRQKHFHUDP GD FDXVD HVWDYD UHDOPHQWH
7ULEXQDO &RQVWLWXFLRQDO GH %HUHQD HUDGUR D6XSUHPD&RUWH
SURSRVWD SHODV SUHFXUDGRUDV QHP &RQVWLWXLomR

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&W , 'H Mujeres Víctimas de Tortura Sexual En Atenco vs. México †
&W , 'H Gómez Virula et al vs. Guatemala †
&W , 'H López Álvarez vs. Honduras YRWR IXQGDPHQWDGR GR 3UHVLGHQWH GD &RUW
&W , 'H Poblete Vilches et al vs. Chile †
&W , 'H Ramírez Escobar et al vs. Guatemala †
-$<0( )HUQDQGHV *RQoDOYHV Os Direitos Judiciais (P 'LUHLWRV +XPDQRV H VXD (IHWLYDomR SH
'LUHLWRV +XPDQRV YRO
3(5(,5$ 9DQ\ Os Direitos Humanos Na Corte Interamericana: O Despertar De Uma Consciência
Jurídica Universal. (P 5HYLVWD /LEHUGDGHV Qž S
&W $'H Alfred Agbesi Woyome vs. Gana †
& +† H 3 (

WH[WR GD FRQYRFDWyULD S~EOLFD)HLWRV GH RRS UDPR GHUDSU

GDV FDQGLGDWXUDV H DSyV D UHYLVmR GDV LGDGHV FDQGLGDWXUDV

DSWDV RX VRQFRUGDP FRP XP UHVXPR ELRJUiILFR H IRWRJUDI

$SyV D HWDSD GH SURYD GH FRQKHFLPHQWRV R GRV

GLVWULEXtGR GHQWUH D -XQWD SDUD TXDOLILFDomR GRV

PHPEUR SDUD TXDOLILFDomR GH GLVWULEXtGR GH FDGD PHPEUR GD -XQWD

GH GHVWDTXH H SUHVWtJLR QD VRFLHGDGH)LVFDOHQVH H

GRWDGR GH QRWyULR VDEHU MXUtGLFR DHpPXGHLQVHRELUQFLD

TXH D GLVFULFLRQDULHGDGH GH X-XSQWDSUDSRUFDUGWpFLGRUWHPR

HVWDEHOHFLGD HP OHL

$SyV D TXDOLFLFDomR RX D OLVWD GH FDQGLGDWRV DSWR

'LYHUVRV FDQGLGDWRV H[FOXtGRV GD OLVWD DSUHVHQWDU

WLYHUDP FRQKHFLPHQWR GRV FULWpULRV DSOLFDGRV RV

GLVFULFLRQiULR GD -XQWD HV'HDVWRFDVmR +LQRMH GH

TXDLVTXHU TXHVWLRQDPHQWRV DRFLHUVRPHGQRWHFDSWpURRVG

TXH DV FDQGLGDWXDV SHVVRDLV GHVWDP HQWH DGHMVDU LUUHJXOD

1R PDLHVP UHVSHLWR DR UHVSHLWiYHO H YDORURVR S

VRFLHGDGH)LVFDOHQVH IRUD SHUPLWLGD D HQWUDGD G

VRFLHGDGH FLYLO GXUDQWH D IDVH GH HQWUHYLVWDV

HQYLDGDV SHOR S~EOLFR QmR IRUDP XWLOL]DGDV GH PRG

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Q D H W D S D

3RU ILP QmR VH SRGH LJQRUDU TXHVHR R(VWDJGRG K HD)UHI
IDQWDVLRVR HQJRGR XPD YH] TXHH DRSSHQEDVWHRP GLDQMHDOXLJHRVU
PXLWR HPERRQUDVRFRVWHV LQWHUQDFLRQDLV VHMD D UHJUD
GD SURYD *onus probandi incumbit onus probandi*[267]

$VVLP SHOR H[SRVWR DOKXUHV UHVWD SURYDGR TXH
HP SUHMXt]R GDV DXWRUDV

C. PETITÓRIO

3HGUDV]HVRGHHGDHWGLUHLWRR RHUSD~HE[SLFDVDWGRV)LVFDOkQGLD S
&RUWH

a.