

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 93/06; Petition 972-03
Session:	Hundred Twenty-Sixth Regular Session (16 – 27 October 2006)
Title/Style of Cause:	Valentina Rosendo Cantu v. Mexico
Doc. Type:	Decision
Decided by:	President: Evelio Fernandez Arevalos; First Vice-President: Paulo Sergio Pinheiro; Second Vice-President: Florentin Melendez; Commissioners: Clare K. Roberts, Freddy Gutierrez, Paolo G. Carozza, Victor E. Abramovich.
Dated:	21 October 2006
Citation:	Rosendo Cantu v. Mexico, Petition 972-03, Inter-Am. C.H.R., Report No. 93/06, OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
Represented by:	APPLICANTS: the Organizacion Indígena de Pueblos Mextecos y Tlapanecos A.C., the Centro de Derechos Humanos de la Montana “Tlachinollan” A.C., and the Centro de Derechos Humanos Miguel Agustín Pro Juárez A.C.
Editor's Note:	The title of the case has a footnote 1 saying "By express request from the victim, her complete name has been included in the petition."
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## I. SUMMARY

1. On November 10, 2003, the Inter-American Commission on Human Rights (the Inter-American Commission” or “the IACHR”) received a complaint alleging the international responsibility of the United Mexican States (“the State,” “the Mexican State”) for the illegal detention, rape, and torture of Valentina Rosendo Cantú, an indigenous person from the Tlapanec Me’paa people (“alleged victim”), and the subsequent lack of investigation of these events. The petition was lodged by the alleged victim, the Organización Indígena de Pueblos Mextecos y Tlapanecos AC. (OIPMT) [Indigenous Organization of Mexteco and Tlapaneco Peoples], the Centro de Derechos Humanos de la Montaña “Tlachinollan” AC [“Tlachinollan” Human Rights Center of the Mountain], and the Centro de Derechos Humanos Miguel Agustín Pro Juárez A.C. [Human Rights Center Miguel Agustín Pro Juárez] (hereinafter, jointly, “the petitioners”).

2. The petitioners alleged that the facts reported constitute a violation of several rights provided for by the American Convention on Human Rights (“the American Convention”): the right to personal integrity (Article 5), the right to personal freedom (Article 7), the right to due process (Article 8), the right to judicial protection (Article 25), as well as the obligation of the State to respect and guarantee the rights of the people under its jurisdiction (Article 1.1). They also allege the violation of Articles 3, 4, 7, 8, and 9 of the Inter-American Convention on the

Prevention, Punishment and Eradication of Violence against Women “Convention of Belém do Pará,” Article 2 of the Inter-American Convention to Prevent and Punish Torture, and Articles 1, 16, 34, and 37 of the Convention on the Rights of the Child. They assert, in addition, that they have met all the admissibility requirements provided for by the American Convention.

3. The Mexican State, in turn, contends that the Office of the Attorney General for Military Justice had started *ex officio* a prior investigation of the case, and that decided it was competent to continue with said investigation once the local public prosecutor disqualified himself, deferring to the military venue. The State asserts that domestic remedies have not been exhausted; it therefore requests that the Inter-American Commission declare the petition inadmissible.

4. Without prejudging on the merits of the case, the IACHR has concluded in this report that the petition is admissible, in accordance with Articles 46 and 47 of the American Convention. Therefore, the Inter-American Commission has decided to notify the parties of this decision and to continue with the examination of the merits regarding the alleged violation of Articles 5(1), 7, 8(1), 11, 19, and 25 of the American Convention, all in connection with the general obligation to respect and guarantee rights, provided for by Article 1(1) of said international instrument, as well as regarding the alleged violation of Article 7 of the Convention of Belém do Pará, and of Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture. The Commission also has decided to publish this report and include it in its Annual Report to the General Assembly of the OAS.

## II. PROCEEDINGS WITH THE INTER-AMERICAN COMMISSION

5. The petition was filed on November 10, 2003. After the initial study related to its processing, based on Article 30 (2) of its Rules of Procedure, the IACHR forwarded the relevant parts of the petition to the State on December 10, 2003, and granted two months for it to submit its observations. On February 17, 2004, the State requested an extension of the time period. The State responded to the petitioners’ observations on March 23, 2004. The IACHR forwarded this information to the petitioners on April 14, 2004.

## III. POSITIONS OF THE PARTIES

### A. The petitioners

6. The petitioners contend that the State is, *inter alia*, responsible for the unlawful arrest, rape, and torture of Valentina Rosendo Cantú, and for the subsequent lack of investigation of these facts. According to the complaint, Valentina Rosendo Cantú, 17 years of age, was assaulted and raped by two members of the Mexican Army, while six other soldiers observed.

7. The petitioners allege that on February 16, 2002, at approximately 2:00 p.m., Valentina Rosendo Cantú, an indigenous person of the Tlapanec people, and resident of Barranca Bejuco, was washing clothes in a stream about 200 meters away from her home when two soldiers appeared, along with a civilian that they had tied up. Two of the soldiers came close to the alleged victim while the others surrounded her and angrily questioned her about the whereabouts

of the hooded men. She answered that she did not know of any, which then prompted one of the soldiers to aim at her with his weapon and, threatening to shoot her asked her if she was from Barranca Bejuco. The alleged victim answered that she was not, that she was from Caxitepec. One of the soldiers showed her a photograph and asked her if she knew the person in it, to which she responded that she did not.

8. According to the petitioners, the soldiers continued questioning her regarding a list of names, asking her if she knew them, to which she said that she did not. The soldier that was pointing at her with his weapon then hit her with its butt in the stomach. She fell on her back on some rocks, briefly losing consciousness. When she recovered consciousness, she sat down and one of the soldiers, grabbing her by the hair violently said: "How can it be that you don't know, aren't you from Barranca Bejuco?" She answered again that no, that she was from Caxitepec, that she lived in Barranca Bejuco because she had just married. The two soldiers then scratched her face, took off her skirt, her petticoat and her underpants and lay her down. One of them spread her legs, lowered his trousers and his underwear and raped her for 5 to 6 minutes, and the other soldier did the same, while other six soldiers looked on. As soon as she could free herself, the alleged victim managed to stand, "practically naked and ran, managing to get past the circle of soldiers surrounding her, as they mockingly watched her." She ran home and told her next of kin, including her husband F., about what had happened; they both then decided to report on them to the community delegate.

9. According to the petitioners, because she was ill, the alleged victim arrived at the public health clinic of the community of Caxitepec, Municipality of Acatapc, to receive care and to obtain a medical report on the rape of which she had been a victim. However, the health personnel did not take her under their care, arguing that "they did not wish for any problems with the military, and that they could not see her there anyway because they did not have the necessary equipment." [FN2] The petitioners contend that after gathering the money to travel, they arrived at the General Hospital, which is part of the Health Ministry of the State of Guerrero, where she was examined, and then received a report stating that she had sustained trauma to the abdomen because of the blows received. No laboratory studies were suggested, however, nor did she receive a prescription to alleviate her discomfort. In addition, the case was not reported to the Office of the Attorney General, as it should have been. The petitioners contend that the alleged victim had to pay for her own treatment for Human Papilloma Virus apparently contracted from the rape, and that her mental state brought about by the events has not yet been treated.

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[FN2] Petitioners' communication dated November 16, 2003, p. 3.

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10. The petitioners affirm that on March 8, 2002, the alleged victim lodged a complaint against the soldiers with the Office of the Attorney General in the ordinary jurisdiction, in Ayutla de los Libres, Guerrero, for the crimes of rape, torture, unlawful detention and others to emerge from the investigation. This gave rise to Preliminary Inquiry ALLE/SC/02/62/2002. Following a conflict of jurisdiction over the case, [FN3] on April 5, 2002, the Director General de Averiguaciones Previas de la Procuraduría de Guerrero [Director General of Preliminary

Inquiries of the Office of the Attorney General of Guerrero] sent the initial inquiry to the branch of the Office of the Attorney General specialized in sexual crimes and crimes of domestic violence of the judicial district of Morelos, with its seat in Tlapa of Comonfort. Along with the results of the investigation, the office forwarded the gynecological medical report, dated March 19, 2002. According to the petitioners, due to the time elapsed from the alleged rape to the moment of the medical exam, the report stated that the exam did not find traces of vaginal penetration, but it did find evidence of corporal violence.[FN4] In turn, Cristina Estrada Martínez, incumbent of the Investigative Branch of the Office of the Attorney General specialized in sexual crimes and domestic violence of the judicial district of Morelos, informed the Procuraduría General de Justicia del Estado [Office of the Attorney General of the State] that a preliminary inquiry related to the case was launched on April 15, 2002. According to the petitioners it is this date that really marks the beginning of the investigation, when the investigating agent ordered the first tests.

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[FN3] On March 18, 2002, for lack of jurisdiction, the preliminary inquiry ALLE/SC/02/62/2002 was referred to the Office of the General Director of Preliminary Inquiries, so that the latter office would forward it to the Agencia del Ministerio Público del Fuero Común del Distrito Judicial de Morelos [Office of the Attorney General, Civil Jurisdiction, Branch of the Judicial District of Morelos]. The Morelos Office, in turn, would be the one in charge of the follow up of the investigation, given that the facts occurred within the territorial jurisdiction of the Judicial District of Morelos. On March 28, 2002, in letter PGJE/DGAP/2247/2002, the Director of Preliminary Inquiries returned the record of proceedings in order that the investigation be continued by the Agencia del Ministerio Público del Fuero Común del Distrito Judicial de Allende [Office of the Attorney General, Civil Jurisdiction, Branch of the Judicial District of Allende], in Ayutla los Libres, Guerrero.

[FN4] Petitioners' communication dated November 4, 2003, p. 4  
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11. The petitioners contend that on April 8, 2002, the Assistant Attorney General for Criminal Proceedings, Miguel Barreto Sedeño requested that the office charged with the investigation "carry out a legal study in order to examine the possibility of referring the case to the prosecutor of the appropriate military court, since it is the military venue where the case belongs, according to the application of the law to the individuals, and in order for the case to be solved and those responsible be punished." [FN5] Hence, on May 16, 2002, the Agente Titular del Ministerio Público del Fuero Común [incumbent prosecutor of the Office of the Attorney General in the Civil Jurisdiction] charged with the case disqualified herself and referred the preliminary inquiry to the Director General of Preliminary Inquiries of the Office of the Attorney General of the State of Guerrero, for it to be in turn referred to the appropriate Military prosecutor.

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[FN5] Communication No. 0676 from the subprocurador de procedimientos penales [Assistant Attorney General for Criminal Proceedings], Miguel Barreto Sedeño dated April 8, 2002.  
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12. In view of this decision, the petitioners state that the alleged victim then lodged an amparo petition [protection of constitutional rights] challenging this recusal on June 6, 2002, before the Primer Juzgado de Distrito del Vigésimo Primer Circuito [First District Court of the 21st Circuit] in Chilpancingo, Guerrero, arguing that it should be civil authorities who investigate and try the crimes of which she was the victim, and not the military authorities, who lack independence and impartiality. The amparo was denied on August 30, 2002. The alleged victim then filed an appeal for an amparo review, but the appealed judgment was upheld on November 12, 2002.

13. According to the petitioners, in response to the foregoing, on November 28, 2002, the alleged victim wrote to the Agente del Ministerio Público Militar [Military Prosecutor] attached to Military Zone 35 in Chilpancingo, Guerrero, inquiring whether he had accepted to hear the case, given that the prosecutor of the Office of the Attorney General in the Civil Jurisdiction specialized in sexual crimes and crimes of domestic violence of the judicial district of Morelos had recused herself. Should the answer be in the affirmative, she requested that he disqualify himself from hearing the case, on the grounds that the assumption of military jurisdiction would be unconstitutional. Not having received a response, the alleged victim visited the aforementioned Office of the Military Prosecutor, where she was informed that the investigation had been referred to the Procuraduría General de Justicia Militar [Office of the Attorney General for Military Justice] in Mexico City. The lawyers of the PRODH Center then personally visited this institution, and on January 20, 2003, the Office of the Attorney General for Military Justice issued a communication informing that it had accepted jurisdiction and that it would not forward the case to the civil authorities. In response, on February 11, 2003, the alleged victim lodged an amparo petition, which was decided by the Juez Quinto de Distrito “B” de Amparo en Material Penal en el Distrito Federal [Fifth Judge of Amparo for Criminal Matters, District “B”, in the Federal District], who on April 29, 2003, ordered a dismissal of the trial on constitutional rights (amparo).

14. Although it was possible to lodge an appeal for a review of the amparo decision, the petitioners argue that the alleged victim decided against this course, since “an indirect appeal for an amparo review is inappropriate recourse and ineffective as it is beforehand destined to be denied.”[FN6] This decision was grounded in precedents indicating that the Judiciary has not considered illegal for the military courts to hear cases of violations of human rights of civilians on the part of military personnel. For this reason, the petitioners invoke the exhaustion of domestic remedies provided for by Article 46(1)(a), as well as the exception to the rule on exhaustion of domestic remedies provided for by Article 46(2)(c) of the American Convention.

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[FN6] Petitioners’ communication dated November 6, 2003, p. 12. The petitioners also submitted a press release No. 025 issued by the Secretaría de Defensa Nacional [Ministry of National Defense] (SEDENA), which denies the possibility that enlisted men could have sexually assaulted the alleged victim.

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## B. The State

15. In response to the complaint, the Mexican State contends that, in March 2002, the Procuraduría General de Justicia Militar [Office of the Attorney General for Military Justice] began a preliminary inquiry under No. 35ZM/05/2002, in response to a newspaper report accusing military personnel of beating a young girl of the Tlapanec people. This Preliminary Inquiry, begun at the same time as the inquiry initiated by the Procuraduría General de Justicia del Estado de Guerrero [Office of the Attorney General of the State of Guerrero], was forwarded to the Sector Central [Central Sector] of the Office of the Attorney General for Military Justice], under number SC/069/2002-XIV.

16. The State contends that on May 15, 2002, the Office of the Attorney General of the State of Guerrero decided to disqualify itself, referring the case to military jurisdiction, and on January 20, 2003, the Office of the Attorney General for Military Justice found that it had jurisdiction to continue with the inquiries related to the case.

17. The State notes that on March 5, 2002, the Comisión de Defensa de los Derechos Humanos (CDDH) [Commission for the Defense of Human Rights] of the State of Guerrero lodged a complaint prompted by the alleged victim and her representative's report. Following some processing of its own, the CDDH referred the complaint file to the Comisión Nacional de Derechos Humanos (CNDH) [National Human Rights Commission] for jurisdictional reasons, i.e., that it was likely that "those responsible for the violation were public servants." The State argues that the CNDH, in December 2002, closed the case file for lack of evidence that the petitioner had been the victim of rape.

18. The State contends that domestic remedies have not been exhausted, since this case is in the first stage of a criminal proceeding, i.e., the preliminary inquiry. In this inquiry, several proceedings have been carried out, such as the taking of depositions of the petitioner, of members of the community, and of several armed forces personnel, some of whom stated that the facts given in the complaint of the alleged victim are false.[FN7] The State further argues that, when the petitioners failed to appeal the last amparo petition lodged, the judgment became final.

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[FN7] State's response dated March 23, 2004, pp. 3 - 4.

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19. The State argues that it carried out an identification proceeding, in which the alleged victim did not single out any of the soldiers lined up for her identification. The State contends that this was carried out despite the fact that, according to the testimony to the infantryman Eudelio Flores Bernardino, in deposition taken by the military prosecutor attached to Military Zone 35 stated that "...after they lined up the military personnel for her, I saw that Mr. Encarnación Sierra drew near to Ms. Valentina Rosendo Cantú and told her in Tlapanec dialect to choose any of them ... but Ms. Valentina Rosendo Cantú responded to Mr. Encarnación Sierra Morales that it had not been any of them ..."[FN8]

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[FN8] State's response dated March 23, 2004, p. 5.

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20. The State adds that the investigation has not been finished largely due to “the lack of procedural interest on the part of the petitioner, who has not appeared for several proceedings, arguing that she was fearful of coming before military authorities, since it was soldiers who had raped her.”[FN9] In this respect the State affirms that it is more than ready to offer the alleged victim the necessary conditions for her to appear before the prosecutor.

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[FN9] State’s response dated March 23, 2004, p. 7.

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21. The State maintains that the Special Rapporteur on Torture, the Special Rapporteurship on Violence against Women, the Special Rapporteurship on Extrajudicial, Summary or Arbitrary Institutions, and the World Organization Against Torture, all know of this case through information provided at their request, in which it has been noted that the investigation “has not been expedited for lack of procedural interest on the part of Ms. Valentina Rosendo Cantú.”[FN10] In summary, given that domestic remedies have not been exhausted, the State considers the petition inadmissible.

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[FN10] State’s response dated March 23, 2004, p. 3.

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#### IV. ANALYSIS OF ADMISSIBILITY

##### A. Competence of the Commission *rationae personae*, *ratione materiae*, *ratione temporis* and *ratione loci*

22. The petitioners are authorized by Article 44 to lodge complaints before the IACHR. The petition identifies Valentina Rosendo Cantú as the alleged victim, an individual with respect to whom the Mexican State undertook to respect and guarantee the rights provided for by the American Convention. Regarding the State, Mexico is a party to the American Convention since March 24, 1981, when it deposited its instrument of ratification. For this reason, the Commission is competent *rationae personae* to examine the petition.

23. The Mexican State also ratified the Convention of Belém do Pará on November 12, 1998 and the Inter-American Convention to Prevent and Punish Torture on June 22, 1987. Therefore, the IACHR is competent *rationae temporis* to examine the merits of the arguments regarding alleged violations of the provisions of these international instruments.

24. The Commission is competent *ratione loci* and *materiae* to examine the petition, given that it alleges violations of human rights protected by the American Convention, the Convention of Belém do Pará and the Inter-American Convention to Prevent and Punish Torture, within the territory of Mexico, a State Party to these treaties. The IACHR states that it is not competent to apply the Convention on the Rights of the Child, but that nevertheless said Convention can be

used in the interpretation of the provisions of the American Convention, the Convention of Belém do Pará, and the Inter-American Convention to Prevent and Punish Torture.

B. Other requirements for admissibility of the petition

1. Exhaustion of domestic remedies

25. The Mexican State maintains that domestic remedies have not been exhausted and that consequently the case is still in the preliminary stages of a criminal proceeding. The petitioners contend that domestic remedies have been exhausted: they lodged an amparo petition, followed by a petition for review of the amparo, which were rejected, arguing that there was a lack of independence and impartiality in the military venue, and subsequently a second amparo petition using the same arguments. The petitioners also invoke the exception to the requirement of exhaustion of domestic remedies because they consider that there is an unwarranted delay due to the intervention of an institution lacking jurisdiction, impartiality, and a proper disposition to act.

26. It must first be clarified which are the domestic remedies that should be exhausted according to the provisions, in spirit and in letter, of Article 46(1)(a) of the American Convention. This rule requires, for the admissibility of a petition, “that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law.” The Inter-American Court has interpreted the norm to mean that the remedies that should be exhausted are only those that are adequate to remedy the alleged violations. Adequate domestic remedies are those:

which are suitable to address an infringement of a legal right. A number of remedies exist in the legal system of every country, but not all are applicable in every circumstance. If a remedy is not adequate in a specific case, it obviously need not be exhausted. A norm is meant to have an effect and should not be interpreted in such a way as to negate its effect or lead to a result that is manifestly absurd or unreasonable.[FN11]

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[FN11] I/A Court H.R., Velásquez Rodríguez Case. Judgment of July 29, 1988. Series C No. 4, para. 63.

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27. The Commission’s jurisprudence acknowledges that when a crime is committed which is ex officio prosecutable, the State is under the obligation to set the criminal law system into motion and to process the matter until the end[FN12] and that, in these cases, this is the appropriate venue to clarify the facts. Likewise, both the Inter-American Court and the Commission have reaffirmed the obligation of the State to investigate all violations of human rights, to try those responsible, indemnify the victims, and avoid impunity.[FN13] It is the opinion of the Commission that the facts alleged by the petitioners in the instant case refer to an alleged violation, to an act that, according to the state’s domestic legislation constitutes a crime liable to ex officio prosecution. Hence, it is this criminal proceeding, moved forward by the State itself, which should be considered in order to determine the admissibility of the complaint.

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[FN12] IACHR, Report No. 52/97, Case 11,218, Arges Sequeira Mangas, Nicaragua, February 18, 1998, paras. 96-97. See also Report No. 55/97, para. 392.

[FN13] IACHR, Report No. 54/01, Case 12,051, Maria Da Penha Fernandes, Brazil, April 16, 2001, para. 43, citing I/A Court H.R., Velásquez Rodríguez Case. Judgment of July 29, 1988. Series C. No. 4, para. 176, and I/A Court H.R., Godínez Cruz Case. Judgment of January 20, 1989. Series C No. 5, para. 175; IACHR, Report N° 53/01, Case 11,565, Ana, Beatriz and Celia González Pérez, México, April 4, 2001, para. 84.

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28. With respect to the use of the military venue to try the members of the Army allegedly implicated, the Commission has reiterated its opinion on several occasions that military jurisdiction is not an appropriate venue and hence does not provide adequate recourse to investigate, try, and punish violations of human rights provided for by the American Convention.[FN14]

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[FN14] IACHR, Third Report on the Human Rights Situation in Colombia (1999), p. 175; Second Report on the Situation of Human Rights in Colombia (1993), p. 246; Report on the Situation of Human Rights in Brazil (1997), pp. 40-42. In addition, the Inter-American Court has confirmed that criminal military justice is an adequate venue only for the trial of members of the armed forces for crimes or offenses that by nature attempt against legally protected interests of military order. I/A Court H.R., Durand and Ugarte Case. Judgment of August 16, 2000. Series C No. 68, para. 117.

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29. Therefore, considering the features of the instant case, it is the opinion of the Commission that the exception provided for by Article 46(2)(a) of the American Convention is applicable; consequently the requirement to exhaust domestic remedies is not enforceable. The requirement established by Article 46(1)(b) of the Convention, regarding the period of six months, is not applicable either, since the petition was lodged within the reasonable time period referred to by Article 32(2) of the Commission's Rules of Procedure for those cases in which a final judgment has not been handed down prior to the lodging of the petition.

30. Finally, the appeal to the exceptions to the rule on the exhaustion of domestic remedies, found in Article 46(2) of the Convention, is closely related to the finding of possible violations to certain rights provided for therein, such as guarantees of judicial access. However, Article 46(2), by nature and purpose, is a norm with autonomous content, vis-à-vis the substantive norms of the Convention. Therefore, the decision as to whether the exceptions to the rule of exhaustion of domestic remedies in said Article are applicable to the case at hand must be made beforehand and separately from the examination of the merits of the case, since it relies on a standard of evaluation different from the one used to establish the existence of violations of Articles 8 and 25 of the Convention. It should be made clear that the causes and the effects that have impeded the exhaustion of domestic remedies in the instant case shall be examined, as appropriate, in the Report that the Commission shall adopt on the merits of the controversy, in order to establish whether they indeed are violations of the American Convention.

2. Duplication of proceedings and res judicata

31. The record of the petition does not contain any information which may tend to establish that the subject of the petition is pending in another international proceeding for settlement; or that it has been previously decided by the Inter-American Commission. Therefore, the IACHR concludes that the exceptions provided for by Articles 46(1)(d) and 47(c) of the American Convention are not applicable.

3. Characterization of the facts alleged

32. In the instant case, the petitioners contend that the State is responsible for alleged violations of the rights to personal integrity, to personal liberty, to due process, to the right of judicial protection, of the right of women to a life free from violence, of the right to a life free from torture, as well as the duty of the State to respect and guarantee the rights of the individuals under its jurisdiction. The Mexican State, in turn, maintains that domestic remedies have not yet been exhausted.

33. It is the opinion of the Commission that it is not appropriate at this stage of the process to establish whether or not the alleged violations occurred. For purposes of admissibility, the IACHR must decide whether the facts put forward tend to establish possible violations of the Conventions, as provided for by Article 47(b) of the American Convention.

34. The criterion to evaluate these points is different from the one required to decide on the merits of a complaint. The Inter-American Commission must carry out a *prima facie* evaluation, to examine whether the complaint contains any apparent violation or violations of the American Convention. This analysis is preliminary, and does not constitute prejudgment or the advancement of an opinion on the merits of the matter.

35. The arguments of the petitioners refer to facts that, should they be true, would constitute a violation of several rights guaranteed by the American Convention, the Convention of Belém do Pará and the Convention to Prevent and Punish Torture. The IACHR believes that the facts put forward require a more thorough and complete study at the merits stage. In addition, although the petitioners have not invoked Articles 11 and 19 of the American Convention on Human Rights or Articles 1, 6, and 8 of the Convention to Prevent and Punish Torture, based on the principle *iura novit curia*, the Commission will hear arguments related to alleged violations of said Articles.

36. It is the opinion of the IACHR that, should the facts be proven, they would constitute the violation of the rights of Valentina Rosendo Cantú guaranteed by Articles 5(1), 7, 8(1), 11, 19, and 25 of the American Convention, in connection with Article 1 (1) of said instrument. Likewise, it is of the opinion that the facts put forward could constitute possible violations of Article 7 of the Convention of Belém do Pará, and of Articles 1, 6, and 8 of the Convention to Prevent and Punish Torture.

37. Based on the aforementioned, the IACHR concludes that the petitioners have prima facie met the requirements established by Article 47 (b) of the American Convention.

## V. CONCLUSIONS

38. The Inter-American Commission concludes that it is competent to examine the merits of the instant case, and that the petition is admissible pursuant to Articles 46 and 47 of the American Convention. Based on the foregoing arguments in fact and in law, and without prejudging on the merits of the case,

### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### DECIDES:

1. To declare the petition admissible with respect to the alleged violations, with prejudice to Valentina Rosendo Cantú, of the rights protected by Articles 5(1), 7, 8(1), 11, 19 and 25 of the American Convention, in connection with the general duties provided for by Article 1(1) of said treaty, and of Articles 7 of the Convention of Belém do Pará and 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture.
2. To notify the parties of this decision.
3. To continue with the analysis of the merits of the case, and
4. To publish this decision and include it in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 21st day of the month of October, 2006.  
(Signed): Evelio Fernández Arévalos, President; Paulo Sérgio Pinheiro, First Vice-President; Florentín Meléndez, Second Vice-Presidente; Clare K. Roberts, Freddy Gutiérrez, Paolo G. Carozza and Víctor E. Abramovich, Members of the Commission.