

REPORT No. 122/10¹
PETITION 475-00
ADMISSIBILITY
CARLOS ARTURO BETANCOURT ESTRADA AND OTHERS
COLOMBIA
October 23, 2010

I. SUMMARY

1. On September 18, 2000, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition lodged by Javier L. Villegas Posada (hereinafter "the petitioner") alleging the responsibility of the Republic of Colombia (hereinafter "the State", "the State of Colombia", or "Colombia") for the failure by agents of the State to prevent Carlos Arturo Betancourt Estrada being taken hostage by an illegal armed group on November 14, 1999, in the Normandia farmstead, in the El Hatillo County, Barbosa municipality in the Department of Antioquia; the harassment and threats against him and his family that forced them to leave the country; and the absence of judicial clarification of these events and consequent lack of individual compensatory damages, as well as the damages caused to his family's companies SUMIDAN and DOTAEMPRESAS & Co. LLC.

2. The petitioner alleged that the State was responsible for the violation of the rights to life, personal integrity, personal liberty, judicial guarantees and judicial protection laid down in Articles 4, 5, 7, 8, and 25 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), in relation to the duty to respect rights in accordance with Article 1.1 of the said Treaty. The petitioner maintains that in the present case the exception to the requirement of prior exhaustion of domestic remedies established in Article 46.2.b of the American Convention applies in view of the fact that the alleged victim was prevented from exhausting domestic remedies.

3. For its part, the State alleged that the petitioner's claims were inadmissible due to non-fulfillment of the requirement of prior exhaustion of domestic remedies, set out in Article 46.1.a. of the American Convention. It also argued that the Commission lacked the competence *ratione materiae* to review alleged violations of provisions of International Humanitarian Law; that it lacked competence *ratione personae*, and that there was no colorable claim on the alleged violations of the American Convention.

4. After analyzing the parties' positions and the fulfilment of the requirements laid down in Articles 46 and 47 of the American Convention, the Commission decided to declare the claim admissible so as to examine the alleged violation of Articles 5, 7, 8.1 and 25, in conjunction with Article 1.1 of the American Convention, and decided to declare Article 4 of the Convention inadmissible, to notify the parties of the report, order its publication and include it in its Annual Report to the General Assembly of the OAS.

II. PROCEEDINGS BEFORE THE COMMISSION

5. The IACHR registered the petition as No. P475-00, and after a preliminary analysis, on March 16, 2009, proceeded to send a copy of the relevant sections to the State, with a time limit of two months to present information in conformity with Article 30.3 of the Rules of Procedure. On April 2, 2009, the Commission received a brief from the State requesting that the relevant parts of the petition be sent again since they were illegible. On April 3, 2009, the Commission re-sent a copy of the relevant parts to the State, with a time limit of two months to present information in conformity with Article 30.3 of the Rules.

¹ In accordance with the provisions of Article 17.2 of the Commission's Rules, Commissioner Rodrigo Escobar Gil, of Colombian nationality, did not take part in either the deliberations or the decision in the present case.

6. In response, the State requested an extension of thirty days to present its observations, which was granted by the IACHR. The State presented its observations on July 2, 2009, and these were forwarded to the petitioner for observations. The IACHR received the petitioner's observations on August 14, 2009, which were sent to the State with a time limit of one month. The State requested an extension of thirty days to submit its observations, which was granted by the IACHR. On October 29, 2009, the State requested a new extension of thirty days to submit its observations, which was granted by the IACHR. On December 18, 2009, the State presented its observations.

III. POSTITION OF THE PARTIES

A. Position of the Petitioner

7. The petitioner pointed out that on November 14, 1999, Carlos Arturo Betancourt was together with his family celebrating the birthday of his daughter, July Susana Betancourt, at the Normandia farmstead, in the El Hatillo County, Barbosa Municipality, in the Department of Antioquia, when they received an anonymous telephone call stating that "something unpleasant was going to happen at the party". He states that Carlos Arturo Betancourt immediately informed the local police of the threat, who replied that "when things happened they would be there". He alleges that a few hours later some armed individuals came to the farmstead and abducted Carlos Arturo Betancourt.

8. He indicates that on November 15, 1999, Rubén Darío Echeverry Zapata, a friend of Carlos Arturo Betancourt and a material witness, lodged a complaint with the Medellín No. 2 Joint Action Group for Personal Freedom (GAULA) for the crime of kidnapping and illegal deprivation of liberty of Carlos Arturo Betancourt. In the complaint, registered under No. 083, Rubén Darío Echeverry pointed out that one of the armed individuals had been identified as a member of the ELN. He states that hours after the abduction, his family members started to receive calls demanding payment of a large sum of money (one million dollars) for Carlos Arturo Betancourt's release.

9. The petitioner indicates that Carlos Arturo Betancourt's family informed the GAULA that "on no account whatsoever would they accept his release via a rescue; that they would try to negotiate with his kidnappers and that if some day they needed the Group's advice, they would enlist [the GAULA's] help [...] From then on at various times they asked for its views when slightly difficult situations arose."² The petitioner alleges that three months later, on February 17, 2000, after paying \$550,000,000 Colombian pesos (approximately \$360,000 US dollars), Carlos Arturo Betancourt was released. It is alleged that during his captivity he was subjected to physical and psychological torture and that during this period the authorities did not expedite any action to secure his release or punish those responsible.

10. It is alleged that a few days after his release, Carlos Arturo Betancourt and his family started to receive telephone death threats for not having paid the money outstanding for his release. They point out that through correspondence of March 1, 2000, the alleged victim had brought the facts to the attention of the Medellín Regional GAULA Director, the Fourth Army Brigade commander, and the Medellín Metropolitan Police Commissioner and had also requested protection for himself and his family. However, no security measures whatsoever were implemented.

11. It is alleged that the security situation of the alleged victim and his family became untenable so that in March 2000, Carlos Arturo Betancourt and his children Carlos David and July Susana were forced to leave the country and to move to Miami in the United States. It is alleged that Carlos Arturo Betancourt was not allowed to work in the United States, that his children Carlos David and July Susana had to abandon their studies and that his eldest daughter, Claudia Andrea Betancourt, had to abandon medical school in Medellín and move to the city of Bogotá. The alleged victim's mother, brothers and sisters were forced to leave the country for Costa Rica.

² The petitioner refers to the GAULA's August 15, 2000, work fulfillment Report. Annex to petitioner's brief received by the IACHR on July 11, 2000.

12. The petitioner stresses that Carlos Arturo Betancourt owned two small firms in the city of Medellín called SUMIDAN and DOTAEMPRESAS & Co. LLC. in the business of manufacturing and selling industrial clothing and footwear. It is alleged that due to the absence of the alleged victim, who acted in the capacity as a director of the companies, and due to the negligence of the State in guaranteeing his and his family's security, the companies became insolvent.

13. The petitioner alleges that the State is responsible for the violation of the right to life, personal integrity, personal liberty, judicial guarantees and judicial protection, laid down in Articles 4, 5, 7, 8 and 25 of the American Convention in connection with Article 1.1 of the same Treaty.

14. The petitioner alleges that the State also undertook the obligation to respect the immunity of civilians against a direct or indirect attack such as it is laid down in Common Article 3 of the 1949 Geneva Conventions as well as Article 13 of the Second Additional Protocol to the Geneva Conventions, to which Colombia is a State party. In this regard, he points out that Carlos Arturo Betancourt is a civilian unconnected with the armed conflict in Colombia for whom the State must provide the necessary protection. With regard to the rules of International Humanitarian Law, the petitioner alleges that these may be used as an additional aid in the interpretation of human rights rules.

15. As far as the criminal investigation is concerned, the petitioner alleges that based on the complaint lodged on November 15, 1999, the 47th Public Prosecutor assigned to the GAULA launched a preliminary investigation on November 18, 1999, and ordered the taking of evidence which was undertaken by the GAULA Investigatory Unit. He points out that on September 5, 2003, the Chief Prosecutor of the Special Public Prosecutor's Unit decided to provisionally archive the proceedings.

16. With respect to the fulfillment of the requirement of prior exhaustion of domestic remedies, set out in Article 46.1.a of the American Convention, the petitioner alleges that the exceptions set out in Articles 46.2.b and c apply in view of the fact that the alleged victim found himself cut off from the available remedies and there was evidence of an unwarranted delay in the resolution of the complaint lodged in November 1999.

17. With respect to the State's arguments regarding the failure of Carlos Arturo Betancourt to join in the criminal proceedings (see below, III.B), the petitioner alleges that in the present case his participation was unsuitable by reason of the overall lack of protection experienced by the alleged victim. He also alleges that the impetus of the criminal investigation is the State's responsibility.

B. Position of the State

18. With regard to the requirement of the prior exhaustion of domestic remedies, the State argues that in relation to the allegations supporting the claim it has afforded and, so far as is relevant, continues to afford adequate domestic remedies in conformity with the American Convention, so that the domestic remedies have not been exhausted.

19. With regard to the criminal proceedings, the State confirms that a preliminary investigation was initiated before the 47th Special Public Prosecutor assigned to the GAULA of Medellín. It alleges that the alleged victim's immediate family made it plain to the agents charged with the investigation of their wish to negotiate directly with the kidnappers for Carlos Arturo Betancourt's release, and that on no account was a rescue operation to be attempted. They indicate that in the light of the family's decision, the GUALA offered advice with regard to the negotiations, thanks to which Carlos Arturo Betancourt was released.

20. The State alleges that although it is responsible *sua sponte* for giving impetus to an investigation, in crimes such as kidnapping, the effective collaboration of the victims and their families is vitally important, both by joining in the criminal proceedings or showing a legitimate interest in the investigation. It argues that the alleged victim and his immediate family showed no interest in joining in the proceedings, notwithstanding that the State expedited the relevant procedural steps in order to clarify the facts and identify those who might be responsible.³

21. It alleges that in view of the impossibility in identifying those responsible, the Public Prosecutor ordered the suspension of the provisional investigation and that the remedies of appeals for reversal were available against the said decision, which were not lodged. It also alleges that the investigation could be reopened should new evidence come to light, whether officially uncovered or by the alleged victim or his family.

22. Regarding any possible reparation in favor of Carlos Arturo Betancourt and of his family it alleges that the petitioner could have filed a civil suit if it considered that those responsible were third parties unconnected with the State or proceedings for direct compensation if it considered that those responsible were State agents; however, the petitioner had failed to initiate either.

23. It also argues that the alleged victim had available the *tutela* as a remedy to seek in the protection of his right to personal security.⁴ It alleges that the *tutela* is an expedited judicial mechanism without formalities for its presentation.

24. The State also alleges that the Commission lacks competence *ratione materiae* to declare violations, alleged by the petitioner, of Common Article 3 to the Geneva Conventions of 1949,⁵ so that this part of the claim must be declared inadmissible. It alleges that the Commission lacks competence *ratione personae* to rule on the petitions relating to legal entities such as, in this case, the companies of Carlos Arturo Betancourt named SUMIDAN and DOTAEMPRESAS & Co. LLC.⁶

³ The State refers, *inter alia*, to I/A Court H.R., *Case Valle Jamarillo v Colombia*. Judgment of November 27, 2008, Series C, No. 92, para. 100. Written observations of the State DDH. GOI No. 34757/1761 of July 2, 2009, para. 24.

⁴ The State refers to the Constitutional Court, Judgment T-719-03, Judge Rapporteur Manuel José Cepeda, August 20, 2003. Written observations of the State DDH. GOI No. 68920/3240 of December 18, 2009.

⁵ The State refers, *inter alia*, to I/A Court H.R., *Las Palmeras v Colombia*. Judgment of February 4, 2000, Series C, No. 67, paras. 28-34. Written observations of the State DDH. GOI No. 34757/1761 of July 2, 2009, paras. 40-44.

⁶ The State refers to IACHR, Report No. 25/04, Petition 12.361, *Ana Victoria Sánchez Villalobos and others*, Admissibility, Costa Rica, March 11, 2004; IACHR, Report No. 106/99, *Bendeck- COHDINSA*, Inadmissibility, Honduras, September 27, 1999; IACHR, Report No. 39/99, *Mevopal, S.A.*, Inadmissibility, Argentina, March 11, 1999; IACHR, Report No. 47/97, *Tabacalera Boquerón SA*, Inadmissibility, Paraguay, October 16, 1997; IACHR, Report No. 10/91, Case 10.169, *Banco de Lima*, Inadmissibility, Peru, February 22, 1991. Written observations of the State DDH. GOI No. 68920/3240, of December 18, 2009.

25. It also argues that the petitioner's allegations do not represent, even *prima facie*, a colorable claim on possible violations of the American Convention. In this regard, it maintains that third parties and not State agents are responsible for the events and that there is also no evidence demonstrating that Carlos Arturo Betancourt was the target at the time of the acts of a real, certain and imminent risk against his life and personal liberty.

26. In its final observations, the State requests that that the petition be declared inadmissible based on the fact that the acts do not constitute colorable claims on the violations of the American Convention, that there are still adequate and effective remedies in conformity with Article 46.1.a and that the Commission lacks competence *ratione personae* in relation to alleged violations of human rights committed against legal entities and *ratione materiae* in relation to the allegations of a breach of the rules of International Humanitarian Law.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

A. Competence

27. The petitioner has standing, in principle, to lodge petitions with the Commission, pursuant to Article 44 of the American Convention. The petition identifies as alleged victims individual persons, with respect to whom the State of Colombia has agreed to respect and guarantee the rights enshrined in the American Convention. As regards the State, the Commission points out that Colombia has been a State party to the American Convention since July 31, 1973, that date on which it deposited its instrument of ratification. As such, the Commission has competence *ratione personae* to examine the petition.

28. The petition indicates that the economic loss sustained by the alleged victim's two small businesses, the legal entities SUMIDAN and DOTAEMPRESAS & Co. LLC, constitute an adverse effect on the rights of the alleged victim. For its part, the State maintains that the IACHR lacks competence *ratione personae* to examine a petition presented on behalf of a legal entity since legal entities are excluded from the subjects towards whom the Convention provides protection.

29. In this respect, the Commission has emphasized that the Preamble to the American Convention and Article 1.2 establish that "for the purposes of this Convention, 'person' means every human being" and that the protection provided by the Inter-American System of Human Rights is limited only to natural persons.⁷ Therefore, the Commission lacks competence *ratione personae* to decide upon allegations of violations towards legal entities such as SUMIDAN and DOTAEMPRESAS & Co. LLC. However, as has already been mentioned, the IACHR has competence *ratione personae* to examine the petition in relation to natural persons respecting whom there are alleged violations of the rights in the present report.

30. The Commission also has competence *ratione loci* to examine the petition, since it alleges violations of rights protected under the American Convention that took place within the territory of Colombia, a State party to the said Treaty. The Commission has competence *ratione temporis* since the obligation to respect and guarantee the rights protected in the American Convention was already in force for the State at the date when the acts alleged in the petition occurred.

31. Finally, the Commission has competence *ratione materiae*, since the petition complains of possible violations of human rights protected by the American Convention. In regard to the rules of the Additional Protocol to the Geneva Conventions of August 12, 1949, relating to the protection of victims of non-international armed conflicts (Additional Protocol II) to the Geneva Conventions of 1949 and Common Article 3 to the Geneva Conventions of 1949, the Commission may use them as a guideline for the interpretation of the obligations under the Convention, in the light of the provisions of Article 29 of the Convention, and the provisions of the Vienna Convention on the Law of Treaties.

⁷ Cf. IACHR Report No. 10/91, Case 10.169, *Banco de Lima*, Inadmissibility, Peru, February 22, 1991 and Report No. 47/97, *Tabacalera Boquerón, S.A.*, Inadmissibility, Paraguay, October 16, 1997, paras. 24 and 25.

B. Requirements for Admissibility

1. Exhaustion of domestic remedies

32. Article 46.1.a of the American Convention requires the prior exhaustion of domestic remedies in accordance with generally recognized principles of international law, as a prerequisite to the admission of claims on the alleged violation of the American Convention.

33. Article 46.2 of the Convention lays down that the requirement of prior exhaustion of domestic remedies does not apply when:

- a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;
- b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or
- c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

As the Inter-American Court has established, each time the State alleges a failure to exhaust the domestic remedies on the part of the petitioner, it bears the burden of showing that the remedies not exhausted were "adequate" to rectify the alleged violation, that is to say that the purpose of those remedies within the domestic legal system are suitable to protect the judicial situation breached.⁸

34. In the present case, the State alleges that the petition does not satisfy the requirement of prior exhaustion of domestic remedies set out in Article 46.1.a of the American Convention given that there are provisionally suspended criminal proceedings that may be reopened should new evidence come to light and additionally that the petitioner has not lodged motions to reconsider or appeals against the order for provisional suspension. It also alleges that the petitioner failed to file a civil claim in case he considered that those responsible were third parties unconnected with the State; a direct compensation suit in case he considered that those responsible were State agents; nor a *tutela* to safeguard his right to personal security. For his part, the petitioner alleges that the exceptions laid down in Articles 46.2.b and c. are applicable in view of the fact that the alleged victim was prevented from making use of the available remedies and that it has been established that there was an unwarranted delay in the resolution of the complaint lodged in November 1999.

35. In view of the parties' allegations, it is necessary at the outset to clarify what are the domestic remedies that must be exhausted in a case such as the present, in light of the precedents of the Inter-American system. The precedents established by the Commission stress that each time that a crime subject to public prosecution is committed, the State has the obligation to initiate and promote the criminal proceedings⁹ and that, in such cases, this constitutes the appropriate way to clarify the facts, to try those responsible and to hand down the corresponding criminal sanctions, as well as to enable other means of redress of a pecuniary nature. The Commission considers the facts described by the petitioner encompass the alleged violation of personal liberty which corresponds in the domestic legal system to a crime subject to public prosecution whose investigation and trial must be encouraged by the State itself.

36. The Commission notes that having more than ten years elapse since the occurrence of the initial facts described in the claim, the criminal investigation remains suspended since September 5, 2003. Consequently, given the characteristics of the present case, and the alleged lack of protection since before the alleged kidnapping until Carlos Arturo Betancourt and his family left the country, as well

⁸ Article 31.3 of the Commission's Rules. See also I/A Court HR, *Case Velásquez Rodríguez*, Judgment of July 29, 1988, para. 64.

⁹ IACHR, Report No. 99/09, Petition 12.335, *Gustavo Giraldo Villamizar Durán*, Colombia, October 29, 2009, para. 33. See also IACHR Report No. 52/97, Case 11.218, *Arges Sequeira Mangas*, *Annual Report of the IACHR 1997*, paras. 96 and 97, and IACHR Report No. 55/97, Case 11.137, *Abella and others*, para. 392.

as the passage of time since the material facts of the petition occurred, the Commission considers that the exception set out in Article 46.2.c of the American Convention is applicable with respect to the delay in the progress of the domestic criminal proceedings, so that the requirement with regard to the exhaustion of domestic remedies is inapplicable.

37. With regard to the civil suit, alleged to be adequate by the State, this is exclusively directed towards obtaining compensation for damages caused by the crime or individual responsibility but not towards clarifying the facts in the petitioner's allegations, that is the responsibility of the State for not having adopted the necessary preventative and reactive measures. Therefore it is not necessary that this type of remedy be exhausted so as to examine the admissibility of the present case.

38. With regard to the contentious administrative jurisdiction, the Commission has repeatedly maintained¹⁰ that this avenue is not an adequate remedy to the effect of examining the admissibility of a claim of the present type before the Commission. The contentious administrative jurisdiction is a means to carry out an oversight of the State's administrative activities, and only allows compensation caused by the acts or omissions of State agents to be obtained. Consequently, it does not represent an adequate remedy to examine the admissibility of the present case.

39. The exceptions to the rule of the exhaustion of domestic remedies set out in Article 46.2 of the Convention are closely linked to the determination of possible violations of certain rights laid down therein, such as the guarantees to access to justice. However, Article 46.2, by its nature and purpose, is a rule with autonomous content *vis-à-vis* the substantive rules of the Convention. Therefore the determination as to whether the exceptions to the rule of the exhaustion of domestic remedies apply to the case in question must be made in a preliminary manner, separate from an analysis of the merits of the claim, since it depends upon a level of appreciation different from that used to determine a possible violation of Articles 8 and 25 of the Convention. It is sufficient to state that the causes and effects which prevented the exhaustion of domestic remedies were examined in the report adopted by the Commission on the merits of the claim, in order to determine whether violations of the American Convention were established.

2. Timeliness of the petition

40. The American Convention establishes that for a petition to be admissible before the Commission it must be presented within a time limit of six months from the date on which the alleged victim was notified of the final decision. In the complaint under examination, the IACHR has established the application of exceptions to the exhaustion of domestic remedies in accordance with Article 46.2.c of the American Convention. In this regard, Article 32 of the Rules of the Commission establishes that in the cases where the exceptions to the prior exhaustion of domestic remedies are applicable, the petition must be presented within a reasonable time, at the Commission's sole discretion. For this purpose, the Commission must consider the date on which the alleged violation of the rights occurred and the circumstances of each case.

41. In the present case, the petition was received on September 18, 2000, and the material facts of the claim took place between November 14, 1999, and February 17, 2000, the criminal investigation was provisionally suspended on September 5, 2003 and its presumed effects in terms of the alleged absence of the administration of justice continue up until the present time. Therefore, in view of the context and the characteristics of the present case, as well as the fact that an investigation is still pending, the Commission considers that the petition was presented within a reasonable time and must consider that the requirement of admissibility with reference to the timeliness of the presentation is satisfied.

3. Duplication of proceedings and international *res judicata*

¹⁰ IACHR Report No. 74/07, Admissibility, José Antonio Romero Cruz and others v Colombia. October 15, 2007, para. 34.

42. It does not appear from the case file that the subject matter of the petition is pending before another international proceeding for settlement, nor that it reproduces a petition previously examined by this or another international organization. Therefore, the requirements established in Articles 46.1.c and 47.d of the Convention must be considered fulfilled.

4. Colorable Claim

43. In view of the elements of fact and law presented by the parties and the nature of the matter brought to its attention, the IACHR considers that with regard to the petitioner's claim of a lack of response by the State in the face of the initial threat received by the alleged victim, which was brought to the attention of the authorities, and his later kidnapping by an illegal armed group, in relation to Articles 5 and 7 of the American Convention in conjunction with Article 1.1 of the same Treaty, the allegations raised require an examination on the merits under the standards of the American Convention.

44. The Commission also observes that with regard to the petitioner's claim on the lack of response of the State in the face of threats received by himself and his family after the alleged victim's release -which were brought to the attention of the authorities- in relation to Article 5 of the American Convention in conjunction with Article 1.1 of the same Treaty, the allegations raised require an examination on the merits under the standards of the American Convention.

45. The Commission observes that with regard to the threats against Carlos Arturo Betancourt and his family, the petitioner filed claims regarding the absence of judicial clarification of the facts by the State which could be characterized as violations of the rights to judicial guarantees and judicial protection, protected in Articles 8.1 and 25 in conjunction with Article 1.1 of the American Convention.

46. With regard to the petitioner's claim on the alleged violation of Article 4 of the American Convention, the Commission will examine the alleged absence of preventative and protective measures in relation to the duty of guarantee in Article 5. Likewise, the petitioner did not offer allegations or support which might make necessary an examination of the alleged situation under Article 4 of the Convention.

V. CONCLUSIONS

47. The Commission concludes that it is competent to examine the claims presented by the petitioner on the alleged violation of Articles 5, 7, 8.1 and 25 in conjunction with Article 1.1 of the American Convention, and that these are admissible, in conformity with the requirements established in Articles 46 and 47 of the American Convention. Likewise, it concludes that it is necessary to declare inadmissible the claims on an alleged violation of Article 4 of the American Convention.

48. Based on the arguments of fact and law set out above and without prejudice to an examination of the merits of the claim,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare the present case admissible in relation to Articles 5, 7, 8.1 and 25 in conjunction with Article 1.1 of the Convention.
2. To notify this decision to the State of Colombia and to the petitioner.
3. To continue with an examination of the merits of the case.
4. To publish this decision and to 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 23rd day of the month of October 2010.
(Signed): Felipe González, President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Silvia Guillén, and José de Jesús Orozco Henríquez, members of the Commission.