

ESSAYS ON THINKING IN LEGAL SCIENCE



THE INTERNATIONAL INSTANCE IS THE LAST STAGE OF DEFENSE OF HUMANS BEFORE COURTS

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The International Instance is the Last Stage of Defense of Humans before Courts

The concern that every person has, when they go to Court to defend their Rights, is the results that can be obtained.

On the one hand, the concern is that the lawyer who has been hired develops with professionalism and has sufficient knowledge to adequately face the trial, as well as that he has the moral solvency so that he is not part of the payroll or payment of attorney's fees. the counterparty (has been sold) and causes damage to the trial, losing it with a ruling against the interests of the client.

But, on the other hand, there may be concern that the Courts will issue sentences, for whatever reason, against the interests of the person who is legally right, because their request is adjusted to a just cause. But despite having the legal reason, they always condemn him to not having his claims proceed, both in the first stage in which said person sues before the Courts, (first instance) and then, it also has unfavorable results in the second stage when demands that the sentence be analyzed by a higher authority (appeal); and finally, he goes to the protection and also loses his case.

It should be noted that in the first case, regarding the lawyer having contact with the counterparty, or due to clumsiness, they lose the trial, a lawsuit will not proceed before the International Court on this. But in the second case it may be possible.

What we suggest is that, when suing, the Human Rights that are applicable to the matter provided for in the Constitution (article 1 - 25

Constitutional) are always invoked as a basis, interpreting their scope in favor of the interested party.

Likewise, the Human Rights contemplated in the International Treaties that are applicable to the case are invoked.

Then, in the event that it is necessary to file a request for protection at the end of the defense of Rights, (direct protection), it is important that it be carried out under the same methodology, that is, invoking the Human Rights provided for in the Constitution and in International Treaties.

We share this advice, by virtue of the fact that, if the defense is carried out under this methodology, from the beginning, then they may file an appeal for review against the sentence issued in amparo, likewise, if the inapplicability of an article of the Law that the Amparo Judges used, will also be reason for the sentence to be reviewed by the Supreme Court of Justice of the Nation.

And if an unfavorable ruling is handed down, then, now you will have the experience of exercising your Rights before the Inter-American Court of Human Rights, initiating the defense before the Inter-American Commission on Human Rights, and if this international procedural body considers that If the petition is appropriate because there are elements for it, then it will be sent to the Inter-American Court of Human Rights for study.

As can be seen, the defense of Rights can be exercised before International Bodies.

Below, we invoke the following Jurisprudence that supports this statement:

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INTERNATIONAL DUE PROCESS. THIS SHOULD BE REFERRED TO, IF WHAT IS NECESSARY FOR THE ANALYSIS OF SERIOUS VIOLATIONS OF HUMAN RIGHTS HAS NOT BEEN WIDELY DEVELOPED AT THE NATIONAL LEVEL.

The Inter-American Court of Human Rights, in resolving the Case of Members of the Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, established that in a democratic society the truth must be known about the facts of serious violations of human rights, and the States They have the obligation to both investigate and provide effective judicial remedies to victims; that the obligation to investigate cannot be executed in any way, but must be carried out in accordance with the standards established by international norms and jurisprudence, without being discarded or conditioned by acts or internal regulatory provisions of any kind. In this order of ideas, if an amparo court notices facts that involve serious violations of human rights, and in national law, the specific issue has not yet been widely developed; Therefore, it must seek a fair solution to the case in international due process, made up of international norms and jurisprudence; especially that the current amparo trial has surpassed the traditional stage of protection of individual guarantees, to give rise to a phase of a fundamental rights trial, which is responsible for addressing situations in which the general rules, acts or omissions of the authority, violate the human rights recognized both in the Political Constitution of the United Mexican States and in the international treaties to which the Mexican State is a Party.

FIRST COLLEGIATE COURT OF THE NINETEENTH CIRCUIT.

Incident of non-execution of sentence 4/2018. September 20, 2018. Unanimity of votes. Speaker: Mauricio Fernández de la Mora. Secretary: Jesús Desiderio Cavazos Elizondo.

Incident of non-execution of sentence 5/2018. September 20, 2018. Unanimity of votes. Speaker: Mauricio Fernández de la Mora. Secretary: Jesús Desiderio Cavazos Elizondo.

Incident of non-execution of sentence 6/2018. September 20, 2018. Unanimity of votes. Speaker: Mauricio Fernández de la Mora. Secretary: Jesús Desiderio Cavazos Elizondo.

Incident of non-execution of sentence 7/2018. September 20, 2018. Unanimity of votes. Speaker: Mauricio Fernández de la Mora. Secretary: Jesús Desiderio Cavazos Elizondo.

Appeal for non-conformity provided for in sections I to III of article 201 of the Amparo Law 19/2018. August 28, 2019. Unanimity of votes. Speaker: Mauricio Fernández de la Mora. Secretary: Jesús Desiderio Cavazos Elizondo.

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For this reason, we have always maintained that Legal Science is evolving, and for this, it is important to be updated to be able to adequately defend the Rights of people, whether companies or individuals.

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