

# NEWS LETTER

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### SECOND GENERAL ASSEMBLY OF THE NETWORK OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF THE HUMAN RIGHTS IN THE AMERICAS

On March 26 and 27, the Second General Assembly of the Network of National Institutions for the Promotion and Protection of the Human Rights in the Americas was held in the city of San José, Costa Rica.

On this occasion, the Network welcomed as members, with full rights, the national institutions of Guatemala, Panamá and Venezuela.

The objective of the General Assembly, for the year 2003, was to consolidate the work of the Network, define the strategies of cooperation for the present year, agree to a strategic work plan and financing, and to make closer the bonds of cooperation with the national institutions of the Continent. All the participants agreed, unanimously, that the work of the Secretariat pro tempore of the Network, shall continue under the charge of the Mexican National Commission for the Human Rights.

At the end of the meeting, the members of the Network, there present, approved the conclusions of the Second General Assembly of the Network whose text we now present.

#### San José Conclusions

The member institutions of the Network ....:

Recognize the important role of national human rights institutions in the Americas in establishing and promoting a culture of peace and human rights in the region;

Express satisfaction that the Human Rights Prosecutor of Guatemala, the Public Defender of Panamá and the Public Defender of Venezuela have joined the Network as full members;

Express satisfaction with the efforts of the United Nations Office of the High Commissioner for Human Rights to strengthen and consolidate national institutions in the region and promise to work vigorously with this office through the International Coordinating Committee and other bodies of the United Nations system to promote and publicize respect for the basic rights of all people in the Americas and in the world;

Undertake to continue to work on developing a strategic plan for the Network of the Americas' National Institutions for the Promotion and Protection of Human Rights and on establishing a permanent secretariat to consolidate its institutional development;

Reaffirm, for the occasion of the Tenth anniversary of the Paris Principles adopted by the United Nations General Assembly (Resolution 48/134), the importance of ensuring that national institutions are established in accordance with the Principles and recognize the paramount importance of the Vienna Declaration of 1993, reaffirming the important constructive role of these institutions:026

Offer support and cooperation to national institutions that have not yet complied with the Paris Principles, so that their autonomy and independence are recognized in their countries, and exhort those States that do not have a national institution to strive to create one soon, so that they can work effectively to monitor human rights at all times in the region;

Commit ourselves to work together in an inclusive network, regardless of language, national origin of institutions and cultural differences of individual members of these institutions, considering only the fact that they are national human rights institutions in the Americas;

Welcome the participation and presence of human rights institutions from the Caribbean and express the wish that in the near future they can become national institutions and full members of this organization and gladly welcome all human rights institutions in this hemisphere that wish to participate in this organization as observers;

Pleased and satisfied with the process carried out in the Dominican Republic for the creation and installation of the Ombudsman, we urge the Dominican Republic authorities to complete this work as soon as possible with an aim to formally becoming a member of this regional Network.

Thank the representatives of UNESCO, the United States Ombudsmen's Association (USOA), the Inter-American Institute of Human Rights (IIDH) and the Caribbean Ombudsmen's Association (CAROA) for kindly participating in this event and recognize the important work that the Ibero-American Federation of Ombudsmen (FIO) has done to promote and protect human rights, and we undertake to work in close cooperation with all its members;

Recognize with disapproval that in this century there exist adverse conditions for those who pursue the noble task of promoting and defending human rights and reiterate our commitment to help national governments give human rights advocates the minimum guarantees of security that they need to carry out their activities;

Reaffirm that building strong human rights institutions or strengthening existing ones is essential in ensuring that human rights are protected and promoted in a sustained manner. By creating partnerships with governments, civil societies and others, national institutions play an important role in creating a space for dialogue and tolerance between people and nations, especially in countries in or emerging from conflict;

Recognize the role that the United Nations should play in maintaining international order, world peace and conflict resolution between and within the States.

Encourage governments to recognize the importance of the work that national institutions carry out in building societies with greater justice, freedom, democracy, solidarity, and respect of human rights, and to guarantee the material and political conditions necessary for national institutions to complying with their responsibility.

Reaffirm the commitment to exhort that governments ratify international human rights agreements accepted within the United Nations system and which have not yet been incorporated in the internal legislation of their country.

Undertake to promote compliance with the obligations entered into by our governments through the international human rights instruments and in the final observations made by the human rights committees of the United Nations system and the Inter-American human rights system.

Agree to hold a Seminar on Safety, Migrant and Human Rights in the city of Cartagena, Colombia, on September 1-4, 2003, according to the availability of resources earmarked for this purpose. We present this initiative to hold this event to the Office of the United Nations High Commissioner of Human Rights.

Express our deep gratitude to Mr. José Manuel Echandi, Defensor de los Habitantes of Costa Rica, to Mrs. Anne Adams, Commissioner of the Canadian Human Rights Commission, to Mr. Orest Nowosad, Representative of the United Nations Office of the High Commissioner for Human Rights and to Dr José Luis Soberanes Fernández, President of the National Human Rights Commission of Mexico as acting secretariat for their great support and ongoing work done to hold this meeting.

Given in the city of San José, Costa Rica, on the 27th day of March, 2003.

On March 28th, after the conclusion of the Network's Second General Assembly, the second workshop on substantive subjects took place, and was addressed to the rights of disabled persons. The officials in charge of subjects on disability, from the national institutions and observer members, from the Americas, a representative from the team of national institutions from the Office of the United Nations High Commissioner for Human Rights, as well as two experts on the subjects.

## RECOMMENDATIONS

### Recommendation 8/2003

March 9, 2003

Case: Threats, intimidations and abuse of authority against six subordinates from the Federal Public Safety Secretariat.  
Authority Addressed: Secretary of Federal Public Safety.

In July, 2002, the Mexican National Commission received the complaint of nine public servants from the Federal Secretariat of Public Safety for threats, intimidations and abuse of authority upon ordering the irregular use of the polygraph (lie detector) during an administrative investigations on a presumed leak of information.

The plaintiffs stated that the General Director of Planning, of that office, instructed them to submit to the polygraph exam, and that, through pressures of work as well as psychological nature, forced the plaintiffs to submit to this test against their nature, forced the plaintiffs to this test against their will. The persons harmed pointed out that the interrogation procedure was aggressive, cruel and degrading. Finally, the General Director requested their resignation, since according to him, they were found guilty during the investigation.

From an analysis of the facts, the CNDH proved violations on behalf of the public servants from the Federal Secretariat of Public Safety, against the right to lawful safety, the principle of lawfulness, the right to be respected in their human dignity, to the exercise of their freedom, and to the right to privacy of the plaintiffs, for which it issued Recommendation 8/2003, addressed to the Secretary of Public Safety, in which it requests: grant the power of the internal organ of Secodam in order to investigate the officers who ordered the use of the polygraph; issue instructions in order to avoid the use of the polygraph in administrative procedures of investigations, as well as in any other not expressly authorized by Law, and to take the necessary measures so that the information obtained in the polygraph tests be duly safeguarded, and so that the persons questioned be informed of the same, and also that their free, express, specific and unequivocal consent be given, that it may continue to be safeguarded by that office, or on the contrary, the same be destroyed.

### Recommendation 9/2003

March 18, 2003

Case: Negligence and inadequate rendering of the health public service in prejudice of Irene González Salazar.  
Authority Addressed: General Director of the Mexican Social Security Institute (IMSS)

In October, 2002, the State Commission for Human Rights of Zacatecas, received the complaint of Mrs. Irene González Salazar, sent to this Mexican National Commission for Human Rights, for jurisdictional purposes, where it was received on October 22nd, of that same year.

The plaintiff expressed presumed violations to the Human Rights committed against her, attributed to public servants from Solidarity Clinic No. 51 of Villanueva, Zacatecas, consisting in medical negligence, since they behaved in an untoward manner, and did not give the plaintiff the appropriate medical evaluation required.

From an analysis of the facts, this CNDH proved that violator acts against the Human Rights of the plaintiff were accredited, acts which transgressed the rights to life and health provided for in the Mexican Political Constitution, as well as in other legal ordinances of the country, on the matter, reason for which it issued Recommendation 9/2003 addressed to the General Director of the IMSS so that an administrative procedure of investigation be initiated against the public servant responsible, and it be ordered, and payment made, by concept of indemnity and moral harm resulting as a consequence, in prejudice of the plaintiff.

### Recommendation 10/2003

March 17, 2003

Case: Appeal of Mr. Aquiles Cruz López  
Authority Addressed: Constitutional Governor of the State of Chiapas

On January 6th, 2003, the CNDH received the written appeal of Mr. Aquiles Cruz López in which he states his disagreement with the no acceptance of Recommendation 62/2002, against the Justice Attorney General's Office of the State of Chiapas for not complying with the arrest warrants against those involved in the homicide of his son.

From an analysis of the facts, the CNDH coincided with the reasons and legal grounds which serves as a basis for the State Commission of Human Rights of Chiapas, to issue Recommendation 62/2002, and, therefore, issued Recommendation 10/2003 addressed to the Constitutional Governor of Chiapas so that he instruct the Justice Attorney General of that federative entity to totally fulfill the terms of the Recommendation issued.

### Recommendation 11/2003

March 18, 2003

Case: Appeal of Mrs. Angelina Muñoz Fernández and others.  
Authority Addressed: City Council of Hermosillo, Sonora.

On September 12, 2002, this Mexican National Commission for Human Rights, received the appeal of Mrs. Angelina Muñoz Fernández concerning the no acceptance of Recommendation 09/2002, which the State Commission for Human Rights addressed to the President of the Government Board of the Operating Organism of drinking water, "Water of Hermosillo", wherein it was pointed out that in the municipality of Hermosillo the drinking water service for the consumers, they be charged at the same rates which prevailed in the year 2001, without adding on 1.5% every month, operation which began in February of that year, and that the sum already wrongfully paid, given the application of the operation above mentioned, be returned to whomsoever request it, under the terms and forms conventionally established.

From the analysis of the documentation issued, as well as from the investigation undertaken by this National Organism, it was proven that the terms under which Recommendation 09/2002 was dictated, are in adherence to law, and so Recommendation 11/2003 addressed to the City Council of Sonora, was issued, that it may fully comply with the State Commission Recommendation.

Recommendation 12/2003

March 29, 2003

Case: Appeal presented by Mr. José Luis Melgar Araujo  
Authority Addressed: Constitutional Governor for the State of Chiapas.

On July 2, 2002, this Mexican National Commission for Human Rights received the appeal presented by Mr. José Luis Melgar Araujo, for the no acceptance, on behalf of the Government Secretary from the State of Chiapas, of Recommendation 28/2002 issued by the State Commission for Human Rights of that federative entity for violations to the human rights consisting of violation of legal safety, legality and propriety of whom, after almost a decade has not been compensated for the expropriation of property located in the city of Tuxtla Gutiérrez.

From an analysis of the facts, the CNDH thought that the Recommendation made by the State Commission to the administrative office mentioned, was in adherence to law, and therefore, issued Recommendation 12/2003 addressed to the Constitutional Governor of the State of Chiapas so that he fulfill the terms of Recommendation 28/2002, issued by the State Commission.

Recommendation 13/2003

March 25, 2003

Case: Appeal presented by Mr. Carlos Arteaga Juárez  
Authority Addressed: City Council of Cuernavaca, Morelos

On January 13, 2003, this Mexican National Commission for Human Rights received the appeal of Mr. Carlos Arteaga Juárez, in which he stated his disagreement with the no acceptance of the Recommendation issued by the State Commission for Human Rights of Morelos, in which he requested repair of the sewage works, which have caused the plaintiff harm, since March, 2001.

From the analysis of the documentation sent, as well as the investigation undertaken, this National Organism deemed that the recommendation of November 6, 2002, made by the State Commission is in adherence to law, and therefore, issued Recommendation 12/2003, addressed to the City Council of Cuernavaca, Morelos, so that the terms of the above mentioned Recommendation issued by the State Human Rights Commission of Morelos, be fully complied with.

Recommendation 14/2003

March 31, 2003

Case: Complaint of Mr. Silvino Encarnación Gabino  
Authority Addressed: State Governor of Guerrero

On April 18, 2001, copy of the written complaint was received, which Mrs. Constantina Morán Ramírez put before the State Commission of Human Rights of Guerrero, pointing out that under orders of the Regional Coordinator of Indigenous Authority of the Mountain and Small Coast of Guerrero, A.C., she and her husband, Silvino Encarnación were arrested in the Municipality of San Luis Acatlán. After several hours of having been deprived of her freedom, she was freed. However, his husband who was judged according to legal indigenous practices, to ten months ten days of re-education, remains incarcerated.

Given the time employed by the State Organism in the issuance of its solution; that solution did not motivate the freedom of the person harmed, and that customs of indigenous peoples are involved, customs which differ from our Laws, the present affair transcends to the interest of the federative entity. Therefore, in the terms of its Law, as well as its Internal Ruling, the CNDH agreed to the management of the affair and issuing a new complaint, as well as proceeding to the issued of Recommendation 14/2003 addressed to the Constitutional Governor of Guerrero, in which the recommendation is made that the necessary legal and administrative actions be taken so that the violation of the right to liberty of the indigenous Silvino Encarnación Gabino stops immediately, and a through

investigation of the delay on behalf of the responsible authority, be made, and if admissible, the corresponding legal procedures be initiated.

#### DOMESTIC RELATIONS

The CNDH endorsed collaboration agreement with the Republic's Attorney General's Office and with the Justice Attorney General's Office of the Federal District

For the purpose of establishing bases of collaboration and support on the matter of human rights, the President of the Mexican National Commission for Human Rights, Dr. José Luis Soberanes Fernández, signed cooperation agreements with the heads of the Attorney General's Office of the Republic, and the Justice Attorney General's Office of the Federal District.

The purpose of these agreements consists in realizing diverse activities of such as academic, cultural, of investigation, training, formation, bringing up-to-date and diffusing nature, in order to make the promotion of the culture of the human rights more intense, amongst the public servants of the procurement of justice.

#### International Woman's Day

In the opinion of the CNDH, the best way to commemorate the International Woman's Day, is to work in making a reality the guarantee of women to enjoy the rights sustained by the Mexican Legal System.

The CNDH seized the opportunity in order to manifest and make public once more, its preoccupation and sadness over the homicides insufficiently investigated of more than 230 women in Ciudad Juárez, which not only are a national disgrace, but have turned into a national emergency, since new homicides of women continue to occur in that city in the north of our country, without even solving the previous homicides.

#### CD-Rom on the Inter-American System of Human Rights.

In an effort to contribute to the knowledge of the Inter-American System of Human Right, which is formed partly by the Mexican State, the CNDH published a CD-Rom on this system, which complements the national measures for the protection of the Human Rights.

#### PUBLICATIONS

Gaceta, Official monthly publication of the Mexican National Commission for Human Rights, Number 150, corresponding to January, 2003.

Political Constitution of the Mexican Republic, Printing of the fifth edition. CNDH, México, March, 2003.

Memory. Nationals Journals of the Real Situation of Women in México. CNDH, México, March, 2003. Book.

General Recommendation number 4. CNDH, México, March, 2003. Brochure.

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