

# NEWS LETTER

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### THE SPECIAL RAPPORTEUR OF THE UNITED NATIONS ON THE SITUATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES HAD AN INTERVIEW WITH THE PRESIDENT OF THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS.

The Mexican National Commission for Human Rights and the Special Rapporteur of the United Nations on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples will seek to jointly promote the protection and defense of the indigenous peoples, reason by which they are committed to promote the recognition and the observance of the social rights of this vulnerable group to which more than ten million Mexicans belong.

Rodolfo Stavenhagen, Special Rapporteur of the United Nations on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, who was named to this position on April, 2001 for a period of three years, after having had an interview with the National Ombudsman, Dr. José Luis Soberanes Fernández, last June 17th, expressed his approval on the great opening and collaboration on behalf of the President of the Mexican National Commission for Human Rights, who offered him all the collaboration and information which this organism has at its disposal, so that he may prepare the report which he must present to this International Organism.

Among the subjects discussed during this meeting, the following stood out: religious intolerance, the resolutions of the Superior Agricultural Court, the arbitrary arrests, the settlements in the "Montes Azules" in the State of Chiapas, and the CNDH Special Report on the case of the Loxica region, in the State of Oaxaca.

During the meeting and for the purpose of knowing and becoming familiarized with the mechanisms through which the CNDH and the State Commissions of Human Rights work in favor of the defense of the human rights of the indigenous, several complaints and accusations were received and examined in the CNDH, as well as the problems which affect the indigenous peoples, and which are presented on a daily basis to this National Organism.

In relation to the report which he will present to the United Nations, the Special Rapporteur pointed out that it will contain a chapter of recommendations addressed to the Government of the Republic, to the indigenous organizations and to the system of Public Protection of Human Rights.

At the end of the meeting, Dr. Stavenhagen, who previously was a member of the Consultative Board of this National Commission, emphasized that the relationship between this organism and the United Nations "is strong, very good and of total collaboration".

#### RECOMMENDATIONS

Recommendation 19/2003

June 4, 2003

Case: Mrs. Esperanza Sandoval Ruiz.

Authority addressed: General Director of the Mexican Social Security Institute (IMSS)

On December 13, 2002, this Mexican National Commission for Human Rights received the written complaint presented by Mr. Juan Preciado Ornelas and others, of the medical negligence incurred by the public servants of the IMSS, since Mrs. Esperanza Sandoval Ruiz, wronged in the case on the discussion, was operated in this Institute, and on the following day, upon receiving an injection in the serum, began to have difficulty breathing and speaking. Also, on the following day she suffered cardiac arrest which resulted in the comatose state in which she now finds herself.

From an analysis of the evidence it was proven that the medical personnel assigned to the Regional Hospital 110 of the IMSS did not render adequate health public service to the person wronged, since before her operation the risk factors were not taken into account, the signs and symptoms which the patient presented having been ignored prior to the clinical diagnosis and its complications being instituted.

Consequently on June 4, 2003, this National Organism issued Recommendation 19/2003, addressed to the General Director of the IMSS so that an administrative procedure of investigation "according to law", be initiated against the public servants responsible for the damage to the integrity of Mrs. Esperanza Sandoval Ruiz; it be ordered that payment be made by concept of the resulting damages in accordance with that dispose in articles 33 of the Federal Law of Administrative Responsibilities of the Public Servants, and 1915 and 1927 of the Federal Civil Code, and that the patient be given the medical assistance which her illness requires.

Recommendation 20/2003

June 6, 2003

Case: Mrs. María Nelly Mangas Gutiérrez.

Authority addressed: Executive Committee of the FOVISSSTE

On September 1st 1999, the Mexican National Commission for Human Rights received the written complaint of Mrs. María Nelly Mangas Gutiérrez in which she stated that on February 16th 1991 the FOVISSSTE handed over a finance dwelling, reason for which the respective bi-monthly discount began, however upon existing problems in the infrastructure, she was advised that she would be moved to another dwelling; however upon attempting to occupy the living space which she was informed substituted for the previous one, this one was already occupied and to date she has not been assigned a new dwelling not has she received the return of the quantities paid out by concept of the credit for the dwelling.

From an analysis of the investigations which, this Mexican National Commission for Human Rights undertook violations to the Human Rights were accredited, in prejudice of the plaintiff; for this reason on February 16th, 2000, the Mexican National Commission for Human Rights presented to the FOVISSSTE a conciliatory proposal; however, on August 21st, 2002, Mrs. Mangas Gutiérrez communicated to this the Mexican National Commission for Human Rights the lack of fulfillment of the conciliation by the public servants of the FOVISSSTE and thus she solicited the re-opening of the respective file.

Based on the above, on June 6th, 2003, this Mexican National Commission for Human Rights issued Recommendation 20/2003 addressed to the Executive Committee Member of the FOVISSSTE, so that he may proceed to issue the return of the amount of money resulting in favor of the person wronged, of the sum of the mortgage discounts which she paid bi-monthly including the interests and accessories which may have been generated and which according to law belong to her, or in her case that a credit be assigned to her which will permit her to have a dwelling; that the corresponding investigative procedure be initiated to the public servants involved in the lack of fulfillment of the compromise which the FOVISSSTE assumed with the Mexican National Commission for Human Rights, and that the necessary measures be dictated so that the public servants of the FOVISSSTE be instructed and trained regarding the steps related to financing for the acquisition of dwelling, in order that in similar cases the Human Rights of the rightful claimants be respected.

Recommendation 21/2003

June 11, 2003

Case: Appeal presented by Mrs. Norma Tapia Cárdenas

Authority addressed: Constitutional Governor of the State of Baja California

On October 26, 2001, this Mexican National Commission for Human Rights received the appeal presented by Mrs. Norma Tapia Cárdenas wherein she expresses that the no acceptance of Recommendation 3/2001 issued by the Attorney General's Office of Citizen Protection for the State of Baja California and addressed to the Justice Attorney General's Office of said federative entity causes her harm, since the reasons stated by the responsible authority for not accepting it, are incongruent, which is why she considers that her human rights have been violated.

Although in Recommendation number 03/2001 the existence of violations of the human rights is proven, this National Organism thus not coincide with the reaches of the first specific Recommendation, within Recommendation 03/2001, in virtue of the fact that the

elements which integrate the conduct of torture were not duly accredited, and therefore, thus not pronounce itself in favor of the ratification of the afore - mentioned Recommendation, and, consequently, proceeds to make its own Recommendation.

Due to the above, this Mexican National Commission for Human Rights issued Recommendation 21/2003, where it places before the Governor of the Free and Sovereign State of Baja California the following Recommendations:

First.- That the performance of the agent from the Public Prosecutor's Office in charge of the previous investigation be investigated administratively and legally and, should it be the case the corresponding process and procedures be initiated until a satisfactory conclusion is reached.

Second.- That a prior investigation and administrative procedure of responsibilities be initiated, against the agent of the Public Prosecutor's Office and of the Secretariat of the Anti-kidnapping Group.

Third.- The responsibility of the Zone Director of the Direction of Internal Affairs and Comptroller's Office of the Justice Attorney General's Office for the State of Baja California, responsible for the integration of the investigative administrative file be determined, for not having fulfilled with the maximum diligence the service recommended to her and for not exhausting the performances and diligences which she could have undertaken within the afore mentioned procedure before determining her definitive file, in terms of that established in the observation section of the present Recommendation.

Recommendation 22/2003

June 18, 2003

Case: Appeal presented by Mr. Jesús Rodríguez Quintero

Authority addressed: City Council of Monterrey, Nuevo León.

On January 28, 2003, this Mexican National Commission for Human Rights, received the appeal presented by Mr. Jesús Rodríguez Quintero concerning the lack of completion of Recommendation 31/00, which on April 14, 2000, the State Commission for Human Rights of Nuevo León addressed to the then Municipal President of Monterrey, stating precisely as a damage that the lack of fulfillment propitiates the risk to the integrity of the persons, material goods, and vehicles which are found in the interior as well as the exterior of the Pulga Mitras Commercial Center of that locality.

From an analysis of the evidence of this Recommendation sufficient elements are found in order to establish the legal provenance of the damage believed worthy by the plaintiff, since in the inspection undertaken by personnel of the State Commission of Human Rights of Nuevo León aiding the work of this National Organism, emphasized that in the streets surrounding the commercial center, sales people exercising informal commerce were found, becoming aware that one of the entrances to the commercial center and an emergency exit were closed from inside and partially occupied with merchandise that the afore mentioned sales people deposited. Therefore this National Organism issued Recommendation 22/2003 addressed to the City Council of Monterrey Nuevo León, that it fulfill, on its terms Recommendation 31/00, issued by the State Human Rights Commission of Nuevo León.

Recommendation 23/2003

June 19, 2003

Case: Mr. Raúl Medina García

Authority addressed: General Director of the Mexican Social Security Institute (IMSS)

On January 17, 2003, a written complaint presented by Mrs. Elsa Guadalupe Rodríguez Alonso before the Commission for Human Rights for Coahuila for presumed violations to the Human Rights committed in prejudice of herself and her husband, Mr. Raúl Medina García, attributed to public servants of Zone Number 16 General Hospital of the IMSS in Torreón, Coahuila, consisting in medical negligence and negative and inadequate rendering of the health public service.

From an analysis of the facts, this Mexican National Commission for Human Rights proved diverse irregularities which accredited violatory acts to the Human Rights of Mr. Raúl Medina García on behalf of Dr. Javier de la Torre Buendía, public servant of Zone Number 16 General Hospital of the IMSS in Torreón, Coahuila, all the while that he did not provide the person harmed with the adequate, opportune, professional and quality medical vigilance.

Based on the above, this Mexican National Commission for Human Rights issued Recommendation 23/2003, addressed to the General Director of the IMSS so that he may initiate and determine, according to Law, an administrative investigation procedure against Dr. Javier la Torre Buendía, so that the responsibility for the irregularities which he incurred may be determined. Also, it was recommended that payment by concept of damages which may result in conformity with that dispose in Article 33 of the Federal Law of Administrative Responsibilities of the Public Servants be made, and finally that the necessary medical and therapeutic attention be given to Mr. Raúl Medina García.

Recommendation 24/2003

June 25, 2003

Case: Mrs. Esther Ibarra Rosales

Authority addressed: General Director of the National Institute of Fine Arts and Literature (INBA)

On May 2nd, 2002, this Mexican National Commission for Human Rights received the written appeal of Mrs. Esther Ibarra Rosales stating that on December 7, 2001, she requested from the then Director of the National Theatrical Investigation Centre "Rodolfo Usigli", (CNIT) of the National Institute of Fine Arts and Literature, that she be granted a leave of absence with pay in order to undertake Doctorate studies in Spain, and which was denied. After this, on January 9, 2002, she requested it from the then Director of the CNIT who also answered in the negative. On February 28, 2002, she went before the Internal Control Organ of the INBA in order to present her written complaint against the afore-mentioned directors of the CNIT; however, the person in charge of the Area of Responsibilities, Complaints and Accusations of said institution at that moment, refused to receive this written complaint, and for this reason she went before the Technical Secretary of the then Secretariat of the Comptroller and Administrative Development (SECODAM) to present her complaint.

She also stated that on April 30, 2002, upon arriving at her job, she noticed that in the screens of the CNIT, the written complaint which on February 28, 2002, she addressed the then head of the Internal Control Organ of the INBA, was exhibited, situation which affected her for having made public a personal matter, which she considered transgressed her human rights, reason for which she requested the intervention of this Mexican National Commission for Human Rights.

Of the previous deeds, the CNDH accredited violations to the human rights of the plaintiff and suggested to the INBA and its Internal Control Organ a conciliation, which was not accepted and thus the CNDH issued Recommendation 24/2003 addressed to the General Director of the INBA so that he might initiate the administrative procedure of investigation against the Public Servant who incurred the actions and omissions indicated; an administrative procedure be initiated against the Public Official who made public a document, private in character and that this CNDH be informed of the resolution pertaining to said procedure; also that the adequate measures be adopted so that the Public Servants of the CNIT "Rodolfo Usigli" INBA and Literature avoid divulging the information containing personal data, in accordance with the Federal Law of Transparency and Access to Public Government Information.

#### DOMESTIC RELATIONS

The President of the Mexican National Commission for Human Rights met with Bishops from the Catholic Church of the Border States of México and the United States of America.

On June 24th in the city of Mac Allen, Texas, Bishops from the Catholic Church of boarder states of México and the United States of America, attended the conference given by the President of the Mexican National Commission for Human Rights, on issues of migration.

During this meeting the Bishops of the Catholic Church offered to support the Program of Protection and Defense of Migrants of the CNDH, with the purpose of stopping abuses against migrant workers with no papers on both sides of the northern border, as well as to increase knowledge of the fundamental rights of this vulnerable group.

On his part, the National Ombudsman manifested that several mobile or "volantas" of the CNDH will shortly be operating, and this will enlarge the capacities for attention to complaints and orientation to migrants not only in the northern zone but also in the south of México. He pointed out that with the opening of this four new offices of the Mexican National Commission for Human Rights in Tijuana, Baja California; Nogales, Sonora; Ciudad Juárez, Chihuahua, and Villahermosa, Tabasco, greater impulse will be given to the establishment of a culture of complaint.

Present at the meeting were the Auxiliary Bishop of Miami and President of the Episcopal Committee for Migratory Services of the Conference of Bishops from the United States, who informed that in June they will hold in Washington, USA, several meetings with Congress men in which they will present the ecclesiastic proposals on the migratory subject, the same which he said, "has been aggravated since the attempts of September 11".

The purpose of these agreements consists in realizing diverse activities of an 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 Working Day "The Participation of Women in the War"

The Mexican National Commission for Human Rights in coordination with the International Red Cross Committee, through its Regional Office for México, Central America, Haiti, and the Spanish Speaking Caribbean, within the frame work of the joint promotion and diffusion of the International Right of the Human Rights and of the International Humanitarian Rights; of the celebration of the International Decade of a Culture for Peace (ONU 2000 to 2009), the commemoration of the 50th Anniversary of the exercise of female vote in México, (1953), and the 53rd Anniversary of the Geneva Agreements (1949) convoked the 26th day of June to the International Working Day "The Participation of Women in War".

The general objective of this working day mainly consisted of pointing out the different roles which women play in times of armed conflict, be it as a victim, combatant, war correspondent, relief personnel and humanitarian aid.

#### FOREIGN RELATIONS

The CNDH in the meeting of Special Fund for Ombudsman and National Human Rights Institutions in Latin American and the Caribbean.

As follow-up to the declarations about the priorities of cooperation, the Government of Denmark hosted the "Conference on the Work and the Cooperation of the Ombudsman and National Human Rights Institutions of Latin America, the Caribbean and Europe", whose purpose was to strengthen the bi-regional cooperation in the area of democracy and the Human Rights. In this Conference, the Danish Minister propose the creation of a Special Fund addressed to promoting the strengthening of the institutions of Ombudsman of Latin America and the Caribbean, as well as its collaboration with homologous institutions in the European Union; said proposal was approved by the President of the Iberoamerican Federation of the Ombudsman, by the President of the Caribbean Ombudsman Association and by the National Institutions of Human Rights.

For this reason, the government of Denmark was requested to support a construction process of consensus in regard to the nature of said Fund, for which it initiated a procedure to inform and obtain the political support of other member states of the European Union, Countries in Latin America and the Caribbean, as well as Ombudsman from all regions. The Interamerican Institute of Human Rights and the Danish Centre of Human Rights were selected to help to define together with the Danish Minister of Foreign Relations the orientation and functions of the Special Fund.

During this meeting celebrated between June 17 and June 19, in Copenhagen, Denmark, the Statutes which give legal functioning to this Fund were approved.

#### PUBLICATIONS

Gaceta, Official publication of the Mexican National Commission for Human Rights, number 153, corresponding to the month of April, 2003.

Constitutional Decree, and Internal Rules of the CNDH. New printing, México, CNDH, June 2003. Book.

The Problems of the Indigenous Rights in México. CNDH, June, 2003. Book.

The Human Rights of Mexicans, New printing, México, CNDH, June, 2003. Book.

Memory of the Forum "Route towards Peace". México, CNDH, June, 2003. Book.

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