

NEWS LETTER

Number 128

October 2003

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INTERNATIONAL SEMINAR "TODAY'S OF THE NATIONAL INSTITUTIONS FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS"

On October 9, 2003, the Mexican National Commission for the Human Rights (CNDH), under the auspices of the Office of the United Nations High Commissioner for the Human Rights (UNHCHR), organized the international seminar to commemorate the Tenth Anniversary of the approval the Principles Relative to the Statues and Functioning of the National Institutions of Protection and Promotion of the Human Rights, commonly known as "Paris Principles".

During this act, which was attended by the presidents of the state commissions, academics, government officials, and interested public, the following assisted as presenters: Mr. Orest Nowosad, from the team of National Institutions of the UNHCHR; Mr. Jody Kollapen, President of the South African Commission for the Human Rights; Dr. Jorge Santistevan de Noriega, former Defender of the People of Peru; Dr. Albert Perez Calvo, investigator from the Public University of Navarra, Spain, as well as Dr. Francisco Javier Acuña Llamas, Coordinator of the Masters in Law from the University Anahuac del Sur. The moderation of the Seminar was undertaken by the Executive Secretary of the CNDH.

After explaining the fundamental characteristics of the National Institutions established in accordance with that set out in the Paris Principles, amongst them plurality and independence, financial autonomy, composition and legal foundation, amongst others, the presenters were agree in affirming that the role of National Institutions of Promotion and Protection of the Human Rights is characterized by the presence of phenomenons of violence related to cultural, political and social cultural factors, such as extreme poverty, discrimination religious intolerance and more recently, the increase in terrorism, and the subsequent installation of safety measures which in the majority of the cases affect the poor countries, providers of manual labor which migrates to the industrialized societies in search of better living conditions, factors which impede the acknowledgement and effective enjoyment of the fundamental rights.

At the closing of the event the speakers coincided in stressing out

that independence is the only quality which will allow the Ombudsman to fulfill his commitment. He must not be a puppet or persecuting dragon of the authorities; the bonds with different social performers will place him at the margin of compromises and will permit him to adopt measures in order to avoid the politicizing of the matters he knows about, and thus, not fall and be trapped by the decisions of the political parties, government, non-governmental organisms, and civil society. The performance of the Ombudsman must remain within the law, which will allow him to use all the weapons and legal precepts at hand in order to force the governments to end the social crimes.

Lastly, the Executive Secretary of the CNDH made a public avowal of recognition of the work which the Office of the UNHCHR has been developing, especially to his team from the National Institutions who has focused special attention upon the establishment and strengthening of the more than 90 National Institutions established in accordance with the Paris Principles, offering practical

assessment to the great number of countries who request it, and supporting the growing participation of these institutions in the forums on human rights which are held within the United Nations, as well as in other international forums.

RECOMMENDATIONS

Recommendation 42/2003

October 9th , 2003

Case: Appeal presented by Mr. Valente Hernandez Bolan

Authority addressed: Constitutional Governor for the State of Chiapas

On February 14th , 2003, this Mexican National Commission for Human Rights initiated file 2002/56/-2-1 regarding the appeal presented by Mr. Valente Hernandez Bolan, due to the inacceptance of the third point of Recommendation CEDH/059/2002, which the State Commission for Human Rights of Chiapas sent on November 6, 2002 to the State Secretary of Public Safety, derived from file CEDH/TAP/0064/03/99.

From a logical-legal analysis of the documentation sent to this National Organism, it is perceived that Mr. Gilbert Camacho Clemente, in the performance of his duties as a policeman from the Direction of Public Safety of the State of Chiapas, at the time dependant upon the Secretariat of Government for the state, and who now works in the Secretariat of Public Safety of that federative entity, without any reason or justification used his gun against a group of persons amongst which Mrs. Ivonne Araceli Castro Solorzano found herself, and who was caught by one of the bullets, this causing her death, and therefore, the public servant failed in the performance of his duties, consisting of safeguarding the legality, honesty, loyalty, impartiality, and efficiency which must be observed in the performance of his job, position or commission, besides having to observe good conduct and treat respectfully, diligently, impartially and rightly, all persons with whom he comes into contact with, during the fulfillment of his duties, under the terms established by articles 113 of the Mexican Constitution, and 45, fraction 1 of the Law of Responsibilities of the Public Servants of the State of Chiapas, besides violating the principles and basic directions concerning the rights of the victims of violations of the international norms of Human Rights, and the International Humanitarian Right.

Thus, for this Mexican National Commission for Human Rights, it is clear that Mr. Gilbert Camacho Clemente violated the right to life of Mrs. Ivonne Araceli Castro Solorzano reason by which it considered the refusal of the authorities to proceed to repair the damage irrelevant, since it denotes a lack of will to perform actions against impunity and intolerance.

Due to the above, on October 9th , 2003, this National Commission issued Recommendation 42/2003, which as addressed to the Constitutional Governor of the state of Chiapas, in which upon partially coinciding with the State Commission of Human Rights, it modified point No. 3 of Recommendation CEDH/059/2002, recommending, as its only point, that he

issue his instructions to the Secretary of Public Safety of the State of Chiapas that he make payment of the corresponding indemnity to the relatives of Mrs. Ivonne Araceli Castro Solorzano, under the terms stated in the present Recommendation.

Recommendation 43/2003

October 9th , 2003

Case: Violation of the Human Rights of the Interns in the State Centre for Minors of Colima

Authority Addressed: Constitutional Governor of the State of Colima

Based upon the procedures of the complaint file 2002/627-3, related to the case of violations to the Human Rights of the interns in the State Center for minors of Colima, on October 23th, 2002 the Third Inspection of the Mexican National Commission for Human Rights made a conciliation proposal to the General Secretary of Government of said federative entity.

Said proposal was accepted by the General Director of Government and by the General Director of Prevention and Social Rehabilitation of the State of Colima, by way of official notice SGG-520/02, dated November 5th , 2002, in which the conclusion of said file was agreed upon, this remaining open exclusively for the purpose of the corresponding follow up which was undertaken by way of two visits to the afore-mentioned Center, in which it was proven that the authorities of that State did not give total fulfillment to the commitment acquired, all the while that minors were detected in conditions of isolation and without the support of sessions acts of Technical Interdisciplinary Council; that the Internal Ruling has not been changed in order to establish in it the applicable sanctions when it is transgressed; that minor continue to enter the Center under the quality of "deposit" without being at the disposal of the Titular Council, given that the state DIF has not been given an appropriate place for their shelter, and that said Council continues to request bails in cases where it considers the minors to be "in a state of danger".

Consequently, on August 28th , 2003, the re-opening of the referred complaint file was agreed upon, and the number 2003/24434/-3 was affixed to it, in virtue of the face that the deeds cited in the above paragraph constitute violations to the Human Rights of the minor interns, since they do not receive dignified treatment, or freedom legality, legal safety and due process of law, consecrated in articles 4o. paragraph sixth and seventh,; 14th , second paragraph, 16th first paragraph, and 19th of the Mexican Constitution.

Because of the above, on October 16th , 2003, this Mexican National Commission for Human Rights issued Recommendation 43/2003 addressed to the Constitutional Governor of the State of Colima, for the purpose of his instructing whomever it corresponds, that the necessary measures be taken so that the violation to the Human Rights of the boys and girls interned in the afore-mentioned Center cease, and, particularly so that the corresponding Internal Control Organ be authorized, so that an investigation be initiated in order to determine the administrative responsibility which the public servants may have incurred in the violations to the Human Rights described in the body of the afore-mentioned Recommendation; that the necessary reforms to the Internal Ruling of the State Center for Minors of Colima be made, so that in it sanctions applicable to the interns who the interns who infringe it, be clearly established, that the necessary actions be taken in order to provide the Family Integral System with a suitable place to house and give the protection they require to the minors, who without being at the disposal of the Protective Council, find themselves interned in that enter; that instructions be issued to the authorities of the Protective Council for Minors and of the State Center for Minors of Colima so that in the future they do not allow the entry to that establishment of boys and girls who are not at the disposal of the cited authority in the first place, and so that they issue instructions to the President of the Protective Council for Minors so that this organization abstain from requesting bail from minors who have not committed a criminal act, and whose legal situation corresponds to that of "dangerous state".

Recommendation 44/2003

October 9th , 2003

Case: Appeal presented by Mr. Alfonso Zenteno Zenteno

Authority addressed: City Hall of Tuxtla Gutierrez, Chiapas

On July 15th , 2003, this Mexican National Commission for Human Rights began file 2003/275-1-1, due to the appeal presented by Mr. Pedro Alfonso Zenteno, Zenteno, due to the inacceptance of Recommendation CEDH/033/2003, which the State Commission of Human Rights for the State of Chiapas addressed to the Municipal Presidency of Tuxtla, Gutierrez, in that federative entity, since, in its opinion, upon not accepting the same they cause grave harm to his person and in his patrimony.

From the analysis of the documentation which is part of the appeal, this Mexican National Commission for Human Rights, it is quite clear that public servants from the City Hall of Tuxtla Gutierrez, Chiapas, occupied in an arbitrary manner, the restaurant called "Casa Grande", which Mr. Pedro Alfonso Zenteno Zenteno owned, since from the report which the municipal authority gave the state Commission it was not made clear which legal actions were undertaken, once the time granted the harmed person expired, that he may present his lack of conformity with the sanitary inspection visit made to the property by the Direction of Regulation and Sanitary Promotion of that City Hall on March 3rd, 2001, or under which conditions it set out to occupy the local which the injured party owned, and what fate it gave to the property which was inside this establishment.

In the present case, the municipal authority attempted to justify the possession of the property stating as a reason a contract celebrated on the 1st of January, 2001 between the City Hall of Tuxtla, Gutierrez and the Government of the State of Chiapas, with a date prior to the sanitary inspection visit, and it was notices that the public servants of Municipal Presidency did not go before the competent legal office, so that this would resolve the probable controversy about the possession of the property and in its case, issue a resolution concerning the physical delivery of the same to whomever had the best right, above all since the municipal authorities knew that in this place the "Restaurante Casa Grande" was functioning, it being the property of Mr. Pedro Alfonso Zenteno Zenteno.

For this reason, the public servants of the City Hall of Tuxtla, Guitierrez acted in an arbitrary fashion, violated that disposed by articles 14 and 16 of the Political Constitution of the Mexican United States, which consecrate the guarantees of legality and legal safety; also, they did not act in adherence to that foreseen in article 45, fractions I and V, of the Law of Responsibilities of the Public Servants of the State of Chiapas.

For this reason, this Mexican National Commission for Human Rights decides that that irregularity cannot remain unpunished, and the same must be investigated in order to determine the responsibility which the public servants of that Township incurred during that date on which the deed occurred, not withstanding that the persons presumed responsible had concluded their tenure as public servants which do not exempt them from their responsibilities, since according to that established in article 75, fraction 11, of the Law of Responsibilities of the Public Servants of the State of Chiapas, the faculties for imposing administrative sanctions which that law establishes ends in three year.

In the present matter, the municipal authorities, in spite of the existence of a contract in regard to the property situated en Andador Los Cocos, number 42 of the colony Albania Baja in Tuxtla, Gutierrez and of interposing the legal action which articles 268, 269, 270 and other of the Code for Civil Procedures for the State of Chiapas, provide, so as to enforce that contract, acted arbitrarily upon occupying the property, thus causing harm to the rights of possession of the person harmed in regard to the local which the property occupied, and of property in regard to the furnishings it contained , which affected the patrimony of Mr. Pedro Alfonso Zenteno Zenteno, and thus he must receive an indemnity under the terms of articles 44 of the Law of the Mexican National Commission for Human Rights, 43 of the State Commission for Human Rights of Chiapas, and 53 of the Law of Responsibilities of the Public Servants for the State of Chiapas.

This Mexican National Commission for Human Rights decided that the reason for the inconformity presented by the appellant Pedro Alfonso Zenteno Zenteno was accredited; for this reason, on October 24th 2003, this National Organism issued Recommendation 44/2002 addressed to the City Hall of Tuxtla, Gutierrez, Chiapas, that it may issue its instructions to whomever it corresponds and initiate an administrative procedure of investigation against the public servants of that Township which are found accountable for the irregularities incurred in the exercise of their functions, and in the proper course, it be determined, according to Law, as it is instructed, to whomever it correspond, so that the amount of payment be quantified, and payment made by concept of the resulting indemnity, in favor of the person harmed.

DOMESTIC RELATIONS

Third National Meetings on Human Rights and Victims Crime

From October 15th to October 17th 2003, the Mexican National Commission for Human Rights organized the Third National Meetings on Human Rights and Victims of Crime, whose principal objective was providing a forum for discussion and reflection on the role to be undertaken by the commissions for Human Rights, in their daily work of taking care of whomever seeks them out searching for help and orientation, as well as demanding respect for their rights as victims.

Amongst the subjects dealt with during these journeys, we should mention: "Roles of today's and tomorrow's Victims", "Victims in Journalism"; "The Victim and Human Rights"; "Victims and informative crimes"; "The role of the person injured in the Mexican Criminal System", "The Victims of the genomic crimes"; and "Victimology and Human Rights", a conceptual reflection."

Training Courses

Regarding the activities of the Mexican National Commission for Human Rights in promoting a culture of Human Rights, the CNDH during the month of October undertook 89 activities, amongst them courses, workshops and conferences, addressed to the personnel assigned to the basic, and higher educational systems, groups in vulnerable situations, public servants and social organizations.

FOREIGN RELATIONS

The CNDH participated in the Meeting of the Council of Directors from the International Ombudsman Institute.

From October 1st to October 3rd, 2003, in the city of Quebec, Canada, the Meeting of the Council of Directors of the International Ombudsman Institute (IOI) was held, the CNDH having belonged since 1997. Upon this occasion, representing Dr. Jose Luis Soberanes Fernandez, the Executive Secretary of the CNDH attended.

During the meeting the members of the Council of Directors analyzed the activities undertaken during the last year and defined the work strategies for the year 2004. The Mexican National Commission for Human Rights, just as it has been doing during the last two years, presented the report related to the region of Latin America, while the representative from Antigua and Barbuda presented the report corresponding the Caribbean region.

It is of great importance to mention that due to an agreement between the directors of Latin America, the designation of the Mexican National Commission for Human Rights as Regional Vice President for Latin America and the Caribbean for the year 2004, was unanimously approved.

During the meeting a special chapter was dedicated to making known the advances for the celebration of the next International Conference of the IOI, which will take place from September 7th to September 10th, 2004, in the city of Quebec, Canada and to which an attendance of more than 500 participants is expected.

In conclusion, and in accordance with that established in the Statutes of the IOI, the election of the President, Vice President and Treasurer of the Institution was held, the results being the following: President, Mr. Clare Lewis, Ombudsman from Ontario, Vice President, Mrs. Alifa Farouk, Administrative Mediator from Tunes, and Treasurer, Dean Lewis N. Klar. The Secretariat of the IOI will remain under the charge of Mr. Alice Tai, Ombudsman from Hong Kong.

The President of the CNDH attended the Meeting on Defenders of the People and Constitutional Rights.

So as to commemorate the 25th Anniversary of the Constitution of the Kingdom of Spain, this country (Spain) invited the Defender of the People and Heads of Human Rights Institutions from Latin America, as well as representative of similar institutes and institutions to the "Meeting on Defenders of the People and Constitutional Rights", which took place on October 27th in the city of Madrid, Spain.

The President of the CNDH, Dr. Jose Luis Soberanes Fernandez, accompanied by the Executive Secretary, participated in this event where amongst other things, the following were discussed: Antecedents and significance of the Defender of the People; The Defender

of the People and the Spanish Constitution, genesis and development of the parliamentary works; The institutional dynamism of the figure of the Defender of the People and its influence in Latin America.

Meeting of the Board of Directors of the Iberoamerican Federation of Ombudsmen

So as to make good use of the presence of a great part of the heads of Human Rights Institutions from Latin America during the Journeys on "Defenders of the People and Constitutional Rights " in commemoration of the XXV anniversary of the Constitution of the Kingdom of Spain, on October 28th, the Iberoamerican Federation of Ombudsmen convoke to a Special Meeting of the Board of Directors, in the headquarters of the University of Alcala de Henares, in Madrid, Spain, for the purpose of knowing about the latest developments of the organization and the subjects to be dealt with during the VIII Congress of the FIO, which will take place from November 18th to November 21st, next, in the city of Panama, Panama.

PUBLICATIONS

Gaceta, The National Commission for Human Rights official monthly publication, Number 157 corresponding to the month of August, 2003.

Lynching: Justice by own hand, Mexico, CNDH, October, 2003

First and Second National Journeys on Victims of Crime and Human Rights, Mexico, CNDH, October, 2003

Compilation of International Instruments Signed and Ratified by Mexico, 1921-2003, Book 1 and 11, Mexico, CNDH, October, 2003.

Program for the strengthening of the family, Women's Human Rights, Mexico, CNDH, September, 2003

Program for the strengthening of the family. Human Rights of the Elderly Adult, Mexico, CNDH, September, 2003.

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