

NEWS LETTER

Number 132

February 2004

CONTENTS

- ANNUAL ACTIVITIES REPORT (2003) OF THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS (CNDH)
- RECOMMENDATIONS
6/2004 to 8/2004
- DOMESTIC RELATIONS
The Mexican National Commission for Human Rights delivered to the Mexican Human Rights Attorney's Office the files concerning the cases of the Women of Juárez.
Training courses
- INTERNATIONAL AFFAIRS
The President of the CNDH participated in the Round Table about Racial Relations in Auckland, New Zealand
- PUBLICATIONS

ANNUAL ACTIVITIES REPORT (2003) OF THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS (CNDH)

In accordance with that established by the Law of the Mexican National Commission for Human Rights, the President of the CNDH, rendered his Annual Activities Report in the month of February before the Three Powers of the Union.

During the presentation of the Annual Activities Report corresponding to the year 2003, Dr. José Luis Soberanes Fernández, President of the Mexican National Commission for Human Rights, made an emphatic call to turn back the deterioration of the living conditions of many millions of Mexicans, and to recuperate the objectives and the commitments of the social State, since in a society notably marked by the lack of equality in the access to opportunities and to material goods, it is impossible to satisfy the full validity of the Human Rights.

The National Ombudsman also pointed out, that the Mexican National Commission for Human Rights believes that there have been advances in the recognition and observance of the civil and political rights which guarantee the freedoms, including those which reaffirm the right to difference and the essential respect to human dignity. However, he stated that the results are still precarious in the realization of the economic and social rights whose satisfaction and exercise represent the only way to eradicate the enormous abyss of inequalities which reign in México at present.

During the message, the President of the Mexican National Commission for Human Rights clearly stated that together with the strengthening of the legal State which is capable of bringing order to society and of offering security, the reform of the legal democratic State requires objective responsibility with the development from the latter. In none of these environments have we as yet found sufficient response.

An example of this situation is constituted by the increase in the number and seriousness of the complaints pertaining to deficiencies in the rendering of the institutional public health services. In this atmosphere, as well as in other services in which demerits are found in their quality, it is indispensable that true long range and in depth answers be found which merit an integral vision of the financing of the health which allow for the turning back of the material aspects of deterioration.

Since the 2003 experience, the Mexican National Commission for Human Rights reiterates that the justice system urgently

demands an integral reform, which will take into consideration the technical, punitive and procedural aspects, as well as the protection which the State owes the victims of crime. Resistance is still seen amongst the public servants in the full recognition of the fundamental role corresponding to the victims or the lack of action for the obtention of accurate restitution of these, can worsen the loss of confidence in the procurement and administration of justice.

Dr. Soberanes Fernández also mentioned that with the justice reform, a reform of safety is required, which will permit citizens to recuperate their confidence in the police corps. The insecurity, or lack of safety corruption and impunity continue to be serious attempts against the basic Human Rights, and disturbing factors which act against the viability of any project for a just, fair and democratic nation.

In relation to the case of murdered women in Ciudad Juárez, which gave rise to the Special Report of the Mexican National Commission for Human Rights, the head of the National Organism of Human Rights pointed out that this case constitutes an extreme of the point which the violation of the Human Rights of the victims can reach, and the difficult road which the State's actions must travel in order to overcome this "national shame", until finally, justice is done.

Another extreme situation underlined by the President of the Mexican National Commission for Human Rights, is the frequency of the lynching cases amongst individuals, which represent the negation of justice, and the triumph of vengeance, and where legality and the State of Law are annulled.

Likewise, the National Ombudsman pointed out that another of the red flares which claim immediate and systematic attention, are the violations of the fundamental rights of the migrants. The international norms under written by México on the matter are unknown, and are not carried out too frequently by the representative authorities on this matter.

The verification of the violations against persons belonging to this vulnerable group is complex; however, the Mexican National Commission for Human Rights opened during 2003, offices for the attention to migrants in the cities of Villahermosa, Ciudad Juárez, Nogales and Tijuana, and currently has mobile offices in some of the border regions of the country with greater degree of conflicts, so as to safeguard the fulfillment of the rights of this group.

In this context, the National Ombudsman pointed out that the Mexican National Commission for Human Rights, is convinced that the government of México has the authority and the arguments so as to demand dignified treatment for Mexicans in the United States. This moral authority gains its strength from the basis of respect tendered the rights of migrants from Central and South America who arrive to México.

Dr. Soberanes Fernández place special emphasis on a fundamental theme for the Mexican National Commission for Human Rights, the rights of the indigenous peoples. The construction of the Democratic State and the solidary society which Mexicans aspire, will be incomplete unless solid bases are simultaneously built for the economic, political and cultural development of the indigenous peoples and communities, guaranteeing the full enjoyment of their rights, and, amongst these, that of being able to participate and to be consulted, in the design of the public policies which affect them.

On health matters, the head of the Mexican National Commission for Human Rights, made public the fact that during the year 2003, the incidence of complaints was on the rise, due to the deficient attention in the public institutions in this fields, mainly, IMSS and ISSSTE, due to the lack of medications, the insufficiency of equipment, the negligent attention, and overall, the inadequate rendering of the health services. For example, on this subject the Mexican Social Security Service Institute placed fourth amongst the authorities, most often signaled out as being responsible for violations to rights, and ten of the fifty two Recommendations issued by the National Ombudsman were addressed to this Institution during the year upon which we are informing.

The Mexican National Commission for Human Rights considers the lack of truthfulness in the reports that some of the responsible authorities deliver to the Mexican National Commission for Human Rights, a serious issue, which is translated into poor performance and even worse, in the disregard which some authorities still have for the Human Rights. The recurrence of this practice presents the need to establish effective legal measures, in order to correct and avoid their repetition.

The President of the Mexican National Commission for Human Rights also stated his preoccupation over the persistence of cases related to the initiation of administrative procedures and of prior investigations pertinent to violations to the Human Rights, which do not culminate in a sanction, in spite of the fault being clearly accredited, or which only result in a minor sanction, in which advising the Public Prosecutor of these faults, is evaded, notwithstanding that a crime may exist which should be pursued, without the possibility of the CNDH being able to intervene in the administrative procedure, or becoming co-participant in the investigation.

Lastly, Dr. Soberanes Fernández issued an attention call to defend and re-affirm the adherence to legality, as a condition of social cohabitation, of freedom and of democratic life, at the same time urging recognition and respect towards differences, and towards the exercise of tolerance and the capacity to negotiate manner.

RECOMMENDATIONS

Recommendation 6/2004
February 17th, 2004

Case: Appeal presented by Mr. David Acosta Millán
Authority addressed: Town Council of Jiutepec, Morelos

On July 31st, 2003, the State Commission for Human Rights of Morelos, initiated complaint file 532/2003-4, pertaining to the complaint presented by Mr. David Acosta Millán in which he pointed out that on May 3rd and 27th, 2002 he made two previous payments in the Clean Running Water Department, by concept of connection of running water rights. Up to the present date, and since he presented his complaint, this service has not been granted.

Once integrated the complaint file on August 29th, 2003, the local Organism issued the Recommendation addressed to the Municipal President of Jiutepec in that federative entity. However, through official notice DJ/083/2002 dated September 12th, 2003, the Municipal President of Jiutepec Morelos informed the local Organism of the inacceptance of the Recommendation addressed to it.

From an analysis of the evidence integrating the present case, it was found that for this Mexican National Commission for Human Rights, the arguments presented by the Municipal President of Jiutepec, Morelos for the inacceptance for the recommendation addressed to him, are inadmissible, due to the fact as presented by the local Commission, the rendering of the running water service is under the care of the Municipality, in accordance with terms decided upon by the Federal Political Constitution, besides which the appellant accredited his right to be provided the running water service he requested, upon making payment of the fees required for the installation of the running water deposit, right which was recognized by the very same Clean Running Water Service System of Jiutepec, Morelos.

Also, with his negative response, the Municipal President of Jiutepec, Morelos eluded the obligation he had, as political, legal and administrative representative of the Town Council, this constituting a public entity with a legal personality which is susceptible to rights and obligations and, therefore, if during his administration the local Organism for the protection of Human Rights warned him of the inadequate rendering of a public service, in prejudice of the now appellant, the incoming Town Council should have been informed of the existence of that obligation.

In view of that which has already been expressed, this Mexican National Commission for Human Rights coincided with the arguments and legal foundations which served as a base for the State Commission to issue the Recommendation which it addressed to that Municipal Presidency.

Consequently, on February 17th, 2004, this National Organism issued Recommendation 6/2004 addressed to the Honorable Town Council of Jiutepec, Morelos, that they may instruct whomever it corresponds, in order that the Recommendation issued by the State Human Rights Commission of Morelos be carried out on its terms, upon solving complaint file 532/2003-4.0.

Recommendation 7/2004
February 17th, 2004

Case: Appeal presented by Mrs. Olga Terrazas Alonso
Authority addressed: Constitutional Governor of the State of Chihuahua.

Recommendation 7/2004 was addressed to the Governor of the State of Chihuahua and refers to the case of Mrs. Olga Terrazas Alonso who, due to the fact that her minor children bought from a man in the street birds of the kind called "love birds", on June 25th, 2002, two agents from the Public Prosecutor's Office from the State of Chihuahua, Specialized in Thefts perpetrated in Dwellings, interrogated her in regard to the acquisition of the birds; they pointed out to her, that said salesman had stolen them and would she please accompany them to the precinct, where she encountered three other neighbors who had also bought birds from the alleged birdman, and who, once there were intimidated by the State Public Prosecutor who informed them that they were arrested and ordered them led to a cell; it was not until the following day that their deposition was taken and they were freed upon the crime not been accredited nor their probable responsibility.

From the evidence included in the file, it is found that there did not exist a notice of investigation nor a citation, presentation or arrest, but that the Municipal Policemen commissioned to the Public Prosecutor's Office regarding Thefts to Dwellings, motu proprio, interrogated the aggrieved person without having a legitimate order from the authorities and presented her before the Public Prosecutor's Agent, who also in an illegitimate manner ordered the Director of Municipal Public Safety to arrest and guard the aggrieved in the cells of that corporation, as an arrested person, instead of ordering her immediate release.

From the above, it is found that the aggrieved was arrested in an illegal manner and deprived of her freedom without there existing a legitimate order from an authority or circumstance which would legally justified her arrest. In view of these, the aggrieved presented a complaint before the State Human Rights Commission of Chihuahua, which issued Recommendation 36/2002, addressed to the Justice Attorney General of the State of Chihuahua and the Municipal Public Safety Director. Said Recommendation was not accepted by the Attorney General, and therefore, the plaintiff presented an appeal in relation to the inacceptance of the Recommendation.

From an analysis of the facts, and taking into consideration that the damages against Mrs. Olga Terrazas Alonso have been well established, this Mexican National Commission for Human Rights confirms Recommendation 36/2002 of the State Human Rights Commission of Chihuahua and addressed the following specific Recommendations to the authority:

First. Issue its instructions so that, under terms of that pointed out in the observations paragraph of the present Recommendation, fulfillment be give to Recommendation 36/2002, issued by the Commission for Human Rights of that federative entity and addressed to the Justice Attorney General for the State of Chihuahua on December 16th, 2002.

Second. Issue its instructions to the effect that under the terms specified in the observations paragraph of the present Recommendation, a prior investigation be initiated related to the acts committed by the Public Prosecutor's Agent, who illegally held the aggrieved person.

Recommendation 8/2004
February 17th, 2004

Case: Mr. Alejandro Costeño Rivera
Authority Addressed: Attorney General for Military Justice

On May 26th, 2003, the Mexican National Commission for Human Rights received the written complaint of Mr. Alexander Costeño Rivera, who stated that on June 21st, 2002, at approximately 13:30 hours, at Door No. 8 of Military Camp Number 1-A, he was detained by four persons from the Federal Military Judicial Police, who using strong language removed him from his vehicle and transferred him to the premises of the afore-mentioned Police, where he was tortured so that he confess to having committed fraud against a General, reason for which they wrote on some boards what he had to say when he gave his declaration before the Military Public Prosecutor's agent.

From the logical-judicial analysis undertaken of the evidence integrating the complaint file 2003/1621, for this Mexican National Commission for Human Rights it is clear that the Human Rights in regard to personal integrity, legality, and judicial security, foreseen in articles 14, 16, and 22 of the Political Constitution of the Mexican United States were violated; 2, 3, 4, 5, 7.1, 7.2, 7.5, and 8 of the American Convention on Human Rights, as well as those contained in articles 1, 2, 3, 5, 9.1, and 10.1 of the International Pact of Civil and Political Rights, 1st, 2nd and 3rd of the Conduct Code for Officials in Charge of Enforcing the Law; 1 and 2.2 of the Convention Against Torture and Other Treatments or Inhuman and Degrading Punishments, and 1, 3, 4, 6, and 7 of the Inter-American Convention to Prevent and Sanction Torture, in prejudice of Mr. Alexander Costeño Rivera, besides having been subjected to an illegal arrest during approximately 11 hours, which transpired from the moment of his arrest until the arrest agreement was dictated.

Due to the above, on February 17th, 2004, this Mexican National Commission for Human Rights issued Recommendation 8/2004, addressed to the Military Justice Attorney General to give the intervention which legally corresponds to the Inspection and General Comptroller of the Army and Air Force, so that an administrative investigation be initiated against the personnel of the self-same Military Justice Attorney General's Office who intervened in the violatory acts indicated, as well as the experts who failed to describe visible and accredited lesions, which originated file 2003/1621, and the above having been undertaken, accounts be rendered to this Mexican National Commission for Human Rights, of the behavior practiced from the beginning of its intervention until the conclusion of the same; also, the prior investigation be determined against the personnel of that Military Justice Attorney General's Office which intervened in the afore-mentioned acts, for the resulting crimes, this Mexican National Commission for Human Rights be informed of the behavior practiced since the beginning of its intervention, up until the conclusion of the same. In like manner, issue instructions so that the members of the Federal Judicial Military Police from the Military Justice Attorney General's Office be instructed that they must observe the Human Rights upon applying military normativity to the interior of the armed forces, especially in regard to the treatment they are obliged to give the persons probably responsible, or witnessed in the commission of a crime, and the constitutional impediment they have in order to obtain confessions, and lastly, insure that the members of the Military Justice Attorney General's Office in charge of issuing reports make them with strict adherence to the Ethical Codes for the health professionals, established in the Istanbul Protocol, acknowledging the responsibility incurred upon not acting impartially.

DOMESTIC RELATIONS

The Mexican National Commission for Human Rights delivered to the General Attorney's Office the files concerning the cases of the Women of Juárez.

This past February 10th, the Mexican National Commission for Human Rights delivered to the General Attorney Office (PGR) the files on the investigations which during ten months of the year 2003 visitors of this Mexican National Commission for Human Rights made, pertinent to the cases of murdered and missing women in Ciudad Juárez, Chihuahua, stemming from complaint 555/2003, initiated officially by this Mexican National Commission for Human Rights in January, 2003.

The documentation delivered to the Special Attorney's Office for the Attention to Crimes Related to the Homicides of Women in Juárez of the PGR gathers detailed information on the 650 inquiries undertaken in the State of Chihuahua by personnel from the Mexican National Commission for Human Rights, rising from the official complaint initiated. Amongst these inquiries are the visual inspections, expert reports, testimonies and diverse indications which permitted the CNDH to reach various conclusions, amongst others, the lack of accurate diligence in many actions undertaken by the Public Prosecutor, the loss of files, and numerous actions and/or omissions incurred by public servants.

The documents also include the information gathered about the existence of 4 thousand 587 reports on missing women in Juárez and which are under the care of the local authorities, same which can neither legally nor ethically be refused, and whose purging demands, in the judgement of the CNDH, a thorough investigation in order to find out the whereabouts of the persons referred to in said reports.

Training Courses

For the purpose of disseminating amongst the different sectors of the population a culture for Human Rights, during the month of February, the Mexican National Commission for Human Rights undertook a total of 49 activities which include courses, conferences, workshops and roundtables on analysis and discussion in relation to the following subjects: "Basic aspects of Human Rights", "Rights of boys and girls", "Human Rights and the prevention of child abuse", "Rights of the elderly", "Family violence", "Women's rights", "Fundamental aspect of the Human Rights in police function", "The Mexican system in the protection and prevention of the Human Rights", "Rights of the mentally ill", "Procedure for the presentation of a complaint before the CNDH", and "Arrests and Human Rights", all addressed to groups in vulnerable situations, personnel assigned to basic education, representatives of ONGs, public servants, and social organizations.

INTERNATIONAL AFFAIRS

The President of the CNDH participated in the Round Table about Racial Relations in Auckland, New Zealand

Invited by the Office of the United Nations High Commissioner for Human Rights, and the Human Rights Commission of New Zealand, the President of the Mexican National Commission for Human Rights, Dr. José Luis Soberanes Fernández, attended the Round Table on Racial Relations which were celebrated from February 2nd to 5th, 2004.

During the three work days, the participants had the opportunity of sharing their experiences on the problem of discrimination facing their respective countries, as well as the measures put in place in order to protect the vulnerable groups.

Dr. José Luis Soberanes Fernández placed special emphasis on the discrimination facing the Mexican Migrants who go to the United States in search of better job opportunities. On this subject, the National Ombudsman mentioned the importance of the cheap labor of Mexicans in the American economy.

Also, the National Ombudsman underlined the importance which the discrimination situation holds for México, the neglect and poverty of the indigenous peoples, placing special emphasis on the activities undertaken by the CNDH for the defense and protection of this vulnerable group, which represents more than 10% of the total population of México.

PUBLICATIONS

Gaceta. Official Monthly publication of the Mexican National Commission for Human Rights, number 161 corresponding to the month of December, 2003.

Principales Instrumentos Internacionales sobre Discriminación y Racismo (Principal International Instruments on Discrimination and Racism), México CNDH, January, 2004.

Informe de actividades de la CNDH de 1° de enero al 31 de diciembre de 2003 (Report on activities of the CNDH from the 1st of January to December 31st), México, CNDH, January, 2004.

Semana de los Derechos Humanos (Human Rights Week. Amen Chorus) (CNDH), México, CNDH, January, 2004 (CD).

OFFICERS

President
José Luis Soberanes

First Visitor
Víctor Manuel Martínez Bullé-Goyri

Second Visitor
Raúl Plascencia Villanueva

Third Visitor
José Antonio Bernal Guerrero

Fourth Visitor
Rodolfo Lara Ponte

Executive Secretary
Salvador Campos Icardo

Technical Secretary of the Council
Susana Thalía Pedroza de la Llave

Executive Secretariat
Editor: Laura Sanabria
Deputy Director of
E-mail:lsanabria@cndh.org.mx

Periférico Sur No. 4118, 2º piso, Jardines del Pedregal, Delegación Álvaro Obregón, México D.F., 01900
Teléfono : (52) 51 35 05 94
Fax: (52) 51 35 05 95
<http://www.cndh.org.mx>