

# NEWS LETTER

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## CONTENTS

- THE PRESIDENT OF THE CNDH SUBMITTED HIS 2004 ACTIVITIES REPORT BEFORE THE PERMANENT COMMISSION OF CONGRESS
- NATIONAL ISSUES
  - Agreement executed by the President of the National Commission of Human Rights, and as a result, the creation of the fifth internal criminal investigations unit of the National Commission of Human Rights
  - National Award of Human Rights, 2004
  - Proposal 200 of the State of Arizona, U.S.A, through which undocumented migrant workers are denied access to services of public assistance programs
  - Training Courses
- PUBLICATIONS

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### THE PRESIDENT OF THE CNDH SUBMITTED HIS 2004 ACTIVITIES REPORT BEFORE THE PERMANENT COMMISSION OF CONGRESS

On January 26, 2005, the President of the Mexican National Commission of Human Rights (CNDH), Dr. José Luis Soberanes Fernández submitted his 2004 Activities Report in the "Legislators of the Republic" Hall at the Legislative Palace of San Lázaro, based on that which is established by constitutional articles 93, 15 item V and 52 of the National Commission of Human Rights Act and items 39 and 45 of the Organic Act of the General Congress of the United Mexican States, relevant to the presentation of activities reports and the appearance of officials before the corresponding Commissions.

Before the Permanent Commission of the Congress, National Ombudsman, Dr. José Luis Soberanes Fernández, pointed out that, regarding human rights, there still has been no eradication of past issues such as the torture and forced disappearances of individuals. Not only that, but we are also facing new phenomena, potentially as pernicious and damaging, such as complaints due to errors in the corresponding process as a result of negligence on behalf of the authorities and repeated faults in public services, specifically those which are health-related.

He emphasized that, currently, the greatest number of complaints are derived as the result of the mistreatment and extortion towards migrants, both Mexican as well as foreign; abuse and negligence in regards to people in vulnerable sectors of the population, such as children, indigenous peoples, women, HIV-positive individuals and senior citizens; and regarding discrimination in schools for religious reasons and the weak or non-existent enforcement of the labor laws in the so-called "border zones".

"The situation I am referring to --Soberanes Fernández pointed out-- indicates a shift in the type of violations that are occurring, and reveals phenomena which, should the current trend continue - threaten our daily interaction and general political and social stability with increased violence, which rears its ugly head in the shape of a tendency to apply justice by one's own hand, to settle scores, the execution of inmates in maximum security prisons, the impairment of the penal system, the proliferation of gangs and other backward phenomena that appear as red flags in society and government."

He revealed that, last year, the CNDH provided assistance and attention in 10 thousand 729 issues that were denounced personally and also provided phone assistance to 24 thousand 787 callers; it filed three thousand 914 complaints in which the main issues, in violation of human rights, are the inappropriate delivery of public services; the inappropriate use of influence held by an employee; arbitrary detention; denying an individual's right to formulate a petition; cruel and/or degrading treatment; as well as refusing or inappropriately delivering public health services. In the mean time, the authorities pointed to the alleged responsibility of the Republic's General Attorney's Office, the Decentralized Administrative Agency of Social Prevention and Readjustment of the Department of Federal Public Security, The Mexican Institute of Social Security (IMSS), the Ministry of Public Education, the Ministry of National Defense and the Institute of Safety and Social Services of the State Workers (ISSSTE).

Dr. Soberanes Fernández pointed out that the 92 Recommendations issued by the CNDH were addressed to 96 authorities and institutions, the principal ones being: the Director General of the IMSS, with 16; the Minister of Public Education, 5; the Minister of Navy, 3; the Director General of the ISSSTE and the Military Justice General Attorney, two each.

He mentioned that, throughout the year 2004, the CNDH issued four General Recommendations: one regarding the application of a polygraph test, another regarding discrimination in schools towards minors who are HIV positive or have AIDS, another regarding the

conditions suffered by mentally impaired inmates within prisons, and one regarding freedom of expression violations regarding journalists or members of the mass media. Concerning the latter, a request was submitted that they guarantee the rights of these professionals to carry out their activities, maintaining an attitude of respect at all times regarding their freedom of expression; and it was further requested that they establish guidelines so that the officials of the Department of the Public Prosecutor avoid summoning them in order to have them disclose their information sources.

"Although currently we enjoy more freedom of expression than before, the pattern of the human rights violations of journalists has not varied substantially, and cases that denounce threats and intimidation are now compounded by those originated by pressure groups, unions, churches and other social groups," he stated.

He also mentioned the special reports regarding the reinforcement of security measures at international airports within the Mexican Republic, in connection to the violent acts that took place in Guadalajara, during the III Summit Conference of Latin America, the Caribbean and the European Union, also addressing the human rights situation in the country's prisons, which depend on local and municipal governments.

After exposing the fact that an increase in the types of violence carries the inherent risk of one becoming accustomed to it, as a daily reality, the same logic applies when it comes to violence against women, homosexuals, environmental violence, lynchings, delinquent violence and violence against migrants. He appealed to everyone, asking them to reject violence "since it destroys the social fabric and it voids the Rule of Law. However, rejecting it is not enough. It is necessary to analyze its source and find better and more punctual social and institutional ways to neutralize and ultimately eradicate it".

Finally, Dr. Soberanes Fernández declared: "Many times, violence is accompanied by a reaction of indifference, the opposite of solidarity, personal, social, institutional involvement, concern for the wellbeing of another human being, of a fellow countryman. Currently, in Mexico, indifference is made evident in several discouraging ways: the lack of assistance to migrants in several areas of the northern border, lack of results that will eventually be conducive to resolving the mystery of the murdered women in Juárez, all the while, attempting to impose on charity and philanthropy the social responsibilities of the State".

## NATIONAL AFFAIRS

Agreement signed by the President of the National Commission of Human Rights, and as a result, the creation of the Fifth General Visitorship of the National Commission of Human Rights.

The President of the National Commission of Human Rights, Dr. José Luis Soberanes Fernández, based on that which is established in item B of article 102 of the Political Constitution of the United Mexican States, as well as in articles 5 and 15, items I and II of the National Commission of Human Rights Act, and in articles 18 and 57 of its Internal Rulebook, and taking into consideration that the National Commission of Human Rights was created by the Mexican State in order to respond to the general demand for the respect and defense of human rights of those social groups and individuals who, for various reasons, have been the victims of violations by authorities at different government levels.

In order to carry out its activities, this Organism dedicated to the Protection of Human Rights has adjusted its normativity as well as the bodies that compose it, based on the needs established by the citizens' demands and according to annual work plans. Therefore, the Program of Assistance to Migrants was assigned to the First General Visitorship.

Article 5 of the National Commission of Human Rights Act specifies that it may be comprised of up to Five General Visitorships, and, within the Federation's Expenditure Budget for tax year 2005, the Chamber of Deputies assigned resources to this National Organism in order to create a new Visitorship that will focus on issues regarding the violation of human rights of migrants and, considering the fact that one of the priorities of this National Organism is to protect human rights and make sure that they are respected, the following has been issued.

Agreement:

FIRST. As of January 1, 2005, the Fifth General Visitorship was created, which will focus on matters regarding migrants.

SECOND. The Fifth General Visitorship will be in charge of the regional offices operating in Tapachula, Chiapas; San Cristóbal de las Casas, Chiapas; Villahermosa, Tabasco; Reynosa, Tamaulipas; Ciudad Juárez, Chihuahua; Tijuana, Baja California, and Nogales, Sonora.

THIRD. The human and material resources with which the General Direction of the Migrant Assistance Program operates, will be transferred to the Fifth General Visitorship.

FOURTH. This agreement must be published in the Gaceta of the National Commission of Human Rights and the Official Journal of the Federation.

Mexico , D.F., December 15, 2004 - The President of the National Commission of Human Rights, Dr. José Luis Soberanes Fernández

Human Rights National Award 2004

On January 10, 2005, Mrs. Olga Sánchez Martínez, director of the "Jesús el Buen Pastor" shelter, located in Tapachula, Chiapas, received the 2004 Human Rights National Award, in its first edition, during a ceremony presided by President Vicente Fox Quesada and which also featured the presence of the President of the National Commission of Human Rights, Dr. José Luis Soberanes Fernández.

During the event, held at the "Adolfo López Mateos" Hall, within the Presidential Residence of Los Pinos, President Fox presented the award to Mrs. Sánchez Martínez, who also received a diploma and a check for 250 thousand pesos.

When the floor was given to Dr. Soberanes Fernández, he admonished authorities and society in general to make a daily commitment to conquer indifference, to offer solidarity to others, to the victim, to those who have experienced the unjust violation of their rights and have been left to fend for themselves and, therefore, need the support of others.

In addition, the National Ombudsman pointed out that remaining indifferent to violation of human rights has become more frequent in modern times, an era characterized by a mutual devaluation between groups and peoples, a society in which violence, selfishness, trivial matters and human isolation seem to grow by leaps and bounds. "Conquering the barrier of indifference --he added- is easier said than done, but it should be a basic element comprising the behavior and attitude of any human rights defender and, in general, any public officer".

During his presentation, Dr. Soberanes Fernández took the opportunity to inform those present that in Tapachula, barely four days before, a Honduran migrant perched on the roof of the shelter managed by Olga Sánchez Martínez was attacked by an individual identified as a state judicial police agent, who, from the street, shot him several times with an AR-15 rifle. The migrant was unharmed, but the situation offers us a glimpse of the type of violence to which migrants are being exposed. "Behind the situation I'm referring to, he emphasized, there is some sort of negligence on behalf of the authorities, but I won't expound on the proliferation of acts of violence that reveal the negligence or indolence of the authorities. I do, on the other hand, want to acknowledge those who -in a responsible and solidary manner- have tried to avoid it, as has been the case of two professors, true anonymous heroes who -in the events of San Juan Ixtayopan, as witnessed in the videos by now seen by most of us - interceded to protect the victims and tried to save their lives. Their names are not even known with any certainty, but their behavior, as that of Olga Sánchez Martínez is nothing less than exemplary".

When describing the work of the honoree, the National Ombudsman stated that her personal, permanent and direct work with migrants is a perfect example, since her achievements and commitment are focused on the most clearly defined social issues of her community, in areas where the absence, weakness and insufficient reach of public institutions is regretful. At the same time, he demanded that national public institutions must always be capable of fulfilling the social purpose for which they were created; that work, health, and education must prevail as the irrevocable rights of all Mexicans, and that their aspirations must remain an equally irrevocable commitment on the part of governments.

He pointed out that the CNDH will continue insisting on the fact that any demands directed to our neighbors to the North that our citizens be treated with respect is inadmissible if we are not willing to provide the same respectful treatment to those migrants who come from the South. Further, he announced that this National Organism, through its recently created Fifth General Visitorship, will continue its monitoring activities, in keeping with its capabilities, in order for this principle to be upheld.

"The lifespan of a migrant can be much shorter than his journey. Throughout his journey, lurking in his trail are discrimination, racial hatred, the mutilating wounds caused by falling from a moving train, the risk of being robbed by passing gangs, the deception of those who sell transportation that is never safe, the shameful extortion from agents in authority, as well as the danger, the always the impending danger, of dying out in the middle of some road or in the depths of some desert, far away from everyone and everything".

Mrs. Olga Sánchez Martínez is 45 years old and she was born in Tuxtla Chico , Chiapas , Mexico . She is married and has three children. She is the third child of eleven siblings and she attended school up until the second grade. In 1991, she started to provide support to amputee migrants in her home, since there was no institution that was willing to help them. She also provides support to the elderly who, in many cases, are abandoned by their families and, or, otherwise cannot be placed in public institutions.

In addition to procuring and paying for the prosthesis required by amputee migrants --a time-consuming process due to the cost of the devices and to the great number of people who suffer accidents- she also helps the families of those migrants who have passed away.

According to the records provided by the "Jesús el Buen Pastor" Shelter, from January to October of 2004, they provided different types of support to 170 migrants originally from Honduras, Guatemala and El Salvador, among which we found: formalities carried out at the Registry Office for the inhumation of individuals whose bodies were not claimed by their relatives nor were required to be transported to their homeland; the search for relatives of migrants who have suffered an accident; financial support to pay for shelter and food while migrants recover from the amputation of upper or lower extremities and are transported to their countries of origin; assistance to people injured by firearms or knives, or individuals who are beaten or have suffered fractures.

Proposal 200 of the State of Arizona , U.S.A, by which undocumented migrant workers are denied access to the services provided by public assistance programs

The National Commission of Human Rights considers that the Mexican Government should carry out intense political and diplomatic activities focused on enforcing international rights in order for the State of Arizona to restore the rights of migrants, who have been affected since December 22, 2004 when so-called Proposal 200 went into effect . Said proposal denies, in that entity, undocumented migrant workers access to services provided by public assistance programs.

The CNDH considers that the Mexican Government, through the Ministry of Foreign Affairs, should express strong disagreement with Proposal 200 and not only declare its disagreement before American State and Federal authorities, but also before international organisms, since said act is of a discriminatory nature and in clear opposition to international agreements and principles regarding the treatment of migrant groups.

National Ombudsman Dr. José Luis Soberanes Fernández, pointed that, since said act went into effect, nearly 300 thousand Mexicans who live in Arizona, as well as citizens of other countries who are located in that southern state, live under conditions of intense fear and anguish, in view of the fact that, currently, they may be victims of persecution and harassment, both against themselves as well as their possessions, on a daily basis, should they be accused of being suspects of working without documentation. "We are, he said, looking at an act that turns the entire Mexican migrant population in Arizona into criminals".

Proposal 200 turns, de facto, all public officers in the State of Arizona into immigration agents, a task that before only pertained to federal authorities in charge of this sector.

According to Proposal 200, State employees of Arizona must deny assistance services to all individuals who cannot offer proof of their legal status; should they be unable to do so, they can incur in sanctions of up to 750 dollars and penalties of up to four months in prison.

Although said law does not specifically prevent access to basic education for the children of undocumented individuals, the mere fact that it is compulsory to have minors appear in school, is another way of detecting the presence of migrants who lack documents that can verify their legal status in Arizona .

Dr. Soberanes Fernández reiterated the need to carry out a social, legal and humanitarian initiative in order to repeal said act, since the great social-economic complexity caused by migration has not been taken into consideration.

On November, 2004, citizens of Arizona voted, representing an approval rate of 56%, in favor of the application of Proposal 200, which consists in denying services pertaining to the social assistance programs to those who cannot verify their legal/migratory status, and to force public employees to denounce undocumented migrants.

Several organizations dedicated to the defense of the Hispanic community, such as the Mexican American Foundation for Defense and Education, decided to oppose the judicial determination that granted legal effect to Proposal 200 in Arizona , whose Governor has expressed her decision to enforce it.

## Training Courses

The National Commission of Human Rights, adhering to the concept encouraged by the Ombudsman's Institution to disseminate the investigation, education and promulgation of human rights, carried out, during the month of January, 2005, 35 training activities addressed to students, parents, teachers, basic and higher education researchers, to groups in vulnerable situations, among them: women, young people, as well as to public officers of the armed forces and justice enforcement sectors, human rights public organisms and non-governmental organizations.

## PUBLICATIONS

In order to contribute towards the development of a culture of respect and promotion of human rights, throughout the year 2004, the National Commission of Human Rights produced published material amounting to one million 759 thousand 422 issues of various works, most of them regarding the respect for basic guarantees, which were distributed free of charge, with the support of Human Rights State Commission and Non-Governmental Organizations.

In order to achieve the distribution and marketing goals of the published material, the CNDH entered into collaboration agreements with several institutions, such as the Chamber of Deputies, the Senate of the Republic and the National Institution of Criminal Sciences, and participated in several coordinated efforts organized by public institutions and social organizations.

Publications from this National Organism were distributed among libraries, state entities, Non-Governmental Organizations, universities and academic institutions, public officers working for the Federation's Judiciary, for the Federal Executive, Delegates and Senators, local Congress employees, public organisms dedicated to the protection and defense of human rights, Social Readjustment Federal and State Centers, airlines, migrant assistance offices, CNDH regional coordination centers, embassies and the public in general.

One million 346,757 issues including books, three-page leaflets, brochures, posters, booklets and various material, among which we must highlight works entitled Some Notes About Torture in Mexico; Compilation of International Human Rights Documents signed and Approved by Mexico 1921-2003; Interamerican Court of Human Rights; Advisory Opinion-C-18/03; Second Generation Rights; Human Rights and Medical Service; Statutes of the Mexican Federation of Public Organisms for Human Rights and its Regulations; and Justice & Democracy.

The previously mentioned published production consists in 93 thousand 500 issues corresponding to publications through which various activities carried out by the CNDH are disseminated, such as the Gaceta , the Carta de Novedades and the English version of the latter. ( Newsletter)

Published, among others, are the titles: The Massacre of Agua Fria, Oaxaca, State Ethnocide and Genocide or Self Inflicted Community Genocide?; Women and Children From a Human Rights Perspective; Words and Human Rights; Fundamental Rights in Mexico; Human Rights of People Who Possess Different Aptitudes; Past, Present and Future of Human Rights; Main International Documents Regarding Discrimination and Racism, as well as Current Challenges of National Institutions for the Protection and Promotion of Human Rights.

In addition to the topics broached above, 319 thousand 176 published texts, including advertisement and copyright material were issued, therefore, the total sum of published issues, from January to December 2004 amounted to one million 759 thousand 433 copies.

The texts of the CNDH can be consulted or ordered by submitting a written request to the following web site:

[www.cndh.org.mx](http://www.cndh.org.mx)

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