

NEWS LETTER

Number 144

February 2005

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THE CHAMBER OF DEPUTIES AND THE CNDH AGREED TO DEVELOP A DIAGNOSTIC TOOL THAT WILL HELP TO DETERMINE THE UNDERLYING REASON FOR THE POOR PROGRESS REGARDING THE CASES OF THE MURDERED AND MISSING WOMEN IN CIUDAD JUÁREZ

The Chamber of Deputies and the Mexican National Commission of Human Rights (CNDH), agreed to develop a diagnostic tool that will help to determine the underlying reason for the poor progress regarding the cases of the murdered and missing women in Ciudad Juárez, in the State of Chihuahua, in order to submit to the Commission for the Prevention and Eradication of Violence and the Special Government Attorney's Office involved in the case, several proposals that will allow those involved to execute their tasks in a more efficient manner and will re-direct the investigations until those responsible for the crimes are identified and punished, ensuring justice for the victims and their relatives as well as in order to establishing preventive measures.

During the work meeting with legislators from the special Commission in order to identify and provide follow-up to the investigations carried out regarding the murder of women in the Mexican Republic as well the search for the due justice, National Ombudsman, Dr. José Luis Soberanes Fernández, declared that the CNDH has verified that the efforts on behalf of the Federal Government have indeed been poor and that "to this day, one year and a half after the implementation of their measures, we still have not found any degree of progress which might allow us to establish that a new solution to the problem has been created".

He pointed out that gender violence is one of the issues that most concerns the CNDH, along with the plight of migrant workers, and public security. In addition, he declared that the duty of the Commission for the Prevention and Eradication of Violence in the Municipality of Juárez, in the State of Chihuahua, should join efforts with all the offices of the federal government, through coordinated and cooperative tasks, in order to identify and help prevent the origins of violence.

Up until now, he said, we have basically focused on holding meetings on a monthly and sometimes quarterly basis, in order to carry out merely informative tasks. Reports received by the CNDH are related to interviews and meetings with organisms, but a systematic work process that will allow us to find that the federal government is indeed joining efforts with others in order to eradicate violence in the border zone, has not been established.

He reported that, last August, this Commission stated that the rate of delinquency had gone down by 14.5 percent in that area; however, only the percentage was provided, therefore, the CNDH requested an analysis of the qualitative report as well as an explanation regarding the tasks and efforts that had been carried out in order to reduce the rate of delinquency by such a high percentage, yet said report was never submitted.

The record in possession of the CNDH states that the Federal Preventive Police of the Government was present, however merely circumstantially. It was there for a couple of months and then withdrew. Subsequently, the force has arrived on certain days and then left. As of today, in certain zones where there have been murders, such as Cerro del Cristo Negro and Lomas de Poleo, there is still no surveillance and this has caused many types of delinquent activity, including homicides.

Dr. Soberanes Fernández pointed out that, up until now, the 40 Points of Action submitted in June of 2003 by that Commission in order to Prevent and Eradicate Violence against Women in Ciudad Juárez have not been executed. We were surprised to discover, he said, that not only were they not achieved, but now they are attempting to re-direct them, so that they have a higher impact among people.

He also acknowledged that the project featured very interesting strategies regarding criminal prevention, police coordination and the development of a Comprehensive Public Security Plan for that municipality, but, unfortunately, no results have been obtained from said project.

He declared that the Special Prosecutor, as an agent of the General Attorney's Office, under Constitutional terms, is responsible for the investigation of crimes, not for the examination of files, nor for the determination of whether they have been correctly compiled or not, or whether all past activities were carried out appropriately, the latter being their main activity, as opposed to carrying out investigations.

Finally, the National Ombudsman pointed out another element which has not been taken into account regarding the border situation in Juarez , therefore, they should work in close collaboration with the FBI, which have not been approached in order to request their collaboration in this case.

RECOMENDATIONS

Recommendation 1/2005

February 3, 2005

Case: Appeal by Mr. Héctor Herrera Delgado

Responsible Authority: The Constitutional Governor of the State of Puebla

On September 9 of 2004 this National Commission opened file 2004/344/PUE/1/I, as a result of the "recurso de impugnación", remedy of first instance, submitted by Mr. Héctor Herrera Delgado, in which he expressed his dissatisfaction with the Attorney General's Office in the State of Puebla, since, although said agency accepted Recommendation 016/2004 addressed to the State Commission on April 13 of 2004, since the date his appeal was first submitted, there has been no compliance with the first and third items recommended, since the office has not carried out the arrest of María Teresa Luna Cuenca, as ordered by Judge Twelve of a Civil Court in that State, as per file 25/2003; nor has it provided follow-up to the administrative process established against Judicial Police Agent José Adrián González Vázquez.

In the analysis performed by this National Commission regarding the documents which comprise the "recurso de impugnación", remedy of first instance,, it was evident that the activities carried out by elements of the General Attorney's Office of the State of Puebla were destined to comply with the first item in the Recommendation, consisting in a failure to enforce the orders decreed by the judicial authorities, since those authorities have not carried out the arrest of Mrs. María Teresa Luna Cuenca, thus violating the right to legal security and access to justice, protected by articles 17 of the Political Constitution of the United Mexican States, 1 and 24 of the American Convention on Human Rights, as well as 3 and 26 of the International Covenant on Civil and Political Rights.

On the other hand, the Attorney General's Office of the State of Puebla declared before this National Commission that it had complied with the third item of Recommendation 16/2004, issued by the local Organism, since through Official Document SDH/1997, dated November 24, 2004, it was reported that, on May 12, 2004 the Head Office of Information, Analysis and Control of Individual Behavior, appointed to that department, administrative file 142/2004 was filed against Mr. José Adrián González Vázquez, agent of the Judicial Police of the State of Puebla, and, on November 16 of 2004 that administrative file was legally determined.

Therefore, on February 3, 2005 this National Organism issued Recommendation 1/2005, addressed to the Constitutional Governor of the State of Puebla, seeking to have him draft orders to the relevant person or group of people so that the first item of Recommendation 16/2004, issued by the Human Rights Commission of the State of Puebla on April 13 of 2004, is complied with as soon as possible.

Recommendation 2/2005

February 14, 2005

Case: Appeal submitted by Mr. Sergio Padilla Reyes

Responsible Authority: The Constitutional Governor of the State of Morelos

On June 28, 2004 this National Commission of Human Rights received a letter from Mr. Sergio Padilla Reyes, in which he submitted an appeal against the determination from the Attorney General's Office of the State of Morelos for "partially accepting" the Recommendation issued by the Human Rights State Commission of that Federative Entity on April 30, 2004. Specifically, said Attorney General's Office did not accept a filing of an administrative investigation against attorneys at law Guillermo Adolfo Tenorio Ávila and Alejandro Hernández Arjona, at that time Head of the General Attorney's Office (or Office of the Prosecutor) and the Subprosecutor t Metropolitan, respectively; in addition, representatives from Comercial América, S. A. de C. V. Insurance Company were not allowed access to the separate sheets containing details of prior investigation SC/3a./3860/03-07 and, in the latter case, authorities of the Attorney General's Office of the State of Morelos denied its existence.

The "recurso de impugnación", remedy of first instance, appeal was originated in this National Organism, file number 2004/223/MOR/2-I and, once the records which comprise said dissent were analyzed, it was determined, according to article 66, item d), of the National Commission of Human Rights Act, that there was a situation of non-compliance with the Recommendation issued by the local Commission, since it was verified that the detailed account was carried out within the aforementioned investigation, since in the recording dated of August 18, 2003 there was an order issued to leave the detailed account of the aforementioned prior investigation on the relevant desk; in addition, upon request by the Attorney General's Office of the State of Morelos, public officers from the Attorney General's Office of the Federal District conducted three summons among different individuals, so that they would be audited at the previously mentioned investigation; in addition, prior investigation MH-4T2/1870/03-09 was compiled in the Attorney General's Office of the Federal District and directed to the General Attorney's Office of the State of Morelos on November 7, 2003, so that it would be audited in investigation SC/3a./3860/03-07.

In addition, the agent of the Department of the Public Prosecutor, head of the Third Agency of the Attorney General's Office in the aforementioned federative entity requested, in an official document, on January 12, 2004, before the Department of the Public Prosecutor of the Delegation of Miguel Hidalgo, submitted certified copies of all judicial acts related to the collaboration he requested on September 23, 2003.

Disregarding all of the above, the General Visitor and the Deputy Director of the Human Rights Office of the Attorney General's Office from the State of Morelos, in their official documents SDH/650/2004 and DH/039/2004, informed the State Commission and this National Commission, respectively that there was no such detailed account of the aforementioned prior investigation, therefore, it was impossible to comply with the request.

Taking this into consideration, the violation was acknowledged, injuring the representatives of the Company Comercial América, S. A. de C. V. Insurance, regarding the violation of Human Rights such as the right to a hearing, lawfulness and legal security enshrined in articles 14 and 16 of the Political Constitution of the United Mexican States; 14.1 of the International Covenant of Civil and Political Rights, and 8.1 of the American Convention on Human Rights.

Based on the all of the above, on February 14, 2005 this National Commission issued Recommendation 2/2005, addressed to the Governor of the State of Morelos, so that he, in turn, would issue orders to the Attorney General of that Federative Entity to comply with the Recommendation issued by the Human Rights State Commission of Morelos on April 30, 2004, regarding the detailed account of activities involved in prior investigation SC/3a./3860/03-07, said Recommendation restores the aggrieved parties the right of a hearing, lawfulness and legal security; the Governor of the State of Morelos also was asked to have the appropriate parties draft orders seeking to issue and determine an administrative process in regards to liability against public officers Enrique Arias Abundes and Rigoberto Albavera Figueroa, General Visitor and Assistant Director of said Agency's Human Rights Office, respectively, who informed this State Commission and this National Commission regarding the non-existence of the detailed account of the previously mentioned prior investigation .

NATIONAL ISSUES

Temporary Detainment Centers for Migrants are inadequate and operate inefficiently

The Mexican National Commission of Human Rights considers that many migrant stations and areas that have been adapted as temporary detainment centers are inadequate and operate inefficiently, to the point that their performance does not measure up to that which was established in the Guidelines for the Operation of Migration Stations of the National Institute of Migration , issued by the Executive Department of Government on November 26, 2001.

Recent inspections of several migration stations carried out by personnel of the Fifth General Visitorship of the CNDH reveal that some of the facilities even show irregularities that attempt openly against the dignity and fundamental rights of the people held there.

This National Commission considers that this fact differs from that which was stated recently by the UN's Special Reporter on Human Rights of Migrants, Gabriela Rodríguez Pizarro, regarding the progress achieved in the area of the treatment of migrants in our country.

In general, and based on direct observation and field visits carried out by CNDH personnel, many improvements and changes in the way migrant stations operate are still pending before one can consider that full compliance with the enforcement of rules is a reality. Indeed, quite the opposite, migrant stations in Mexico are far from exemplary.

Among the shortcomings found during recent visits, several openly oppose the rules in effect, only to name a few:

- . Cases in which individuals detained eat, sleep, and fulfill their physiological needs in the same area. In most stations, they lack of beds or places to sleep, or, these are insufficient in number.

- . In some places, water is completely unavailable in lavatories and the individuals detained cannot maintain proper hygiene. The tanks, pumps and vats do not receive any type of maintenance and can frequently be found in utterly useless conditions.

- . There are severe cases of overpopulation, because the number of people detained greatly exceed the capacity of the containment areas

- . Occasionally, minors, are placed in detention centers by themselves, and they are forced to interact with adults, which may place their physical integrity at risk.

- . In general, there are no female agents to protect detained women, a clear infringement of the rules.

- . There are no medical services available in most stations, and this is an infringement of the rules which establish that the individuals detained must receive medical attention upon their arrival at the centers, and that this attention should be made available to them for the duration of their stay at the center.

- . They lack areas in which to place migrants who show symptoms of infectious/contagious diseases.

- . In only a few migrant stations do the authorities provide each detained individual with toiletries for their basic personal care and maintenance.

- . Frequently, detained individuals are not provided with a receipt in exchange for the objects taken from them upon their arrival and no inventory exists of said objects and personal possessions.

- . Occasionally, they neglect to inform the Consulate authorities of the detained person's country of origin regarding the individual's placement in the center.

- . Frequently, those responsible for migrant stations are not familiar with the applicable rules and regulations, and they lack organization and procedure manuals as well as medical service, instructional books and social services in order to be able to perform their duties within the centers, thereby ignoring all provisions specified within the document Rights and Rules of Coexistence of Foreigners in Migrant Stations , a text which each detained individual must receive in a compulsory manner.

According to that which is established by law, the CNDH recently began its program of inspection visits to migrant stations for the year 2005 and it reiterates its decision to strengthen it in order to contribute and improve said activities in a substantial and objective manner, as well as to protect the fundamental rights of migrants.

The "Real Id "Identity" Act", approved in the United States of America will encourage attitudes such as intolerance, xenophobia and discrimination against migrant communities

The National Commission of Human Rights is convinced that the Realld "Identity" Act, recently approved by the House of Representatives and its probable enforcement in the United States will increase, among certain groups who oppose immigration, attitudes of intolerance, xenophobia and discrimination, which, in turn, will generate more personal risks for our migrant compatriot.

Unilateral persecutory measures and activities by the United States against migrant inflow of undocumented workers demand, with the support of political and social spheres that disagree with them, the acceleration of the search for migrant agreements and pacts, which will represent the only fair and thorough solution as regards the issue of supply and demand between both countries.

In the opinion of this National Commission, the proposals against the migration of Mexican workers, under the excuse of maintaining the internal security of the United States, which is threatened by risks of terrorism, --as of the events which took place on September 11, 2001-, cannot be justified, since they affect millions of people who live, work, produce, contribute to and depend on the economy of

that country. Therefore, the Nation which most glorifies the concept of freedom, currently sets barriers through very aggressive social measures, whose favorable results continue to be highly questionable.

The CNDH regrets that the anti-immigrant wave seeks to establish measures such as those taken in California as well as in other States of the United States, considering that similar measures are already being discussed and will possibly be approved in Arkansas, Colorado, Idaho, Nevada, Utah y Georgia.

The plan to refuse to issue driving licenses to undocumented migrants and the so-called Real Identity Law, under whose protection there is a project to build a five-kilometer wall on the border of Mexico and California, do not substantially contribute to the internal security of our neighbors to the North, but it will be -- should it indeed be built - a barrier and yet another obstacle to communication in the dialogic process and the clear understanding between two countries that share one of the largest borders in the world.

Among those activities carried out by the American government in order to contain immigration, we should mention Operation Block, in El Paso, Texas, in 1993; Operation Guardian, in San Diego, in 1994; Operation Safeguard, in Arizona Central, in 1995, and Operation Rio Grande, in Texas, in 1997.

The Mexican National Commission of Human Rights reiterates the complexity of the migrant phenomenon and demands the establishment of a dialogic and a negotiation process, as well as the exchange of informed and educated opinions on both sides of the border. Once again, the CNDH declares itself in favor of a comprehensive migrant policy, mutually agreed upon by the government of both countries that will regulate migrant flow while showing utter respect for the security and human rights of migrants.

Training Courses

The National Commission of Human Rights, in full adherence to the endeavors encouraged by the Ombudsman's Institution for the dissemination, investigation, education and promotion of human rights, carried out, in the month of February, 2005, one hundred training activities aimed at students at a basic and higher level, at groups in vulnerable situations, among them, children, the elderly, women, as well as public officers in the area of public security, the procurement of justice, health, in human rights public organisms and in non-governmental organizations.

PUBLICATIONS

-Gaceta, Official monthly publication of the Mexican National Commission of Human Rights, numbers 172 and 173, corresponding to the months of November and December, 2004.

- Activities Report of the Mexican Human Rights Commission for January 1 to December 31, 2004. CNDH, Mexico, February, 2005

OFFICERS

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José Luis Soberanes

First Visitor
Victor Manuel Martínez Bullé-Goyri

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Fourth Visitor
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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>