

# NEWS LETTER

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### MEETING OF THE NATIONAL OMBUDSMAN WITH REPRESENTATIVES OF THE EUROPEAN PARLIAMENT.

On July 15 of 2005, National Ombudsman, José Luis Soberanes Fernández met with representatives of the European Parliament headed by the Chairwoman of the Delegation to the European Union – Mexico Joint Parliamentary Committee, Erika Mann.

During this meeting, a variety of issues were breached, including the following: the possibility of a joint collaboration; an invitation extended to Dr. Soberanes asking him to participate in the Subcommission of Human Rights of the European Parliament; and the situation undergone by women in Ciudad Juárez in the state of Chihuahua.

Dr. Soberanes Fernández declared, before the European Parliamentarians, that one of the most outstanding issues which must be solved regarding the case of the women who have been murdered and who are missing in Ciudad Juárez, is the lack of prevention in terms of female murders and the inefficiency of the federal authorities responsible that are involved in the investigations.

He pointed out that the federal organism specially created in February of 2004 for the prevention of female murders and in order to increase public security known as the Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez – an office incorporated to the Ministry of the Interior – has not achieved the expected results. The progress achieved through investigations has not put a stop to the murders, whose nature- the victimization of women- has remained unchanged.

Dr. Soberanes Fernández declared that the CNDH has detected severe shortcomings among public servers throughout the entire country, at every level, from the reception of complaints to the penal process itself, including preliminary investigations, the gathering and safeguarding of evidence, as well as the identification of the bodies. "The impunity with which the crimes and violations have been perpetrated, has promoted an increased sense of violence against women".

He reiterated the position of this National Commission in terms of stopping the chain of feminicides, increasing the scope and depth of the investigations so that those responsible are subjected to a legal process and are punished appropriately, thus providing a sense of justice to the victims' families and peace of mind in society in general.

Also present at this meeting were the Vice-presidents of the delegation, Jürgen Schröder and Loanis Gklavakis; María Amparo Canto González, General Coordinator of International Affairs of the Senate of the Republic; Claudia Castañeda, Representative of the European Union's Office in Mexico; senate representatives Adriana González and Blanca Gómez; Raúl Plascencia Villanueva, First General Visitor and Salvador Campos Icardo, Executive Secretary of the CNDH. RECOMENDATIONS

Recommendation 18/2005

July 18 of 2005

Case: Minor Josabet Enrique Badillo Urbina.

Addressee authority : The Department of Public Education.

On January 25 of 2005, this National Commission received a written complaint submitted by Mrs. Gabriela Urbina Guzman and Mr. Simon Badillo Castillo, as a result of alleged human rights violations against her younger son Josabet Enrique Badillo Urbina. These individuals claimed that professor Juan de Dios Arellano Sánchez, a staff member of the "Profesor José González Villaseñor"

elementary school, incorporated to the Ministry of Public Education in the Federal District (hereinafter SEP), beat their son, leaving bruises and cuts all over his body, an act of violence that was witnessed by another student. Said situation was disclosed to the Director of the Institution, professor Felipe Martell Montes de Oca, and the only measure he took was to send the child to the Community Center for Mental Health (CECOSAM) in Iztapalapa, as a result of his showing signs of hyperactivity. There, he was advised to seek assistance at the National Commission since it was determined that the child was undergoing a crisis due to the abuse he endured at the hands of the teacher and to the fact that he continued to remain in the classroom without receiving any type of protection.

From the evidence which comprised this complaint file, it was determined that, on February 7 of 2005, the person responsible for the School Operation Support and Follow-Up Division of the Head Regional Offices of Educational Services of San Miguel Teotongo, interviewed the aggrieved party, who claimed that the professor had even beaten him with a ruler that he keeps on a shelf, stating that the minor stood up too frequently and was bothering his classmates. The act of violence occurred during recess, when he would remain punished inside the classroom. The child said that he had not informed his mother about the events because he was experiencing a deep sense of fear.

In addition, it was also revealed that the Director of the Institution, notwithstanding the fact that he was aware of the complaint submitted by Mrs. Gabriela Urbina Guzman and Simon Badillo Castillo requesting the investigation of Professor Juan de Dios Arellano Sánchez's behavior, decided not to provide follow-up and comply with the content specified in the memorandum from the Subministry of Educational Services of the Federal District addressed to the authorities of the subdivision of Basic Education, which stipulates that the physical, psychological and social integrity of minors should be protected, based on a position of respect towards their dignity; he should have also submitted a written report to the Internal Control Organism immediately, as well as kept said Organism informed regarding the measures taken in an effort to solve the situation.

The National Commission was able to verify that there had been violations towards the child's personal dignity, as well as to his right to receive protection in terms of physical and psychological integrity, as a result of the inappropriate execution of the public duties of Professor Juan de Dios Arellano Sánchez, a fault which resulted in harm to minor Josabet Enrique Badillo Urbina.

In addition, it was established that by incurring in said behavior, this professor infringed upon the provisions established by law for the protection of minors, as specified in several normative instruments.

Therefore, on July 18 of 2005, this National Organism issued Recommendation 18/2005, addressed to the Minister of Public Education, instructing said Organism to inform the Internal Control Organism of the SEP regarding the conclusions obtained by this National Commission, so that they can be taken into consideration when processing the file created as a result of the inspection carried out within that Organism on January 28 of the current year by the General Office of Educational Services of Iztapalapa; in the same manner, to inform the Child Mistreatment and Sexual Abuse Assistance Unit of that Department regarding the information gathered by this National Commission so that it can be taken into consideration when processing the file created as a result of the intervention request submitted to that Unit on January 18 of the current year by the General Office of Educational Services of Iztapalapa; on the other hand, the Minister was instructed to allow the Internal Control Organism of the SEP to carry out an investigation in order to start, in compliance with the law, the corresponding administrative process against professor Felipe Martell Montes de Oca, Director of the Institution, as a result of the information contained in the observations chapter within the recommendation; in addition, to issue the necessary orders and to take the appropriate administrative measures, so that all public servers working in that institution, when in the presence of the mistreatment of minors, may promptly and permanently abide by the content of the established guidelines developed to respond to mistreatment and abuse complaints

throughout basic education institutions in the Federal District , as notified in a memorandum dated November 5 of 2002, and to ensure that the teachers receive appropriate training in order to prevent these types of irregularities from ever occurring again within learning institutions.

Recommendation 19/2005

July 18 of 2005

Case: Appeal process submitted by Ramón Leobardo García García et al .

Addressee Authority : Government of the State of Chihuahua .

On October 15 of 2004, the National Commission of Human Rights received an appeal in which a group of individuals, headed by Ramón Leobardo García García, protested against the rejection of recommendation 72/04 issued by the State Commission of Human

Rights of Chihuahua , which was addressed to the attorney at law Martha Terrazas Córdova, Director of the Interior of the State of Chihuahua at the time.

On May 28 of the same year, Mr. Ramón Leobardo García García et al , submitted a complaint before the State Commission of Human Rights of Chihuahua, as a result of the fact that, on January 23 of 2004, without justification or authorization of any kind , Ramón Leobardo García García, Jesús José Sambito Moreno, Rigoberto Portillo Aguirre and Cesario Yáñez Bustillos, of indigenous origin, were transferred from the Social Readjustment Center (prison) of the District of Guachochi in the state of Chihuahua, to the Social Readjustment Center (prison) of the State, located in the city of Chihuahua in the same state, while ignoring the reason for their transferal and without carrying out an administrative process that would justify this measure, for which the Director of the Social Readjustment Center of the District of Guachochi was held responsible. As a result of this decision, they were unable to continue performing their work within prison and were separated from their families, who live in vicinities near said correctional facility.

The logical-legal analysis performed upon the evidence that comprises this appeal has allowed the National Commission to consider that the violation of human rights to legal security and lawfulness against Mr. Ramón Leobardo García García, Mr. Jesús José Sambito, Mr. Cesario Yáñez Bustillos and Rigoberto Portillo Aguirre, was proved.

In addition, the National Commission declared that, despite the fact that the head office of the Interior of the state of Chihuahua pointed out to the local organism as well as to the National Commission that, within its legal faculties it is allowed to determine the place in which a convict is to serve his sentence; that a single quote of legal provisions is not sufficient to promote its performance. In all activities that entail legal consequences, the authorities are responsible for linking alleged legal elements to existing and sufficient pieces of evidence that will credit their acts, thereby duly promoting their resolution and favoring the appropriate conditions in order to achieve the sentenced party's rehabilitation.

Due to all of the above, the position assumed by authorities of the head office of the Interior of the state of Chihuahua, were in clear violation of article 6 of the Political Constitution of said state, which establishes that all prisoners sentenced to serve their time in state prisons, will possess the right to live in conditions that will favor their adjustment, and that all precepts established by the penitentiary system should consist of a treatment whose main purpose will be the reformation and social readjustment of the convicts; that detained or convicted individuals will have the right to be heard before disciplinary measures are applied and that officials in charge of enforcing the law should uphold and defend the human rights of all individuals.

Considering all of the above, on July 18 of 2005, the National Commission issued Recommendation 19/2005 addressed to the Governor of the State of Chihuahua, requesting he issue the necessary orders to the head of the Interior of the state to ensure compliance with the terms established in Recommendation 72/04, issued by the State Commission of Human Rights of the state of Chihuahua.

Recommendation 20/2005

July 18 of 2005

Case: Appeal submitted by Mrs. Catalina Quintanar y García.

Addressee Authority: The Honorable Constitutional Town Council of Calpulalpan in the state of Tlaxcala.

On January 20 of 2005 the National Commission received a written appeal submitted by Mrs. Catalina Quintanar y García against the rejection of Recommendation 20/2004, issued by the State Commission of Human Rights of the state of Tlaxcala, addressed to the Municipal President of Calpulalpan in the state of Tlaxcala. In the document presented before the State Commission, the aggrieved party pointed out that, towards the end of November of 2002, a new potable water system and a new sewer system were installed in San Marcos Guaquilpan, in the municipality of Calpulalpan, located in one of the exit points of that community, which, at that point, did not feature those services. Considering the fact that said installations did not comply with health rules, petitions were sent to state and municipal departments in order to solve the problem. Consequently, for approximately two months, there was no distribution of potable water, while the President of the Community of San Marcos Guaquilpan ignored the request to reestablish the connection of its services. In addition, it was revealed that said public server refused to receive a written document addressed to him, and, in two communal assemblies, Mrs. Quintanar y García has been insulted and warned that, if in the future, the community does not receive any more financial contributions from several offices, she will be held responsible for said omission. Mrs. Quintanar y García also explained that the President of the Community indicated that she should pay the fine imposed on the municipality by the Department of Communications and Transportation, as a result of not asking for authorization to install the potable water and sewer pipes along the federal road.

Once the corresponding investigations were carried out, on November 17 of 2004, the State Commission addressed Recommendation 20/2004 to the Town Council of Calpulalpan in the state of Tlaxcala, which was rejected by said authority.

The logical-legal analysis of the records which comprise file 2005/29/TLAX/4/I, has allowed this National Organism to determine that the Recommendation issued by the State Commission and addressed to the Town Council of Calpulalpan in the state of Tlaxcala, was created based on all applicable laws, and that, in fact, the human rights of Mrs. Catalina Quintanar y García were violated by attorney at law Vicente Hernández Roldán, Municipal President, and Ismael Vidal Montalvo, President of the Community of San Marcos Guaquilpan, since they did not respond to the requests submitted by the aggrieved party nor did they comply with the recommendations issued by the delegation of the National Commission of Waters in the state of Tlaxcala, regarding the expansion of the potable water line and the installation of a sewage system in the aforementioned community.

Based on all of the above, on July 18 of 2005, this National Commission issued Recommendation 20/2005, addressed to the Town Council of Calpulalpan in the state of Tlaxcala, instructing said authorities to issue the necessary orders to the appropriate party, and thereby comply, as soon as possible, with Recommendation 20/2004, issued by the State Commission of Human Rights of Tlaxcala on November 17 of 2004.

Recommendation 21/2005

July 18 of 2005

Case: Minor David Erick Aguilera Pérez.

Addressee Authority: The Ministry of Public Education.

On January 10 of 2005, the National Commission opened file 2005/104/DF/1/SQ as a result of a written complaint submitted by Mrs. Gloria María Pérez González, in which she indicated that the minor David Erick Aguilera Pérez, was physically attacked by Professor Alfredo García Martínez, working at High School No. 230, "Jesús Mastache Román," incorporated to the SEP in the Federal District, allegedly due to the fact that he was annoyed because the child dragged a chair. She went on to explain that the teacher threatened to fail her son if he reported him with the director of the institution or with his own mother, a situation that prompted the minor to wait for the public server to leave the classroom, and then proceed to tell one of his classmates to tell his mother that he had been injured. Once his mother arrived at the institution, she reported that her child had a bruise around his forehead, and that his nose and mouth were swollen; in addition, he had not received medical attention by the school staff since no school employee was aware of the facts.

Through the evidence which comprises the complaint file, this National Organism was able to verify the violations to the human right of personal dignity, as well as the right to receive protection in terms of physical and psychological integrity, as a result of the inappropriate performance of public duties by professor Alfredo García Martínez, causing the minor to suffer several physical injuries. On December 16 of 2004, in a record compiling all the facts, Mr. Martínez acknowledged, before the Director of that Institution, that, after taking the student by the feet and spinning him around, he released him, causing the minor to hit his head against the floor.

As far as the school director is concerned, once she was informed about the problem, she neglected to issue orders to investigate professor Alfredo García Martínez's actions, thereby breaching the content of the memorandum issued on November 5 of 2002 by the Subministry of Educational Services of the Federal District, addressed to the authorities of educational institutions of the Subdivision of Basic Education, which specifies guidelines for dealing with complaints related to mistreatment or abuse in basic education institutions in the Federal District, aimed at protecting the physical, psychological and social integrity of minors, based on respect towards their dignity; she also neglected to report the case immediately, in writing, before the Internal Control Organism, as well as to disclose all the measures taken in order to correct the situation.

Due to all of the above, the National Commission arrived to the conclusion that professor Alfredo García Martínez's behavior infringed on the provisions related to the right to protect minors, which specifically establish the right of all children, without any type of discrimination, to benefit from protective measures as required by their underage condition, both on behalf of the family as well as society and State, in compliance with articles 3.1 y 3.3, 16, 19 and 28.2 of the Convention on the Rights of the Child; 24.1 of the International Covenant on Civil and Political Rights; 13.1 of the International Covenant on Economic, Social and Cultural Rights; 13.2 and 16 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

Consequently, on July 18 of 2005, the National Commission issued Recommendation 21/2005, addressed to the Minister of the SEP, requesting him to issue orders to the corresponding party to allow the Internal Control Organism of the SEP to review to the recommendations provided by the National Commission, so that they can consider the comprisal and legal determination of the file currently under process against the professor; to allow an inspection on behalf of the Internal Control Organism of the SEP, in order for them to begin and determine, according with the law, an administrative process against the director of High School 230 "Jesús Mastache Román", a public server who was aware of the facts and did not act upon them immediately; to implement the necessary measures in

order to provide the teaching personnel of said Ministry with the appropriate training in order to provide the General Office with the necessary support and records related to the complaint of preliminary investigation 861/DDF/2005, located at Station XI in the borough of said Attorney General's Office within the Federal District; and to take the corresponding administrative measures in order for public servers of that office, upon witnessing or receiving information regarding minor mistreatment, to follow, immediately and permanently, the content of the guidelines to provide follow-up to complaints regarding mistreatment or abuse in institutions of basic education in the Federal District, adopting, for this effect, stricter measures than a mere change of secondment. NATIONAL ISSUES

#### Analysis Forum on Human Rights in the Penitentiary System and its Impact on Public Security

On July 1 of 2005, the Forum "Analysis on Human Rights in the Penal System and its Impact on Public Security," was held in Hermosillo in the state of Sonora , organized by the CNDH and the State Commission of Human Rights of the state of Sonora .

When the time came for the President of the National Commission of Human Rights, José Luis Soberanes to begin his address, he reiterated the issue set forward by the CNDH, beseeching authorities to organize the country's correctional facilities, which are not only experiencing severe overpopulation, but also a careless attitude towards rules and other problems which are the result of neglect and corruption.

The National Ombudsman pointed out that public security has become one of the most pressing and reiterated needs of Mexicans and that an essential part of any public security plan must necessarily include the proper operation of correctional facilities, in order to substantially improve their activities.

He stated that the National Commission of Human Rights will continue to focus its efforts on strengthening public security in four main areas: prevention, crime persecution, administration of justice, and social readjustment.

Due to all of the above, Dr. Soberanes Fernández indicated that forums are important, since the analysis and open exchange of points of view can be conducive to the creation of measures that will favor the population's public security. "At different levels, we all have the responsibility to respond to the people's demand to be able to live in peace and in a calm environment," he stated.

On this occasion, the President of the National Commission signed agreements with the President of the State Commission of Human Rights of the state of Sonora , Jorge Sáenz Félix and the governor of that entity, Eduardo Bours Castelo, in order to provide training courses regarding human rights addressed to public servers.

#### The National Commission of Human Rights and the National Politechnical Institute (Instituto Politecnico Nacional , hereinafter IPN ) Sign a Collaboration Agreement

The National Commission of Human Rights and the IPN signed, on July 5, a collaboration agreement by which the academic system of that institution will incorporate topics related to basic rights.

During this act, attended by General Director of the National Poli-Technical Institute, José Enrique Villa Rivera, National Ombudsman, Dr. José Luis Soberanes Fernández, pointed out that Mexico urgently needs to develop and embrace a culture that defends legality and individual guarantees; there is no better road towards that goal than promoting the education, information, and support of human rights

"Within a democratic society, citizens should possess a thorough knowledge of their rights and be perfectly aware of how they can defend said rights," declared Dr. Soberanes Fernández, pointing out in addition that one of the CNDH's preliminary responsibilities is to collaborate with academic institutions. Today, an important step has been taken towards the incorporation of the study of human rights within the national education system," he stated.

Dr. Soberanes Fernández indicated that the respect for people's individual guarantees cannot be a temporary fad or whim, but should be a social requirement. The IPN will consider it its duty to enforce this social requirement, which demands a dignified and respectful treatment by authorities.

On behalf of the IPN, the signing of the agreement was attended by Manuel Quintero, Secretary of Academic Support; Juan Ángel Chávez, General Attorney; José Madrid, Academic Secretary; Efrén Parada, Administration Secretary and Jesús Ortiz, Executive Secretary of the Constructions and Facilities Patronage. On behalf of the CNDH, General Visitors Raúl Plascencia Villanueva, Susana Thalía Pedroza de la Llave and José Antonio Bernal Guerrero; Jesús Naime, Technical Secretary and Pablo Escudero, Administration Secretary.

#### Training Courses

The National Commission of Human Rights, in adherence to the spirit encouraged by the institution in terms of the dissemination of the education, information and promotion of human rights, carried out during the month of July of 2005; 97 training activities focused on basic, middle and higher-level students, groups in vulnerable situations - among them, the elderly, youths, as well as civil servants within the armed forces, public security, the procurement of justice, penitentiary personnel, and personnel working in public health institutions, among others.

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