

NEWS LETTER

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THE MEXICAN NATIONAL HUMAN RIGHTS COMMISSION PRESENTED ITS ACTIVITY REPORT FOR 2006.

On January 24 th , Dr. José Luis Soberanes Fernández, President of the Mexican National Human Rights Commission (Spanish initials CNDH), presented his Activity Report for the year 2006. Speaking before the Permanent Commission of Congress, the National Ombudsman, José Luis Soberanes Fernández, stated that the Rule of Law can only be as solid as the government that makes certain it is fulfilled. He stressed the fact that only those rulers who stick to the Law can demand others to do the same.

After pointing out that the CNDH does not support weak authorities or governments fearful of using the tools provided to them by the Law, Dr. Soberanes Fernández said that weakening the State – as it was clearly done – has left México in a very precarious position. He emphasized the need for concern today, not only for the type of government currently in administration, but also for the types of government found in some regions, stressing “the urgent need for our Republic to become more of a democracy”.

Speaking before deputies and senators led by the President of the Board of Directors, M.P. Jorge Zermeño Infante, in the Hall of Legislators of the Republic located in the Legislative Palace of San Lázaro, Soberanes Fernández pointed out that “a ruler who fears to legally use his authority generates empty voids. Official apathy provides pressure groups outside the majorities, with a basis to think that they can usurp power. Likewise, when a poor leader systematically undermines the strength of his political speech, he ends up closing the door to dialogue, while opening it to violence”.

Dr. Soberanes Fernández reported that during the past year, the CNDH attended six thousand eight hundred and ninety-five complaints and issued forty-six Recommendations. He stated that the authorities with the largest number of Recommendations issued by the CNDH were the Federal Secretary of Public Security, the National Institute of Immigration and the General Attorney's Office of the Republic.

“It is regrettable that, during this period,” added Soberanes Fernández, “several authorities rejected the recommendations issued by the National Commission. Among those, were the Head of the Federal Secretary of Public Security, the Governor of the state of Querétaro and the Secretary of the Navy. This is sad indeed, not only because of the message of condescendence towards the fundamental rights it sends to society at large, but also because it helps promote a climate of impunity among public officials, by giving them free leeway to act irresponsibly, as alleged violations go unheeded”.

Soberanes Fernández stressed that the CNDH has tackled cases of great impact for Mexican society in recent times, such as: the deaths of miners in Pasta de Conchos, Coahuila; the violent actions that took place in Lázaro Cárdenas, Michoacán; San Salvador Atenco and Texcoco in the State of México ; and the case of Oaxaca .

“These cases are clear evidence of the failure of the Federal Government to function properly as a whole during 2006. The abuse of authority demonstrated by police agents as seen in the cases of Lázaro Cárdenas, Michoacán, and Atenco in the State of México , exposed the alarming reality of our security bodies. In addition to the physical and psychological damage suffered by the population, a few months later, there was yet another case, where Federal authorities, specifically the Secretary of Public Security, rejected our recommendations and cancelled the possibility of investigating the behavior of some of their charges, thus opening, as already said, a void that favored impunity and cover-up.”

When a Government fails to provide safe conditions to their communicators,” highlighted Soberanes Fernández, “they indirectly suppress the freedom of press and auto-censorship becomes the only option left to guarantee survival” .

The following is a synthesis of the Recommendations issued by the CNDH during the month of January. A complete version can be found in this Institution's official website.

Recommendation No. 1/2007

January 18 th 2007.

Case: Regarding the safety of immigrants in jails in the municipalities of Hermosillo and Caborca , Sonora .

Addressee Authorities: National Institute of Immigration.

Supervision visits conducted by the CNDH during the months of April, May and June 2006, confirmed that many immigrants of different nationalities were being detained in the Northern Municipal Command Center of Hermosillo, Sonora, a detention center used as a migratory station by the National Institute of Immigration (Spanish initials INM). Complaints presented by Messrs. Américo Gaviriam, Carlos Pelico Sontay, Julio Froylán Munguía and Fernando Pérez García, were motivated by the conditions present during their incarceration.

This National Institution was able to establish that the site is indeed a detention center where non-documented migrants are incarcerated and kept in isolation, regardless of gender or age. In some cases, minors are separated from their parents and not provided with nearly enough food or water. Detainees are not provided either with enough clean mattresses or blankets, or water for personal hygiene. Sanitation facilities within cells were found in poor conditions and yielded fetid smells and detainees were forced to consume their food under these conditions. This was worsened still by high temperatures and a lack of adequate ventilation.

The Regional Office of the CNDH in Nogales, Sonora, received a complaint filed by the immigrants named José Naún Miralda, Kelpin Néstor Castro Sierra, William Flores Salgado, Alexander Ponce Rodríguez, Santos Daniel Hernández, Isaac Vázquez; Domingo Milla Castillo, Wendy Maribel Padilla Alonso, Servín Marroquín Guerra and Heriberto Tetzaguic Serech, respectively, all of whom reported to have remained detained in the Municipal Jail of Caborca , Sonora , under the disposition of the INM.

It was also possible to confirm that migratory verification operations certified by public officials of the INM in the state of Sonora , detained approximately 90 non-documented foreigners, who were sent to the Municipal Jail of Caborca, Sonora . While in detention, these immigrants were not provided with food, and in the case they did receive something to eat, the food supply turned out to be insufficient. No proper medical examinations were performed on either one of the migrants at the time of their admission.

The evidence produced by the analysis that yielded the complaint file 2006/2104/5/Q and all additional investigations, has led the CNDH to ratify that public officials of the INM Regional Delegation in the state of Sonora had violated the rights to legality, legal safety and dignified treatment in detriment of immigrants incarcerated on the aforementioned dates and within the facilities of the Northern Municipal Command Center of Hermosillo, Sonora and in cells of the Municipal Jail of Caborca, Sonora.

Due to the above, on January 18 th 2007, the CNDH issued Recommendation 1/2007 addressed to the National Institute of Migration (INM). The first point recommended that the personnel of the INM must subsequently avoid the use of public detention centers as migratory stations. The second point required that, should extraordinary and exceptional circumstances demand the assignment of detention centers as migratory stations, non-documented foreigners must be allowed to spend their detention time under conditions that guarantee that their Human Rights are respected. Finally, the third point asked for the initiation of necessary administrative procedures against the public officials attached to the Regional Delegation of the INM in Sonora, responsible for assigning the Municipal Command Center of Hermosillo and the Municipal Jail of Caborca, both in the state of Sonora, as migratory stations, thus leading to the violation of the dignified treatment to the incarcerated migrants.

Recommendation No. 2/2007

January 30 th 2007.

Case: A ppeal submitted by Mrs. Miryam González González.

Addressee Authority: The Constitutional Governor of the State of Nayarit .

On October 5 th 2006, the CNDH opened file 2006/363/1/RI, in light of a appeal submitted by Mrs. Miryam González González. The appeal was based on the grounds of a refusal to comply with the third point of Recommendation 14/2006, issued on July 11 th 2006 by the Commission for the Defense of Human Rights of the State of Nayarit and addressed to the holder of the General Director of Health Services of the State of Nayarit .

According to the analysis upon which the evidence for this appeal is based, the CNDH concluded that on May 3 rd 2006, Mrs. Zulema González González went to a clinic called "Estación Yago", in Santiago Ixcuintla, Nayarit, claiming to have fainted, apparently after inhaling fumigating substances. She was released by the aforementioned clinic, after being diagnosed with intoxication of the organs by phosphorus; however, she was admitted into the "El Tambor" Community Health Center later, where she was given medication to deal with the intoxication. Nonetheless, as her disease progressed, she was transferred to the Popular Insurance Clinic of the Health Sector, where she showed no progress, though being under medical attention. Because of this, she was transferred to the General Hospital of Tepic, Nayarit, where she was diagnosed with an ectopic pregnancy, thus forcing surgery, but she passed away during the surgical procedure.

The moment the State Commission produced the complaint file, it was considered that there were several violations to Human Rights, thus prompting the General Director of Health Services of Nayarit to recommend the initiation and deliverance of an administrative procedure against the doctors in charge of the victim, on the grounds of medical negligence and deficient handling of the clinical file. Should the accused parties be found guilty, they would be properly sanctioned, according to the terms of the Law of Responsibilities for Public Officials of the State of Nayarit , and compensation would have to be paid to the petitioner, in accordance to the Law. The pertaining authority informed the Local Institution the acceptance of points one and two of the Recommendation, though they claimed that compensation would only be paid if determined by a jurisdictional authority, motivating the petitioner to present her inconformity to accept the authority's refusal to cover the compensation.

The CNDH petitioned the head of the Health Services of Nayarit to deliver the pertaining report. However, the aforementioned authority reiterated his refusal to pay any compensation, claiming that the Recommendation issued by the Local Institution was not enough to comply since law cannot force it. In addition, he claimed that authorities could refrain from complying with recommendations, since such documents can only determine the veracity of their contents and give way to the institutions they address to proceed according to their best knowledge.

Regarding the CNDH, it has been concluded that the claims of the pertaining authority did not suffice to justify the fact that the victim failed to receive proper medical attention, since the diagnosis of the ailments she presented and its consequent opportune treatment were omitted. This coincided with the criteria sustained by the Local Commission in the sense that the Health Services of the State of Nayarit was in violation of the human rights to health and life in detriment of Mrs. Zulema González González. In addition, it was determined that adequate attention and treatment or an immediate surgery that would provide her with the opportunity to save her life were delayed, thus causing the death of the victim.

Based on the aforementioned grounds, the CNDH concluded that the rights of the victim to health protection and life were violated.

Therefore, on January 30 th 2007, the CNDH issued Recommendation 2/2007, addressed to the Governor of the State of Nayarit . The Recommendation was issued in order to see fulfilled the third point of Recommendation 14/2006 as issued by the Commission for the Defense of Human Rights of the State of Nayarit and addressed to the General Director of the Health Services of the State, on July 11 th 2006, regarding payment of compensation for the damage suffered by the victim.

Recommendation No. 3/2007

January 30 th 2007.

Case: Appeal submitted by José Luis Guerrero Mina.

Addressee Authorities: The City Constitutional Council of Córdoba , Veracruz .

On May 23 rd 2006, the CNDH opened file 2006/184/1/RI, motivated by a appeal submitted by José Luis Guerrero Mina. The appeal was based on the grounds of the refusal to comply with Recommendation 14/2006 as issued on March 20 th 2006, by the Human Rights Commission of the State of Veracruz and addressed to the Director of the Integral Family Development Municipal Office (Spanish initials DIF) of Córdoba, Veracruz and derived from file Q-10528/2005.

From the analysis of evidence found in the file, the CNDH concluded that on October 21 st 2005, José Luis Guerrero Mina presented a complaint before the Commission of Human Rights of the State of Veracruz , based on the grounds of alleged violations to Human Rights committed against him. According to Mr. Guerrero Mina's testimony, he was on his way back from school to the Arcoiris (Rainbow) Shelter, a dependency attached to the DIF's System Municipal Office of Córdoba, Veracruz and his place of residence, when Catalina Ixtla Rayón, current manager of the shelter, yelled at him, telling him that his clothes were dirty and that he had to clean

up the place where he had been isolated earlier, while sick with chickenpox. The victim replied that he would comply, but the manager approached him wielding a belt in her hand and hit him three times on the left arm and four more times on the left leg, leaving marks on his skin. According to his statements, the victim claims that he lives in the shelter not because he likes it, but because he has nowhere else to go. Finally, the victim added that the current Director of the shelter mistreats the rest of the minors who inhabit the facilities.

Once the State's Commission had produced the complaint file, it was determined that the actions of the Manager of the Arcoiris Shelter (also known as Casa Meced of the Municipal DIF of Córdoba, Veracruz), threatened the emotional stability of the victim, which in turn translates into a violation of his Human Rights, as he was mistreated and physically injured. For this reason, a recommendation was issued to the Director of the DIF Municipal Office in Córdoba, Veracruz, asking for Catalina Ixtla Rayón, Manager of the Arcoiris (Casa Meced Shelter of the Municipal DIF of Córdoba, Veracruz), to be sanctioned according to the Law, on the grounds of having committed actions that violated José Luis Guerrero Mina's Human Rights. The Recommendation and its terms should have been acknowledged, accepted or rejected within two weeks after being issued. In the case that the Recommendation be accepted, the Director of the local DIF Municipal Office would have had an additional two week period to inform the State's Commission of her decision, including proof of sanctions applied.

Based on all of the above, the CNDH petitioned the Management of the DIF Municipal Office of Córdoba, Veracruz, to deliver the pertaining report. The authority reiterated its rejection of the Recommendation issued by the Commission of Human Rights of the State of Veracruz.

The logical-legal analysis of the evidence found on file 2006/184/1/RI, provided the CNDH with enough proof to validate the appeal presented by José Luis Guerrero Mina, victim of a violation to the Human Rights of personal integrity and safety, dignity and human treatment and, to the right to live free from all forms of violence.

Therefore, on January 30 th 2007, the CNDH issued Recommendation 3/2007, addressed to members of the Constitutional City Council of Córdoba, Veracruz, in order to make certain that Recommendation 14/2006, issued on March 20 th 2006 by the Commission of Human Rights of the State of Veracruz, is fulfilled.

DOMESTIC AFFAIRS

THE CNDH PROMOTES THE ABROGATION OF THE 123 RD ARTICLE OF THE GENERAL POPULATION LAW BEFORE THE SENATE AND THE CHAMBER OF DEPUTIES.

Given the recurrence and growing abuse of authorities against non-documented migrants found in the three orders of government, the National Commission of Human Rights has promoted the abrogation of the 123 rd Article of the General Population Law before the Senate and the Chamber of Deputies.

The Article in question establishes that illegal entry into the country by foreigners is a crime, thus becoming a ruling factor for different authorities to produce migratory verifications, without the power to do so. In addition, this situation has allowed for all kinds of aggravations to be committed against illegal aliens.

Although it is true that sanctions established by this law are not commonly applied, mere mention of penalizing non-documented migrants not only goes against the international trend in favor of the eradication of such penalties, it has caused that the abuse suffered by migrants and the aggravation of their Human Rights has become commonplace in México. The situation presents an opportunity for authorities of the three Powers of Government to pressure, threaten and commit extortion. This problem does not end there, for it also reaches out to members of private security corporations, especially those hired to provide services for load trains, where many illegal aliens travel.

On November 17 th 2006, the CNDH issued General Recommendation No. 13, stating the exact number of authorities that produce migratory verifications, without being empowered to do so, and in some cases, they have gone as far as detaining immigrants. This act constitutes goes against the Rule of Law, which clearly states that this faculty is given only to certified members of the National Institute of INM and the Federal Preventive Police.

This Body stresses the need for the Mexican Government to establish a real system to control its borders and that migration is carried out in a safe and orderly way. The CNDH is thoroughly convinced that in order to accomplish the former, it is necessary to design an integral migratory policy; a policy provided with clear objectives, tools, human and financial resources, and the adequate and sufficient infrastructure that will help make it an effective measure.

For all of the above, the CNDH has formally petitioned the pertaining Federal Legislative Authorities for the de-penalization of non-documented migration, through the abrogation of the 123 rd Article of the General Population Law.

FOREIGN AFFAIRS

CENTENNIAL COMMEMORATION OF THE SATYAGRAHA MOVEMENT.

On January 29 th and 30 th , Javier Moctezuma Barragán, Executive Secretary of the CNDH of Human Rights, participated in the International Conference organized for the Centennial Commemoration of the Satyagraha Movement, held in New Delhi, India, representing the National Ombudsman José Luis Soberanes Fernández.

September 11 th 2006 marked the 100 th anniversary of the Satyagraha Movement, initiated by Mahatma Gandhi; a movement based on a pacific resistance against an unfair and discriminating British Government. Thus, Satyagraha became a massive instrument of passive resistance and civil disobedience. In the years that followed, Satyagraha, originally conceived as a platform for passive idealism, began to take shape as effective series of actions, efficiently used in the struggle for Indian independence.

The National Congress of India organized the International Conference in order to recognize Mahatma Gandhi's historic contribution, to promote the values driven by Satyagraha and to commemorate the Centennial of the aforementioned movement. The Conference was held in New Delhi for two days, revolving around topics such as Peace, Non-violence and Empowerment; all part of Gandhi's Philosophy, in the XXI Century.

Moctezuma Barragán was part of a list of 300 guests of honor, in recognition of the efforts of the CNDH in the defense of human rights. Other notable guests were recipients of the Nobel Prize, Chiefs of State and Government of different countries, national parliamentary leaders, etc.

Some of the most important topics discussed during the Conference were the possibility of bringing non-violent solutions to resolve conflicts, the consolidation of peace, and the dialogue and understanding between different peoples and cultures. During the event, Dr. Moctezuma Barragán held interviews with Nobel Peace Prize recipients Lech Walesa and Desmond Tutu, as well as Mrs. Sonia Gandhi, President of the Congress of India, and Dr. Manmohan Singh, Prime Minister of the Republic of India , among others.

PUBLICATIONS

Publications issued during the month of January 2007.

- Libro Informe de Actividades del 1 de enero al 31 de diciembre de 2006.
- CD Informe de Actividades del 1 de enero al 31 de diciembre de 2006.
- Tarjetas Los Derechos Humanos de las niñas y los niños.

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