

CCIODH

International Civil Commission for Human Rights



Mexico

Pre Informe **16th february – 3rd march 2002**

Introduction

This document is the report of the International Civil Commission for Human Rights (CCIODH) on its work during its third visit to Mexico between February 16th and March 3rd, 2002. It is a compilation of the information which the Commission obtained during this period; it includes the impressions obtained from petitions and complaints received from the communities it visited, as well as from opinions and aspirations expressed at interviews with different interlocutors.

It is at the same time an attempt to contribute to the general knowledge about human rights, primarily in the state of Chiapas, as well as to finding means of preventing violation, and ensuring the observance, of human rights

This third visit was motivated by a desire to determine, on the ground, and two years after the Second Report, whether there had been any changes in the situation regarding human rights in Chiapas and, if so, what those changes meant. At the same time, it is an expression of the commitment and responsibility which this Commission has undertaken concerning the follow-up and monitoring of recommendations it had made after its previous visits.

In keeping with the ideology that underlay its creation, CCIODH for this visit consisted of 104 persons from 14 countries, representing a wide range of civil society: social movements, universities, churches, political parties, nongovernmental organizations, unions, journalists, intellectuals and students. All of its members share the conviction that the defence and promotion of human rights, as well as the collective rights of peoples and of ethnic minorities, are basic principles of humanity for achieving a dignified and just life for all persons and all peoples.

CCIODH wishes to make it clear that it secured all the facilities necessary from the Mexican officials for its admission into Mexico as well as the necessary administrative guarantees for the normal conduct of its work and freedom of movement throughout the territory of Mexico.

Summary of Activities

Methodology

The common task of the Commission is to gather information, meet with all actors, enter conflict zones and listen to all voices, in order, in this manner, to be able to prepare the most complete report possible, as well as one that will contribute to clarifying the circumstances relating to human rights in the communities concerned .

The Commission starts from a broad approach to the meaning of human rights, which is that social rights (or third-generation, according to jurists) are considered to be fundamental, and that they are part of the object to be analyzed within this Commission's work.

The work carried out can be divided into three basic parts:

- 1) interviews with representatives of official institutions that are active in the conflict (federal and state officials);
- 2) visits to the conflict zone, where testimony was gathered from groups of displaced persons, from the affected indigenous communities, and from the autonomous municipalities;
- 3) interviews with various civil and social organizations which work and interact in some way in the conflict zone, and addenda presenting information that, while not necessarily related directly to Chiapas, reveals a problem in common with the rest of the nation.

Presentation of the report

The structure of the report corresponds, thus, to the systematization of all the information collected, and is divided into three main sections: 1) the investigations carried out, with visits, interviews and meetings organized geographically; 2) a reflection, as a form of conclusion, of the Commission's viewpoint on the current situation as regards human rights, as well as on those factors that give rise to violations of human rights; and 3) recommendations which, in the judgment of the Commission, would foster general improvement.

Conclusions

1. The San Andrés Accords

The political class lacks the will to seek a negotiated solution to the conflict. The San Andrés Accords (February 16, 1996) were signed by representatives of the Executive Branch, by a Legislative Branch Commission (COCOPA), whose members included deputies and senators from all the political parties in Mexico, and by representatives of the Zapatista Army of National Liberation (EZLN).

The Accords proposed, through a social pact, the creation of a new relationship between the Mexican State and the indigenous peoples. As a form of summary, one of the three basic conclusions of these documents, which were signed by the federal government and EZLN on February 16, 1996, states: "The government assumes the commitment of building, along with different sectors of society and in a new federalism, a new social pact which fundamentally alters social, political, economic and cultural relationships with the indigenous peoples. The pact should eradicate from public and daily life all activities that could conduce to any form of subordination, inequality and discrimination, and it should activate the corresponding rights and guarantees: the right to cultural difference; the right to their habitat; the use and enjoyment of territory, according to Article 13.2 of Convention 169 of the International Labour Organization; the right to political communitarian self-management; the right to the development of their culture; the right to their traditional production systems; the right to the management and implementation of their own development programs."

From the refusal of the government of Ernesto Zedillo to fulfil the San Andrés Accords, to the insistence of the current government of Vicente Fox on not carrying out the "three signals" demanded by the Zapatista Army of National Liberation for renewal of dialogue, the government's actual policies on seeking a negotiated solution to the conflict are being made manifest.

The approval of the constitutional proposals by the Congress of the Union has not satisfied the Indian peoples. (More than 300 constitutional objections are still pending resolution in the Supreme Court of Justice.) The Indian peoples do not find that the proposals reflect the essence of the San Andrés Accords: the proposals do not recognize the communities as public entities in their own right, or the Indian peoples as entitled to the protection of the law or as the political beneficiaries of the rights to free determination and autonomy.

The reform proposal of Cocopa is the only one that could re-establish the minimal conditions for the peace talks. The breakdown in those talks has meant enormous sacrifices for the Indian peoples, not only in the conflict zone but also in all those areas in which the indigenous peoples live.

2. Militarization

On taking office, President Vicente Fox stated that the redeployment of Mexican army troops would take place gradually so as to reduce tensions and fulfil one of the most often repeated demands of the EZLN.

At the same time, the EZLN, as one of its three conditions for renewing the peace process, demanded in a communiqué the withdrawal and closure of seven of the 259 positions held by the federal army; these were:

1. Amador Hernández; in this case, the expropriation decree declared by Zedillo should also be rescinded.
2. Guadalupe Tepeyac.
3. Río Euseba (close to the Aguascalientes of La Realidad).
4. Jolnachoj (close to the Aguascalientes of Oventik).
5. Roberto Barrios (close to the Aguascalientes of Roberto Barrios).
6. La Garrucha (close to the Aguascalientes of La Garrucha).
7. Cuxuljá (close to the community of Moisés Gandhi).

Although the military withdrew from those seven positions, the number of troops has not been reduced in the state of Chiapas, nor have the lands expropriated for the building of military posts been returned to their legitimate owners.

The majority of fixed controls and checkpoints have disappeared (except in the border area) and have been replaced by periodic checkpoints and patrols by the Mixed Operations Brigades. The persistence of the patrols can be clearly verified, especially in the municipality of Ocosingo and in the entire region of the border with Guatemala.

Overflights by federal military planes continue to spread fear in the communities. Mexican army patrols and checkpoints have been gradually increasing. It has now become the practice for soldiers to improvise their control points at the outskirts of towns, in order to harass and intimidate the indigenous people, subjecting them to interrogations and preventing their free movement.

Where military barracks have remained, the populations complain of the pollution of rivers and nearby *predios*, as well as the disruption of community life caused by the military presence, with the introduction of prostitution and the massive consumption of alcohol and drugs. Complaints (*denuncias*) of the harassment of women are also frequent.

In some areas where the presence of the army has decreased (Los Altos), less harassment of the daily life of the communities has been noted.

The increasing participation of the Mexican army in the fight against drug trafficking, in security of the border with Guatemala, and, more recently, in the campaign against common crime has led to the confusing of the defence of national security with that of public security. At the same time, it opens spaces for Mexican army intervention close to the communities in resistance.

3. Paramilitaries

The origins of paramilitaries are part of a counter-insurgency plan disguised as attacks over land disputes, partisan confrontations, religious conflicts, personal enmities, family vengeance or simply accidents. This conceals the paramilitary strategy of control, destabilization, factionalizing and selective repression as part of a "dirty war", designed and directed from the highest levels of power.

With the Zapatista armed uprising in 1994, and the implementation of a counter-insurgency strategy in Chiapas, the Mexican Army National Security Doctrine also underwent changes.

In the "irregular-war manual" edited by the Department of National Defence in 1994, and in other similar manuals, the creation of paramilitary groups or "self-defence" forces, made up of civilians recruited from the populace, is considered to be part of an anti-guerrilla strategy. These groups act as a parallel structure, subordinate to the army, dedicated to counter-guerrilla operations and the restoration of order. In the case of Chiapas, these paramilitaries were subordinate to the Rainbow Task Force, an élite air-transport group created by General Renán Castillo.

The paramilitary groups went into relative decline as the election defeat and unseating of the Institutional Revolutionary Party (PRI) from the federal and state governments left them practically bereft of official protection. Far from disintegrating, however, they maintained their structure and internal organization.

About a month after the change in federal and state governments, the PGR [federal Department of Justice], on October 27, 2000, detained eleven members of Peace and Justice – a designated paramilitary group – who had been operating in the Northern region of Chiapas. They included leaders Marcos Albino Torres, a former corporal in the Mexican Army, and Samuel Sánchez Sánchez, a former state PRI deputy, who were accused of terrorism, possession of firearms designed for the exclusive use of the army, criminal association, rioting, organized crime, bodily attacks and injuries, and expropriation.

This seemed to be the beginning of a new stage, one in which a wide and in-depth investigation would be carried out in order to put on trial those who had trained and collaborated with the paramilitaries.

Far, however, from containing paramilitary groups such as Peace and Justice (whose leaders were inexplicably released), the groups have continued to create conflict, closing roads, enforcing a terror policy and committing assassinations and constant attacks against Zapatista communities, supported, as always, by the old PRI municipal and communal structures. They also continue to enjoy the complicity, through omission and commission, of the army, as well as of the security forces of various government agencies.

On February 15, and coinciding with the presence of CCIODH in Mexico, the leader of the group Development, Peace and Justice, Diego Vázquez Pérez, was captured for his alleged participation in the commission of the crimes of illegal deprivation and bodily harm.

The paramilitary groups have not been disarmed or disbanded. Even the weapons that were used in the Acteal massacre have not been recovered.

4. Displaced persons

As a direct consequence of the war in Chiapas, there are some 10,000 displaced persons, of whom 1300 have returned to their communities of origin, protected by “reconciliation agreements” promoted by the state government. These agreements have omitted reparation for injury, the indemnification of those affected, the disarming of the paramilitaries, and punishment of those guilty of murder and theft. “Without justice there cannot be true reconciliation” the returnees told the CCIODH.

According to the displaced, the decision to return was due to “so much suffering that had accumulated over these three and a half years in the camps, where there are inhuman living conditions, of suffering, of a lack of potable water, and where social coexistence had become difficult.”

The cutbacks in humanitarian aid to the displaced on the part of the International Red Cross (up to 60% in some cases) are perceived by the displaced as a means of pressuring them to return, under dangerous conditions.

The solution to the issue of the return of displaced persons is closely tied to the process of dialogue between the federal government and the EZLN (since some returning groups indicated that return was one of their primary demands), and what is connected with it: demilitarization, disarmament of the paramilitary groups, resolution of the conflict over land, and release of prisoners, among other issues.

The problem of those displaced by war and counter-insurgency remains, unresolved, therefore. The dislocations and murders, which cast thousands of Chols and Tzotziles, mostly EZLN support bases, into internal exile remain unpunished.

5. Widespread impunity and obstacles in access to justice

The delegation from the CCIODH met on February 21, 1998 with representatives from different communities in the Northern region of the State of Chiapas. Among those with whom they met was José Tila Lopez Garcia, who had walked for more than six hours from his community to deliver testimony and complaints (*denuncias*) to the observers on the human rights situation in the region. On his return journey, he and his companions on the road from Jolnixtié to Emiliano Zapata were intercepted – according to reports from survivors of the attack, among them his father – by eight heavily armed members of the paramilitary group Development, Peace and Justice, who fired several shots at the group, killing one and injuring several.

According to the survivors also, those who were presumed to have carried out the homicide were Eulalio López García from the community of Panxcuc and seven persons from the community of Jolnixtié itself.

The indigenous peoples are often subjected to legal processes in which the accusations stem from social conflict, and they are the subjects of ministerial investigations in which evidence and testimony are fabricated in order to legitimize processes which, generally, culminate in unjust decisions. The penal processes do not respect their human rights or take account of their indigenous status. These people do not understand the penal processes or the accusations made against them, or the legal mechanisms, and without adequate defence they receive long prison sentences.

Some of the prisoners interviewed stated that confessions of crimes had been extracted from them under torture. Torture is still used in Mexico; this has been documented in the case of Erica Zamora in the State of Guerrero, as well as in Marqués de Comillas, where, during a recent violent police-military operation, residents complained that they had been subjected to torture on their detention, and that they had been taken away in trucks, piled on top of one another, with their hands and feet tied.

One of the most important issues still to be dealt with and resolved is that of injustice: there is a high degree of impunity, and the system has little credibility.

The government of Mexico has signed various international instruments for the protection of human rights, but has not adjusted its laws to these conventions.

6. Prisoners of opinion

Despite assertions by the government of the state of Chiapas that there were no "prisoners of opinion", the Commission received testimony in the communities, as well as during visits to various jails, concerning persons who were considered to be incarcerated for "crimes of opinion". The interviewees felt that there had been no progress with regard to the fabrication of charges or to inequity in the administration of justice. In addition, the Commission was able to verify that conditions of detention are extremely bad (including overcrowding, poor health conditions, and arbitrariness in transfers).

7. Deterioration of the economic and social circumstances of the communities

More than during the two previous visits of the Commission, the communities emphasized the deterioration in their living conditions, economic as well as social, most marked in regard to the drop in the prices of traditional crops and lack of access to marketing their products. Basic services, in respect of education, health, food, housing, electricity and potable water, had deteriorated still further.

Development programmes designed to combat poverty are often judged to be discriminatory. They do not envisage comprehensive community development. They do not clearly define criteria for the selection of beneficiaries. They are perceived, therefore, as a form of election campaigning. In some cases all the beneficiaries of a housing construction programme have been known to belong to the same political party.

The implementation of the development programmes – under the circumstances of suspension of dialogue and failure to implement the San Andrés Accords – has turned them into a new form of counter-insurgency, less flamboyant and violent than in the past, but highly effective as to provoking division in the communities. The government in trying to ignore the resistance of the communities – over the failure to fulfil the three conditions for returning to dialogue – and in acting as though the problem were only economic and not political-social is aggravating conditions in the communities and risking the destruction of the already fragile social fabric.

These economic policies have been applied in practice as social policies of counter-insurgency, which become aggravated with every day that passes without a resolution of the issue of indigenous autonomy.

8. Agrarian conflict

The communities commented on the problems arising from the historical delay in the attribution of agrarian title rights, in comparison with the rest of the country; this has been a factor in divisions, confrontations and even displacements. In addition, they emphasized that the process introduced under the auspices of PROCEDE for assigning individual agrarian title rights were not contributing to security in land possession; on the contrary, they were creating new divisions.

With the advent of the Plan Puebla-Panama, the indigenous lands have become the target of large economic interests, for their natural wealth and their biodiversity, as well as for the availability of cheap labour, among other things. The communities feel vulnerable in the face of the Plan Puebla-Panama. This is creating anxiety and dissent, since the indigenous communities have no means of controlling resources and lands, or legal provisions that would permit them to exercise autonomy, which would represent for them the application of the COCOPA law, a product of the San Andrés Accords.

9. Immigrant rights

The situation as regards immigration on the Southern border is becoming alarming. The Commission received a multitude of complaints that criminals as well as official agents were committing crimes of theft, rape, mistreatment, torture and trafficking in persons, as well as detaining migrants (including minors). Such detentions can last for long periods, even in military facilities, under conditions that do not meet regulations established by the United Nations.

During the visit to Tapachula, the presence of military forces and their intervention in civil affairs gave rise to much concern, as did the poor conditions in the deportation centres.

Corruption and impunity are also prevalent among some of the members of many public and national security agencies, among them the army and the navy, which, illegally and with the federal government's tolerance or consent, and despite its being observed and complained about by the public, undertake migration tasks.

Recommendations

1. Full and comprehensive fulfilment of the signs demanded by the Zapatista Army of National Liberation for renewing dialogue:

- a) respect for the COCOPA proposal for constitutional reforms;**

which includes the active participation of Mexican and international civil society organizations in defence of human rights, in order to move towards a permanent verification of the human rights situation in Mexico.

LISTING OF HUMAN RIGHTS VIOLATIONS GIVEN TO THE CCIODH

RUTA 1

- Municipio Autónomo Flores Magón
- Comunidad Patria Nueva; municipio 1º de Enero
- Ejido San Miguel Chiptic; municipio de Vicente Guerrero
- Municipio Autónomo Olga Isabel
- Comunidad San Jerónimo Tulijá
- Murder of Cristóbal Sánchez López and lesions to his sons José, Ricardo y Gerardo (comunidad Taniperla, municipio Ocosingo)
- Ejido Taniperla (municipio de Ocosingo) (listing of 178 people)

RUTA 4

- Ejido San Miguel; municipio Palenque (hand written)
- Comunidad Tioquiya Bascan, municipio Salta de Agua
- Micaela Velasco Perez, Maria Montejo Torrez, Juana Montejo Sanches (Roberto Barrios)
- Comunidad Belisario Domingues (hand written)
- Rafael Juarez (Ejido Anfioquio; municipio Palenque) (hand written)
- Comunidad Antioquia; municipio Palenque (hand written)
- Ejido Flor de Chiapas; municipio Palenque (hand written)
- Nicolas Alvaro López, Miguel Alvaro Arcos y Pascual Arcos Pérez (ejido Aurora, municipio Palenque) (hand written)
- Ejido El Progreso (hand written)
- Ejido Nueva Galilea (hand written)
- Aguascalientes V, Roberto Barrios
- Ejido Eden; municipio Palenque (hand written)
- Comunidad Chaban, municipio Chilon (hand written)
- Bases de Apoyo del EZLN, municipio Salto de Agua (hand written)
- Ejido Roberto Barrios; municipio de Palenque
- Juan Hernández López y otros (ejido Roberto Barrios; municipio de Palenque)
- Autoridades autónomas y los/las observadores civiles por la paz (comunidad de Roberto Barrios; municipio autónomo del Trabajo)
- Autoridades autónomas (comunidad de Roberto Barrios; municipio autónomo del Trabajo)
- Nicolás Méndez Solís y Domingo Solís López (Salto de Agua; Palenque) (hand written)
- Consejo Municipal Autónomo San José (hand written)
- Consejo Municipal Autónomo de Chilón (hand written)
- Poblado El Mango (municipio de Chilón) (hand written)
- 13 familias de desplazados (municipio Salto de Agua) (hand written)

RUTA 5

- Consejo Municipal Autónomo de San Pedro Polho (vuelos rasantes de helicópteros, problemas con el ejército y provocaciones de paramilitares)
- Consejo Municipal Autónomo de San Pedro Polho (problemas con la comunidad de Chenalhó)
- Consejo Municipal Autónomo de San Pedro Polho (agresiones físicas a Lorenzo Pérez Eló)
- Consejo Municipal Autónomo de San Pedro Polho (amenazas y intento de asesinar a Antonio Gutiérrez Méndez)
- Consejo Municipal Autónomo de San Pedro Polho (provocaciones por parte de un líder de paramilitares)
- Consejo Municipal Autónomo de San Pedro Polho (intento de apropiarse los terrenos de un rancho a través de amenazas)
- Consejo Municipal Autónomo de San Pedro Polho (amenazas de muerte contra la gente zapatista)

- Consejo Municipal Autónomo de San Pedro Polho (amenazas de muerte y toma de fotografías)
- Consejo Municipal Autónomo de San Pedro Polho (cuerpos de policía y grupos paramilitares cooperando para acusar a gente zapatista)
- Consejo Municipal Autónomo de San Pedro Polho (intento de linchamiento y intento de detención injusta por parte de paramilitares)
- Consejo Municipal Autónomo de San Pedro Polho (persecución de una furgoneta por parte de la PGR sin ninguna justificación)
- Consejo Municipal Autónomo de San Pedro Polho (detenciones injustificadas)
- Consejo Municipal Autónomo de San Pedro Polho (acusaciones falsas y detenciones injustificadas)
- 2 denuncias del Consejo Municipal Autónomo de San Pedro Polho (acusación falsa sobre la participación de Mariano Jiménez Jiménez en los hechos de la carretera Pantelhó-Tsanembolom)
- Consejo Municipal Autónomo de San Pedro Polho (problemas con militares y paramilitares)
- Consejo Municipal Autónomo de San Pedro Polho (retenciones por parte de la Seguridad Pública de 29 people de las que 3 fueron encarceladas en Cerro Hueco)
- 4 acusaciones del Consejo Municipal Autónomo de San Pedro Polho de conflictos con la comunidad de Tzanembolom (acusaciones falsas, provocaciones de paramilitares, ...)
- Consejo Municipal Autónomo de San Pedro Polho (desplazados se encontraron todas sus anteriores propiedades destrazadas)
- Consejo Municipal Autónomo de San Pedro Polho (encarcelamientos mediante acusaciones falsas)
- Ayuntamiento Municipal Autónomo San Andrés Sakamch'en
- Autoridades de San Juan de la Libertad
- Autoridades ejidales y municipales del municipio de Simojovel de Allende

SAN CRISTOBAL DE LAS CASAS

- Familiares del desaparecido y ejecutado José Hidalgo

MARQUÉS DE COMILLAS

- Esposas y familiares de los compañeros detenidos en Barrio San José el 27 de julio de 2001.
- Miembros y representantes de diversas comunidades (ejido Río Salina Cruz: 6 people ; ejido Barrio San José: 7 people; ejido Tierra y Libertad: 2 people; ejido Nuevo Veracruz: 2 people; ejido El Porvenir: 4 people)
- Felipa Martínez Peres (Río Salina Cruz) (hand written)
- Genaro Gomes Lopes (Río Salina Cruz)
- Manuel Guzmán Gomes (Río Salina Cruz)
- Natividad Pérez Vázquez (Río Salina Cruz)
- Salomón Elston Vazques (Río Salina Cruz)
- Cristobal Méndez Lopes (Río Salina Cruz)
- Pedro Méndez Lopes (Río Salina Cruz)
- Mateo Álvaro Díaz (Río Salina Cruz)
- Francisco Gutierrez Gómez (Río Salina Cruz)
- José Alberto Cruz García (Río Salina Cruz)
- Lucio López Días (Río Salina Cruz)
- Julieta Hernández Tórrez (Río Salina Cruz)
- María Elena hernández Pérez (Río Salina Cruz) (hand written)
- Inocente Torruco Sánchez (Río Salina Cruz) (hand written)
- Antonio Altunar Jiménez, Valentín Cruz Sánchez y Juan Altunar Jiménez (Barrio San José)

COORDINADORA POR LAPAZ

- Elizabeth Silva Nogales en nombre de Jacobo Silva Nogales, Gloria Arenas Agis, Fernando Gatica Chino i Felicitas Padilla Nava
- Unión de Pueblos Contra la Represión y Militarización de la Región Loxicha
- Indígenas Triquis, comunidad San Miguel Copala, Putla, Oaxaca

PUEBLA

- Alma Méndez Sánchez, esposa de Teodor Lozano

PUERTO MADERO

- Frente Común de Transporte Organizado (Puerto Madero; municipio Tapachula)

CERRO HUECO

- Voz de la Dignidad Rebelde (lista de 14 presos) (hand written)
- Antonio Torrez Gonzalez (hand written)
- MOCRI – CNPA (lista de 20 presos) (hand written)
- Movimiento Campesino Regional Independiente; Coordinadora Nacional Plan de Ayala (lista de 10 presos) (hand written)
- Movimiento Campesino Regional Independiente; Coordinadora Nacional Plan de Ayala (lista de 6 presos) (hand written)
- Movimiento Campesino Regional Independiente; Coordinadora Nacional Plan de Ayala (lista de 3 presos) (hand written)
- José Luís Hernández Jiménez (hand written)
- Erwin Dagoberto Roblero Morales (hand written)
- Militantes de La OCEZ – Casa del Pueblo de V. Carranza (lista 7 presos) (hand written)
- Jonatan Herrera (hand written)
- Mario Coutiño Morales, Enrique Coutiño Morales y Alberto de Jesús Coutiño Morales (hand written)
- Amada Gálvez Gómez (hand written)
- Gilberto Yáñez Jimenes, Amílcar García Santir (hand written)

QUERÉTARO

- Irma Pérez Lugo, esposa de Jerónimo Sánchez Saenz
- Anselmo Robles Sánchez, preso político zapatista
- 2 denuncias de los presos políticos del Fioz, Anselmo Robles y Sergio Jerónimo Sánchez

TABASCO

- Municipio de Villahermosa (representantes del Comité Popular Ciudadano y del Colectivo Cultural Corazón de Piedra Verde)
- Ángel Concepción Pérez Gutiérrez y Francisco Pérez Vasques (Cereso de Macuspana) (hand written)