



REPORT PRESENTED BY THE HUMAN RIGHTS COMMISSION OF NUEVO LEON TO THE UN COMMITTEE ON ENFORCED DISAPPEARANCES DURING ITS EIGHT SESSION, REGARDING THE CONSIDERATION OF THE STATE REPORT SUBMITTED BY MEXICO.

The Human Rights Commission of the State of Nuevo Leon (hereinafter “the Commission” or “CEDH-NL”), a public institution for the promotion and protection of human rights, domiciled at Ave. Ignacio Morones Prieto No. 2110-2 Pte. (Edificio Manchester), Col. Loma Larga, in Monterrey, Nuevo Leon, Mexico, presents its report to the Committee on Enforced Disappearances (hereinafter the “Committee”) for its evaluation of Mexico, that will take place in the Committee’s eight session in Geneva, Switzerland.

I. Introduction

The current report seeks to transmit information to the Committee on Enforced Disappearances regarding the position and activities of the CEDH-NL on the issue of enforced disappearances, taking into consideration its material and territorial competence. The Commission has the capacity to conduct investigations regarding presumed human rights violations that are the result of the acts or omissions of administrative authorities or civil servants at the state or municipal level, or of the illicit acts committed by individuals or non-state actors with the consent or tolerance of a civil servant or a state or municipal authority, in conformity with article 6.II of the Law that creates the State Human Rights Commission (*Ley que crea la Comisión Estatal de Derechos Humanos*). Of course, its position is privileged to work on the issue of enforced disappearances in collaboration with state and municipal authorities, as well as with civil society organizations.

It must be pointed out that the legislative framework in force in the State of Nuevo Leon makes some specific references to the question of enforced or involuntary disappearances, as well as other general references to human rights that may be used in this context. For example, the Law of responsibilities of civil servants of the state and municipalities (*Ley de responsabilidades de los servidores públicos del Estado y municipios*) provides in article 50.LV that civil servants will incur into administrative responsibility by performing any act that may be arbitrary or in violation of human rights. In addition, article 50.LX of the law underlines the obligation of civil servants, and particularly of those working in law enforcement, to ensure that the rights to life and physical integrity of detainees are guaranteed during the time between their detention and their placement at the disposal of the competing authority.

From a different standpoint, the Criminal code for the state of Nuevo Leon (*Código penal para el estado de Nuevo León*) contains a specific chapter on the crime of enforced disappearances, including provisions related to the reparation of the crime. Finally, the state Congress has adopted a Law of victims of the state of Nuevo Leon (*Ley de víctimas del estado de Nuevo León*), where relevant chapters on the right to truth and on the integral reparation for victims are included, with a human rights perspective.¹

The Mexican State has been going through a delicate situation of high criminality in recent years, as a result of the fight against drug trafficking and the struggles between drug cartels; the State of Nuevo Leon has not escaped this reality. However, the CEDH-NL had adopted several measures within its capacity to provide effective procedures to direct and indirect victims of the crime of enforced disappearance. In this guise, this report contains two sections, the first one related to the activities of prevention and promotion of human rights undertaken by the Commission, focused particularly on human rights education to prevent enforced disappearance (II); and the second one referring to activities of protection, where the development of a Guide for the search of disappeared persons and the public Recommendations issued by the Commission to several state and municipal authorities in 2013-2014 stand out (III).

II. Activities on prevention and promotion of human rights.

Human rights *education* is a cornerstone for their dissemination and promotion; if the existence of a human rights culture in the general population may indeed be desired, it is a *conditio sine qua non* for work in the public sector, being especially relevant to those organs of the state in charge of law enforcement and the police function.

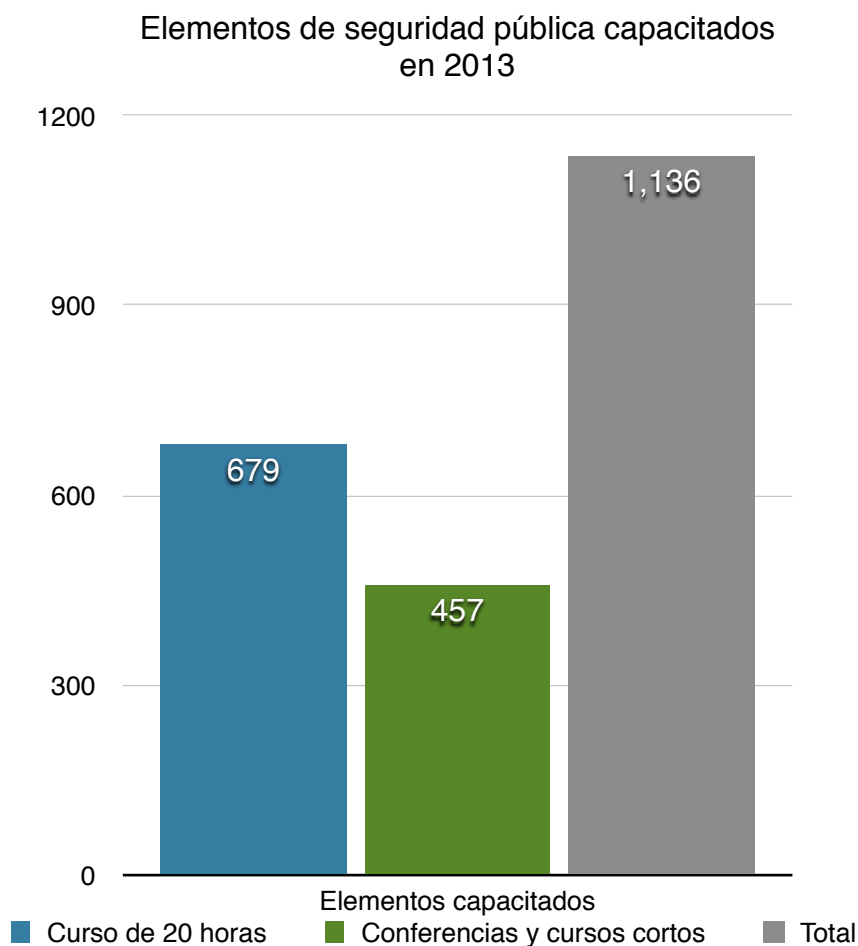
In this sense, the work undertaken by the Human Rights Commission of Nuevo Leon divides in two perspectives: one focused on regular capacity-building and training programs for the different governmental agencies, with a general focus on human rights, and another one focused on capacity-building and human rights education as a result of the Recommendations issued by the CEDH-NL to the corresponding state and municipal agencies.

In relation to the regular capacity-building and training programs designed for the different State agencies, and particularly to the municipal agencies in charge of law enforcement, the following statistics are of note:

¹ An important point to consider is the existence of three parallel regimes of reparation: one for administrative matters (through the Law of responsibilities of civil servants), another one in criminal matters (deriving from the state Criminal code), and finally one deriving from the Law of Victims. However, the existence of diverging standards of reparation may be prejudicial for the integral reparation of victims from a human rights perspective.

In 2013, the Human Rights Commission of Nuevo Leon taught a basic human rights course to 679 law enforcement officers from the different municipalities of the state. That 20-hour course focused on different aspects of the wide spectrum covered by human rights, including some specific references to personal freedom, the rights of detainees and the obligations of the State in this regard. While a specific section on the issue of enforced disappearances was not included, some of the elements that are a part of this subject were nevertheless discussed in detail. In addition, through conferences and seminars, general human rights education was imparted to 457 municipal law enforcement officers; thus, in 2013, the Human Rights Commission of Nuevo Leon provided education and training to a total of 1136 law enforcement officers on the topic of security and human rights.

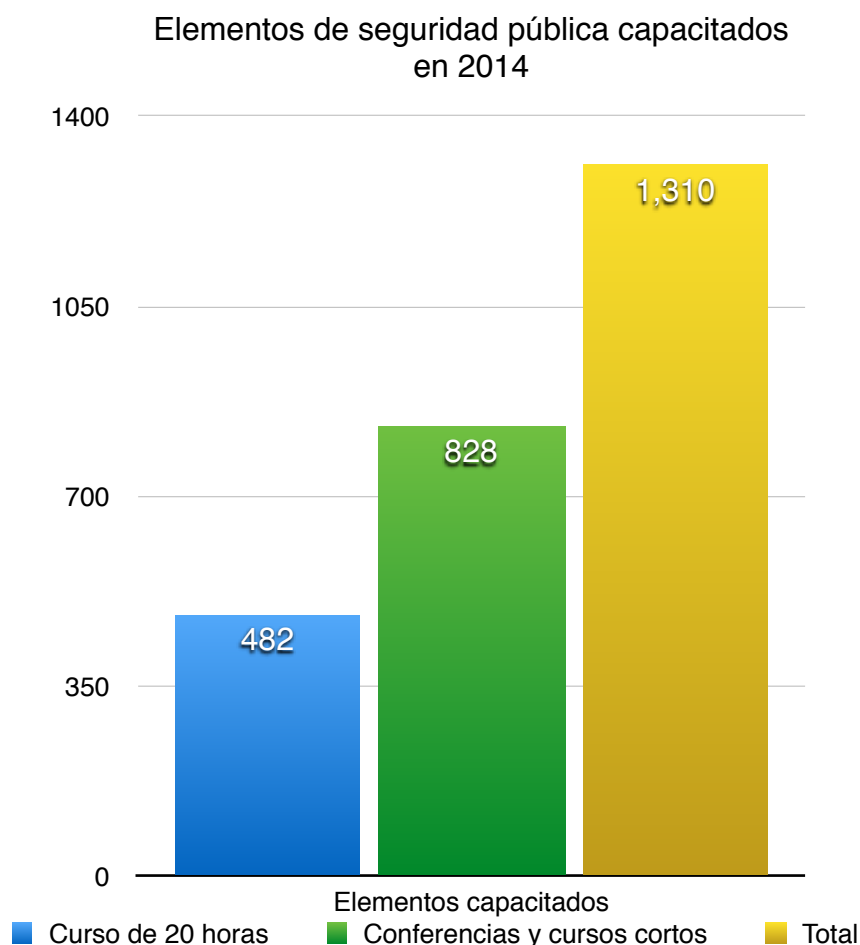
The previous information can be seen in the following chart:



In 2014 there were some slight variations in capacity-building provided by the Commission, but generally the number of officers who received training increased. In this regard, 482 municipal law enforcement officers participated in a 20-hour basic human rights course, and 828 officers attended seminars

and conferences of 10 hours or less. This gives a grand total of 1310 officers who received training.

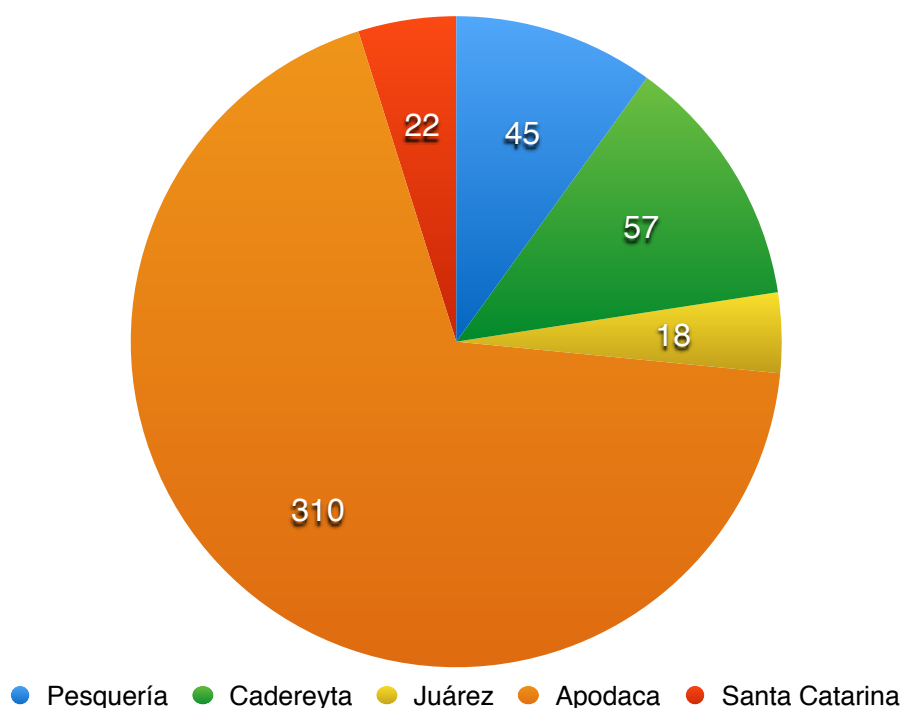
The previous information can also be seen in the following chart:



Additionally, it's important to mention that two seminars on human rights were given in 2014 to 600 students of the University on Sciences for Security, an institution focused on education, training and capacity-building for future law enforcement officers.

In relation to the training received by municipal civil servants in charge of law enforcement as a result of the Recommendations issued by this Commission, which consisted basically on a general course on human rights and in some cases on the use of force, the following chart highlights the results:

Elementos de seguridad pública capacitados como resultado de las Recomendaciones



In total, this Commission provided training —or certified training provided by other institutions— to 452 law enforcement officers as a result of the five Recommendations issued in 2013 regarding enforced disappearances. This figure is additional to those resulting from the general training programs provided to the municipal administration.

The Human Rights Commission of Nuevo Leon also has an *Advanced Course on Human Rights Applied to Law Enforcement*. This course has been modified recently, in order to add new topics that are relevant to the police function; among them is a new module that specifically addresses the issue of enforced disappearance. Beginning in 2015, this two-hour module will be taught to municipal and state law enforcement officers, and contemplates a thorough analysis of the history of enforced disappearances; an analysis of the basic concepts and legal framework of this crime; a particular focus on the right to truth, and finally, a specific assessment of the obligations of public officials in charge of public security. The aim of this module is to ensure that public officials have specific training on the characteristics of the crime of enforced disappearance, both from a criminal law perspective and from an international human rights law standpoint. In this regard, the Human Rights Commission of Nuevo Leon has as its goal the development of a basic culture of human rights among public officials, and particularly of those in charge of public security and

law enforcement, in an effort to prevent the repetition of this particular human rights violation.

III. Actions for human rights protection.

Among the main lines of work of the national system of public human rights institutions, and particularly of the CEDH-NL, are those actions undertaken for the protection of human rights. One of the most important of those actions is the investigation of presumptive human rights violations, which are conducted as a result of an action or omission of the State that is contrary to its international and domestic obligations. As a result of these investigations, the human rights commissions can issue non-binding public recommendations to the responsible authorities; however, their rejection by the authority imposes upon them a constitutional obligation to appear before the corresponding legislative organ in their jurisdiction, to explain the motives of their refusal.

In the context of the Commission's work, recommendations are elaborated in conformity with the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. Thus, whenever the Commission determines after its investigation that a human rights violation took place, the resulting recommendation highlights the measures that the responsible authority must adopt in relation to the monetary and non-monetary reparation owed to the victim. The latter of these measures includes restitution, rehabilitation, satisfaction and guarantees of non-repetition. Generally, the recommendations issued by the Commission include both forms of reparation, taking into consideration the particular characteristics of each case.

On the issue of enforced disappearance, the Human Rights Commission of Nuevo Leon has issued five recommendations to different municipal agencies in the state in the period corresponding to the years 2013-2014.² Said recommendations suggest that the authority adopts the following measures:

1. The obligation to repair the damage inflicted upon the families of disappeared persons, in conformity with the applicable international standards.
2. Compensation for future loss of income, which includes *inter alia* different contributions from the responsible authority in the fields of education (scholarships for minor students) and labour (job placement aid), in an effort to ensure that the victims have sufficient elements to live a life in dignity.

² The synthesis of Recommendations 50/2013, 51/2013, 52/2013, 55/2013 and 56/2013 issued by the Commission are annexed to this report, where the measures adopted for each particular case of enforced disappearance can be observed.

3. Public apology with an acceptance of responsibility by the corresponding authority.
4. Initiating a procedure of administrative liability against the public officials involved.
5. Contribute with the investigation undertaken by the corresponding authorities to provide all available evidence, in an effort to clarify the facts surrounding the enforced disappearance.
6. Provide the medical and psychological attention required by the victims, with their consent.
7. Training and education of public officials in the field of human rights, particularly on the rights of detainees and on their rights during their detention.

It is important to point out that in the five Recommendations issued by the CEDH-NL on the issue of enforced disappearance, the authorities of the municipalities of Apodaca, Pesqueria, Juarez, Santa Catarina and Cadereyta Jimenez offered public apologies and accepted their responsibility, as well as the participation of public officials in the human rights violations. In addition, the civil servants of the different aforementioned municipal administrations received human rights training provided by the Commission. Also, administrative liability procedures were started in the five cases in order to sanction the public officials that participated in the enforced disappearances, and criminal investigations were undertaken by the Public Prosecutor's Specialized Office on Electoral and Public Function Crimes.³ In three of the five cases, the courts have issued convictions against the public officials that participated in the enforced disappearances, as a result of the criminal procedures started parallel to the filing of the complaints before this Commission; the other two criminal procedures are at different procedural stages.

The different municipalities that have received Recommendations from this Commission have collaborated in the adoption of non-monetary measures for the benefit of the indirect victims of enforced disappearances. Thus, municipal authorities that were deemed responsible of human rights violations have contributed to reparation through job placement, scholarships, medical equipment, medical and psychological attention and the enlisting in federal social programs in favor of the victims. In the aforementioned measures, the CEDH-NL has focused its work on providing personal assistance, attention and liaison to the victims, particularly in the different procedures to be undertaken before the corresponding authorities.

A very important aspect that can be observed in the annexed synthesis and in the preceding paragraphs is that the Human Rights Commission of Nuevo Leon has focused on serving as a liaison between the victims of human rights violations and the responsible authorities, especially in relation to the

³ It must be pointed out, however, that from the information received by this Commission, it is unclear if the prosecuting authority in charge of the criminal investigations is trying to present charges for the enforced disappearance of the different victims.

monetary and non-monetary reparations. In this regard, the Commission has emphasized its role in ensuring that the reparations provided by the responsible authorities are truly effective, and that the needs of victims are satisfied to the utmost extent. This could be a favorable condition for victims, given that the procedures initiated before the Commission do not impose upon the victims the same burdens as a judicial procedure would, particularly in relation to evidence.

It is also important to highlight that in the five cases of enforced disappearances referred to in the current report, the municipal authorities generally collaborated with the CEDH-NL in accepting and implementing the Recommendations, in an effort to prosecute these grave human rights violations and to actively participate in the adoption of measures destined to ensure their non-recurrence. Thus, we must highlight the position and role that this Human Rights Commission of Nuevo Leon, and generally the human rights commissions in the country, could have in the face of a violation of an international obligation by the Mexican State in the field of human rights: a role in which the commissions denounce the non-compliance of the State in relation to its conventional and constitutional obligations, whenever it takes place; where they provide support to the direct and indirect victims of human rights violations resulting from the actions or omissions of the State; and where they act as a liaison between the authority and the victims, actively pursuing the effectiveness of the measures of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

As a result of the work of the Commission on the issue of enforced disappearance, this institution is currently developing a *Guide for the search of disappeared persons*. This guide pretends to become a tool that facilitates the provision of assistance by the Commission in its search for disappeared persons, as well as in the protection of their rights and interests and those of their families. Thus, the Guide seeks to establish clear parameters based on international standards, on the activities the Commission must undertake in the face of a presumptive disappearance to try to provide as much certainty as possible to indirect victims. Some of the important points that are being considered by this initiative are the creation of a registry of disappeared persons managed by the Commission, in order to have a database that can be used to generate certain domestic legal effects and to collaborate in the investigations undertaken by other agencies; and to continue working in favor of the victims as a liaison before governmental authorities, both to undertake the pertinent legal procedures and to ensure that their basic needs are covered. This guide, while still in progress, will contribute in the development of effective mechanisms and procedures that help to prevent and protect human rights.

IV. Suggestions on possible recommendations of the UN Committee on Enforced Disappearances to the Mexican State.

1. Due to the possible existence of competing and/or diverging standards on domestic State responsibility and reparation (in administrative and criminal matters, for example), this Commission respectfully suggests that the Committee recommends to the Mexican State the unification of criteria on domestic State responsibility and reparation, and its duty of reparation, whenever an enforced disappearance takes place, so that the different legislative provisions currently in force on the issue of reparation are in conformity with international human rights law standards.
2. Due to the transcendence and implications that a criminal conviction for enforced disappearance may have for society and the victims, this Commission respectfully suggests that the Committee recommends to the Mexican State the adoption of measures to ensure that all public officials in the judiciary and in public prosecutor's offices, at both the federal and state level, have appropriate and specialized training in relation to enforced disappearances.
3. This Commission respectfully suggests that the Committee recommends to the Mexican State, and particularly to the public institutions for the promotion and protection of human rights in the country, to adopt the necessary measures to work as liaison between the authorities and the direct or indirect victims of enforced disappearances, so that through their work, they collaborate in the adoption of integral measures that effectively protect the human rights of victims.

The Human Rights Commission of Nuevo Leon reiterates its intention to collaborate with the UN Committee on Enforced Disappearances in the development of effective actions for the protection of the human rights of the victims of enforced disappearance, as well as for the prevention of this grave human rights violation. Please do not hesitate to contact us for any clarification that may be necessary, as well as to follow-up on the initiatives and programs mentioned in the current report.

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