

## RESPONSES TO MIGRATION

# The Riverside Incident

---

*Rafael Fernández de Castro*

### Facts

**T**he incident occurred on April 1, 1996, at the end of a high-speed chase in South El Monte, Riverside County, California. A pickup truck carrying twenty Mexican immigrants who had entered illegally was chased for over an hour by members of the Riverside County Sheriff's Department; when the truck stopped, 18 of them tried to flee. The remaining two, a man and a woman from the state of Michoacán, Enrique Funes Flores and Alicia Sotero Vásquez, although they offered no resistance, were forced out of the truck and clubbed by sheriff's deputies Kurt Franklin and Tracy Watson. Neither of them could understand the commands given to them in English. Funes was beaten half a dozen times, resulting in a fractured arm and other injuries. Alicia was clubbed, pulled by the hair and shoved violently against the truck, but sustained no major injuries.

The chase and the beatings were recorded by KCAL-TV Channel 9 of Los Angeles, and the video was shown to the public in and out of the United States in the immediate aftermath. Both deputies and some alleged eye-witnesses attempted to justify the violence with the argument that the immigrants were hurling pieces of metal and other projectiles at them; this was denied by the immigrants who said that the top of the pickup truck was falling apart. The driver of the truck, the

smuggler or *pollero*, managed to elude the authorities but was apprehended two months later after he tried to bring another group of immigrants illegally into the United States.

### **Immediate Actions Taken by the U.S.**

The two deputies involved were suspended from active duty while the incident was being investigated by the FBI, the Los Angeles County Sheriff's Department, and the Riverside County Sheriff's Department. The investigations focused on the possibility of assault, excessive use of force and civil rights violations. The main witnesses in the incident were law enforcement officers, California Highway Patrol officer Marco DeGennaro (who saw the beatings unfold and audiotaped the deputies shouting at the immigrants), the 18 passengers who were riding in the truck; and motorists who saw the chase on the highway.

On April 4, civil rights attorneys Mark Rosenbaum, David Ross, and Dan Stormer filed a \$10 million claim against the Riverside County Sheriff's Department on behalf of Sotero and Funes, alleging that the deputies "recklessly, intentionally and wantonly" beat and kicked them, violating U.S. law, the Vienna Convention on the Law of Treaties and United Nations' conventions against torture.

John Barnett<sup>1</sup> will defend Riverside County deputies arguing that they acted properly, according to the circumstances and based on the premise that the illegal immigrants were putting innocent people's and the deputies' lives in danger by hurling objects at them.

Tracy Watson who said he was coerced by his superiors to write a potentially self-incriminating report following the incident, filed suit against the Riverside Police Department for violating his constitutional rights of due process and legal representation and protection from unlawful detention and self-incrimination.

On April 4, the Immigration and Naturalization Service authorities released the other 18 illegal immigrants who were captured after the freeway chase to the custody of the Mexican Consulate and gave them a special permit to remain in the United States for six months so they could assist in the investigations.

### **Social Protests**

After the incident, several marches and demonstrations were organized in border towns as well as in Washington D.C. by immigrant-rights activists, civil rights organizations, labor unions and liberal political groups. They attributed the actions of the Sheriff's deputies to an anti-Mexican, anti-immigration fervor sweeping the country, and protested the use of unnecessary violence against minority groups in the United States.

## Reactions and Consequences

### Mexico

#### *Government Secretaria de Relaciones Exteriores (S.R.E.)*

The incident caused indignation in both the government and the society as a whole. On April 2, the Mexican government delivered a diplomatic note to the U.S. Department of State, protesting the use of violence and demanding investigation of the incident. The White House responded by asking the Department of Justice to follow the case closely. The same day, the Mexican Ambassador in Washington, Jesús Silva Herzog, and the Consul in Los Angeles, José A. Pescador, sent letters to the Governor of California and to the Riverside County Sheriff demanding a detailed explanation of the incident and that those responsible for the beatings be punished.

The Mexican Consulate in Los Angeles established contact with organizations such as the National Council of la Raza (NCLR), South Western Voters Registration (SWVR), the United States Hispanic Chamber of Commerce (USHCC), and the League of United Latin-American Citizens (LULAC). They in turn sent letters to the President of the United States, to Congress and to Janet Reno, the U.S. Attorney General, condemning the incident and demanding that justice be done.

On April 10, the Mexican Under Secretary for Bilateral Affairs of the Foreign Ministry, Juan Rebolledo, met with U.S. Department of Justice officials in Washington D.C. Rebolledo acknowledged the Mexican authorities' acceptance of President Clinton's program to tighten security at the border to stem the flow of illegal immigrants and asked for:

- a) a review of the methods and procedures for applying migration laws in the United States; and
- b) intensification of Border Patrol agents' training in human rights.

Again Secretary José Angel Gurría declared that California Governor Pete Wilson's support of Proposition 187 and proposals to extend its ideas to other states, plus anti-migration statements during the presidential and congressional contests, had generated a climate of intolerance in the United States against immigrants. He also declared that the Mexican government has committed itself to increase its efforts to protect the rights of Mexicans, whether legally admitted or not, living in the United States, through Mexico's 40 consulates. He said that the presence of Mexican consular authorities will be augmented at detention centers where immigrants who entered illegally are held, and will open a center in California and other border states where human rights violations claims could be filed.

On April 16, Mexico, through the Foreign Ministry, appealed to the Human Rights Commission of the United Nations for a special conference on the rights of migratory workers and their families, and proposed a resolution to condemn the violation of human rights of migrants.

### ***Congress***

On April 9, the incident was debated in the Mexican Congress by deputies and senators from major parties, the PRI, PAN, PRD, and PT.<sup>2</sup>

(a) Main agreements. A joint congressional resolution was issued<sup>3</sup> which demanded that President Zedillo make public the list of human rights violations committed against Mexicans in the United States in the past five years. These had been recorded by the 40 consulates, and had been kept secret to avoid damaging the bilateral relationship. The executive responded on April 11 by publishing the list of human rights violations against co-nationals in a document titled: "Protection of Mexican Citizens Living in the United States." The list intended to demonstrate that the United States had fallen into a systematic pattern of human rights violations against Mexicans.

(b) Criticism of the Executive. The opposition argues that the Mexican government is responsible for the migration problem because of its inability to create enough jobs in Mexico. It criticized President Zedillo and Secretary Gurría for what they consider to be a lack of consistency in defending the rights of illegal workers in the U.S. and for their weak response to the Riverside incident. The opposition demanded that President Zedillo make migration a priority of the country's foreign policy. An independent representative declared that the United States is carrying out a low-intensity war against Mexican citizens living in the United States, as well as creating a hostile anti-immigrant climate along the border. He accused the Clinton administration of militarizing the border.

### ***Social Reactions***

Human Rights organizations in Mexico demanded that President Zedillo suspend all migration agreements with the United States and create in their place a bilateral agreement to reduce migratory movements. The then Director of the National Commission of Human Rights in Mexico, Jorge Madrazo, agreed to help the Mexican consulates in the United States in the defense of the rights of illegal immigrants.

The incident had significant effects on the domestic scene. The human rights issue was sensitive because of recent violations committed against peasants commemorating Emiliano Zapata's death in Tlaltizapan, Morelos. An earlier serious

violation had occurred in Guerrero. Mexicans have been sensitized to human rights violations committed against immigrants from Central and South America caught trying to enter Mexico illegally or to cross the country en route to the United States. Such incidents of repression weakened President Zedillo's position that he is turning Mexico into a law-based country.

## **The United States**

In the United States, two facts made the Riverside incident particularly significant. On the one hand, the incident bore many similarities to the 1991 beating of the African-American Rodney King, which had raised important social issues such as the growing intolerance of white police toward minority groups. On the other hand, the Riverside incident occurred at the outset of a national electoral campaign and with important migration bills pending in Congress. During 1996, legislators discussed at length the social and economic costs of migration. The 1996 immigration legislation focused primarily on limiting illegal immigration.

The incident coincided with the end of the primary elections. Senator Robert Dole used the migration issue to gain votes in states like California. Dole supported the proposal to deny public education to children illegally in the United States because of what he said was the "most expensive mandate of all times" under which the federal government forces the states to assume these education costs.

The incident made evident, once again, a problem of legal jurisdiction. Local law enforcement agencies are frustrated because there is nothing that a state or local law enforcement agency can do about a violation of immigration other than calling the local Immigration and Naturalization Service (INS) officer to report the case, and local and state officers can merely accompany the INS on patrols of the US-Mexican border. By contrast, INS officials have powers not given to local police. For instance, they can interrogate any person believed to be an alien, board ships in US waters to search for immigrants seeking to enter illegally, and can patrol private lands within 2.5 miles of the border to search for undocumented people.

## **Counteractions by the U.S. Government**

The U.S. Department of Justice agreed:

- a) with Mexico's request to conduct the review of the methods and procedures for applying migration laws with local police along the U.S.-Mexico border;
- b) to give the Mexican authorities a full report on federal actions in the Riverside and Temecula<sup>4</sup> cases.

## *Congress*

On April 10, Chicano members of Congress met and supported an agreement on migration between the two countries that would deal with the protection of immigrants. Among them, Lucille Roybal, Esteban Torres, and Javier Becerra declared that one of their roles in Congress is to work vigorously in order to counter-balance the anti-immigration climate.

## *Civic Reactions*

On April 17, the President of the U.S.-Canada Human Rights International Association, M. Hale, urged the United States to sign the International Convention of Human Rights. The Director of the Los Angeles Coalition for the Rights of Immigrants, Susan Alva, demanded the creation of an independent commission to investigate police abuses against Latinos in all the counties of Southern California.<sup>5</sup>

## **For Bilateral Relations**

On May 8, at the 13th Meeting of the Binational Commission, a Memorandum of Understanding (MOU) dealing with the protection of the rights of Mexican nationals in the United States was signed by Secretaries Angel Gurría and Warren Christopher. It can be claimed that this MOU represents a new binational understanding reached as the result of the sequence of reaction and counter-reaction produced by the Riverside incident. This case study also shows the high sensitivity in Mexico—the executive, congress, the opposition parties, and the media—towards the violation of human rights of co-nationals in the United States. Similarly, many Americans were annoyed with the hate messages and columns against Mexico in the media, especially given the numbers that cross the border. It is evident that there exist some highly sensitive areas in bilateral affairs, such as immigration, where the traditionally antagonistic and mutually recriminating attitudes still prevail.

## **Notes**

1. The lawyer who defended the officials charged with beating Rodney King in Los Angeles in 1991.

2. Partido Revolucionario Institucional (PRI), Partido Acción Nacional (PAN), Partido de la Revolución Democrática (PRD) and Partido del Trabajo (PT).

3. This was the first joint resolution ever achieved by the leading party with the opposition.

4. On April 6, a truck full of illegal immigrants rolled over in Temecula, in the Riverside County, killing seven and injuring 18 people.

5. Similar to the Christopher Commission created in 1992 to investigate the Rodney King case.