

# NEWS LETTER

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### SPECIAL REPORT ON THE SITUATION OF HUMAN RIGHTS OF DETAINEES IN CENTERS FOR MINORS IN THE MEXICAN REPUBLIC.

Last July 8th, and as the result of an investigation undertaken during the year 2002, in the 54 centers for minors in the country, the Mexican National Commission for Human Rights, presented a Special Report on the situation of Human Rights of detainees in the centers for minors in the Mexican Republic.

In order to undertake this investigation the following were evaluated: facilities conditions, public officials performance, the infra-structure for classifying and attending the minors, the realization of educational and occupational activities, assistance services, and an analysis of the organization, the functioning and existence on internal rules, as well as the correct application of those.

As a result of this analysis, important anomalies were found, amongst them: the deficiency of the facilities, the over population, ill-treatment and blows to the interns in some of the institutions, the lack of classification and separation in-treatment areas, resulting in the cohabitation of minors without regard to age, infraction committed or personal characteristics, lack of motivation in the minors to participate in educational activities, lack of materials, tools or technical personnel. Deficiencies were also found in the health system of the centers, where the lack of personnel, medical materials and medications oblige them to seek other institutions in order to attend the necessities of the detainees; besides the inexistence of internal rulings.

Finally, this investigation showed that the majority of minors in detention come from dysfunctional families with some of their parents being drug addicts, that 55% of the detainees at some point used or presented addictions to alcohol, marihuana, solvents or cocaine and that minors are on this grounds due to crimes of local jurisdiction, in their majority theft under all its modalities.

For this reason, the Mexican National Commission for Human Rights, based on the Constitution of the Mexican Republic and on the international instruments ratified by our country, formulated 18 principles amongst which the following stand out:

- a) Consider as a minor he or she who has not reached 18 years of age.
- b) To consider as an adolescent he or she who is 12 years old, and yet to reach 18 years of age, so that he or she who is 12 years old, must be considered as a minor offender of the penal laws.
- c) The minors in "dangerous state", abandoned or in street child situation, must be led in a different way of the considered offenders and, should they require internment, must be housed in special installations.
- d) In the case of offenders to criminal laws, the external treatments must be given priority.

e) In all legal or administrative procedure, the established guarantees in the Constitution and in the International Convention on the Rights of Children must be foreseen.

f) In the internment centers there must not be cells, but rooms or dormitories, out of respect for the dignity of the minors.

Finally, the Mexican National Commission for Human Rights calls upon the governments, federal and state to take the necessary measures in order to solve the deficiencies and shortages in the centers for minors.

The complete text of the Special Report appears on the web page of the CNDH: [www.cndh.org.mx](http://www.cndh.org.mx)

## RECOMMENDATIONS

Recommendation 25/2003  
July 9, 2003

Case: Appeal presented by Mrs. Ma. Concepción Soriano Guatirojo and someone else  
Authority addressed: President of the State Commission for Human Rights of Morelos

On March 3, 2003 the Mexican National Commission for Human Rights initiated file 2003/84-I-I in regard to the appeal presented by Mrs. Ma. Concepción Soriano Guatirojo and Esther Zulema Vidal Soriano, against the conclusion of non-responsibility which the State Commission for Human Rights of Morelos issued on December 18, 2002.

From the analysis of the documentation, as well as the investigation undertaken by this National Organism, it was proven that the conclusion of non-responsibility which the State Commission dictated was not made in accordance with the terms set out in Article 39 of the ruling law, all the while that it was not reached within the documentation, which the General Direction of Social Assessment and Help to Victims of the Justice General Attorney of the State of Morelos accredited the follow up that public officials of that office gave during the integration of the previous investigations. Also, it failed to carry out its review in order to determine if its integration was correct and according to Law.

Based on the above, and on the grounds stipulated in Article 66, clause b of the Law for the Mexican National Commission, on July 9, 2003 the CNDH addressed a Recommendation to the President of the State Commission of Human Rights of the State of Morelos, so that the non responsibility agreement of December 18, 2002, sent to the Justice General Attorney for the State of Morelos, and the person in charge of the Office of the General Direction of Social Assessment and Help to Victims in that federative entity be revoked, and based on the considerations contained in the chapter of observations of the present document, adhere to the necessary documentation and issue the corresponding determination according to Law.

Recommendation 26/2003  
July 9, 2003

Case: Miss Ana Elvia Trasviña Sesteaga  
Authority addressed: General Director of the Mexican Social Security Institution (IMSS)

On March 5, 2003, this National Organism received the complaint presented by Mr. Jesús Domingo Trasviña Ocampo to the State Commission for Human Rights of Jalisco. The plaintiff expressed presumed violations to the Human Rights committed against his daughter Ana Elvia Trasviña Sesteaga, attributed to the public servants of General Regional Hospital Number 46, of the Mexican Social Security Institute in Guadalajara, Jalisco, consisting in medical negligence, and negative and inadequate rendering of the public health service.

From an analysis of the facts, as well as from the investigation undertaken by this Mexican National Commission for Human Rights, the existence of diverse irregularities was proven, and, therefore, the conclusion is reached that violating acts to the Human Rights of Miss Trasviña Sesteaga were accredited, on behalf of Dr. Jesús Hernández Lozano, public servant of the afore-mentioned hospital, all the while that this person acted in an improper manner and did not provide the person harmed with the adequate, opportune professional and quality vigilance.

Based on the above, this National Organism issued Recommendation 26/2003, addressed to the General Director of the IMSS, so that he issue instructions to the Internal Comptrollers Units of the Secretariat of Public Function in the Mexican Social Security Institute and for the purpose of initiating and determining an administrative procedure of investigation against Dr. Hernández Lozano assigned to the afore-mentioned hospital, in order to determine the responsibility which might result and for the irregularities which he incurred, payment by concept of indemnity which may proceed according to that dictated in articles 33 of the Federal Law of Administrative Responsibilities of the Public Servants, and 1915 and 1917 of the Civil Federal Code, be made.

Recommendation 27/2003  
July 11, 2003

Case: Appeal presented by Mrs. Gloria Elena Gámez Ortega  
Authority addressed: Town Council of Madera City, Chihuahua

On February 28, 2003, this National Commission received the appeal presented by Mrs. Gloria Elena Gámez Ortega, in which she voices her objection to the non-acceptance on behalf of the Municipal President of Madera City, Chihuahua, of Recommendation 31/2002, issued on November 11, 2002, by the State Commission for Human Rights of that entity, related to the undue clearance of the death of her minor son, named Luis Alberto Molinar Gámez, in which the request was made to the afore-mentioned Municipal President, that he may please investigate the case.

From the analysis of the facts, the Mexican National Commission for Human Rights, believes that the Recommendation made by the State Commission to the afore-mentioned authority was in accordance to Law and therefore on July 11, 2003, this National Commission issued Recommendation 27/2003, so that he fulfill Recommendation 31/2002, issued by the State Commission for Human Rights of Chihuahua.

Recommendation 28/2003  
July 11, 2003

Case: Appeal presented by Mr. Gilberto Oy Cen  
Authorities addressed: Constitutional Governor for the State of Yucatán and the Town Council of Tepakán

Mr. Gilberto Oy Cen presented a complaint before the Commission of Human Rights of the State of Yucatán, related to presumed violating acts to his Human Rights, committed against him by Mr. José Reyes Pool Chi, municipal policeman of Tepakán, since not withstanding the fact that he was being held in the Municipal Jail of Tepakán, said policeman hit him against the rail causing him facial injuries, reason for which he denounced said deeds before the 17th Agency of the Department of the Public Prosecutor of the State of Yucatán, the previous investigation being initiated for the crimes of abuse of authority and injuries.

As a result of this, the Human Rights Commission for the State of Yucatán, investigated the case and upon proving violation to the Human Rights of Mr. Gilberto Oy Cen, on December 26, 2002, issued a Recommendation addressed to the Town Council of Tepakán and the Justice Attorney General of that entity.

Since the municipal authority did not reply to the State Commission on the acceptance or non-acceptance of the mentioned Recommendation and the Justice Attorney General for the State did not accept the afore-mentioned Recommendation arguing that Mr. Oy Cen had not pointed out the Public Prosecutor as the responsible authority, not presented any complaint against him, Mr. Oy Cen presented the appeal to the Mexican National Commission for Human Rights, and thus this National Organism made the corresponding investigation and gathered the respective documentation.

Once the evidence which integrates the file was analyzed this National Organism concluded that the Recommendation issued by the State Commission is in accordance with the Law.

Due to the above and taking into consideration that the violations to the Human Rights of Mr. Gilberto Oy Cen have been proven by the State Commission for Human Rights of Yucatán, Recommendation 28/2003 was made and addressed to the Governor of the State of Yucatán, as well as the Town Council of Tepakán, Yucatán, within their fields they issue their instructions so that according to that pointed out in the observations section of the present Recommendation, the Recommendation issued on December 26, 2002 by the afore-mentioned State Commission be accepted on its terms.

Recommendation 29/2003  
July 11, 2003

Case: Appeal presented by Mr. Rafael Castro Morales  
Authorities Addressed: Town Council of Orizaba, Veracruz

On November 6, 2002 the Mexican National Commission for Human Rights received the appeal presented by Mr. Rafael Castro Morales, for the non-acceptance of Recommendation 73/2002, by the Municipal President of Orizaba, Veracruz, issued by the State Commission for Human Rights of that same entity.

From the legal-logical analysis of the proofs integrating the files, from which it is noted that the administrator of the Municipal Market, without being authorized under the terms of the Municipal Ruling of Markets, deprived Mr. Castro of possession of local 62, in the nave No. 3 of the "Emiliano Zapata" Market, proceeding to cede the rights of the same to a third person, without following any procedure.

In that sense, this National Organism warned that the administrator of the Market incurred violating acts to the Human Rights in regard to the legality and legal safety of Mr. Castro Morales upon not full-filling that pointed out in Constitutional Articles 14 and 16, stating that no-one can be deprived of his possessions or rights, except in accordance to Laws issued prior to the deed and through a written command from the corresponding authority which gives basis and motives to the legal cause of the same.

Based on the above, this National Commission issued Recommendation 73/2002, addressed to the Town Council of Orizaba, Veracruz, that it may give fulfillment to Recommendation 73/2002, issued by the State Commission for Human Rights of Veracruz.

Recommendation 30/2003  
July 11, 2003

Case: Appeal presented by Mr. Gregorio Sánchez Vázquez  
Authority addressed: Constitutional Town Council of Apizaco, Tlaxcala

On September 20th, 2002, the Mexican National Commission for Human Rights received the appeal presented by Mr. Gregorio Sánchez Vázquez, due to his objection with the fulfillment which the Town Council of Apizaco, Tlaxcala gave Recommendation 03/2002, issued by the State Commission for Human Rights of Tlaxcala.

From the analysis of the facts the Mexican National Commission for Human Rights concluded that sufficient elements exist to give credit to the fact that the human right of petition of Mr. Gregorio Sánchez Vázquez, was violated and thus, on July 11, 2003, addressed Recommendation 30/2003 to the Town Council of Apizaco, Tlaxcala, requesting to give fulfillment to Recommendation 03/2003, issued by the State Commission of Human Rights of Tlaxcala, considering, besides, that the reply given Mr. Gregorio Sánchez Vázquez must be in a justified manner and motivated by his request that he be given the municipal services and the up dating of the operations licenses which he requests.

Recommendation 31/2003  
July 31, 2003

Case: Appeal presented by Mr. David Férrez Castañeda  
Authority addressed: Town Council of Saucillo, Chihuahua

On February 14, 2003, the Mexican National Commission for Human Rights received the appeal of Mr. David Férrez Castañeda, against the non-acceptance of Recommendation 34/02, issued on December 10, 2002 by the State Commission for Human Rights of Chihuahua on behalf of the Municipal President of Saucillo, Chihuahua,

From the analysis of the evidence obtained, the source of the injury expressed by the appellant, was accredited for presumed violations to his Human Rights committed by the Secretary of the Town Council of Saucillo, Chihuahua for violating acts to the legality and the legal safety of Mr. David Férrez Castañeda upon depriving him of the right of concession which he held as a owner of a local in the Municipal Market, which is why on the 31st of July 2003, this Mexican National Commission for Human Rights issued Recommendation 31/2003, addressed to the Town Council of Saucillo, Chihuahua so that it may comply on its terms with Recommendation 33/02, issued on December 19, 2002 by the State Commission for Human Rights of Chihuahua, in conformity with the considerations given out in the observations section, and instruct the Municipal President so that an administrative procedure of investigation be initiated and determined against Dr. Gabriel Gurrola Palacios, Municipal Secretary of Saucillo, Chihuahua, based on the arguments presented in the observations chapter of this resolution.

## DOMESTIC RELATIONS

The President of the Mexican National Commission for Human Rights received the "Norma Corona Sapién" award

Last July 13, within the framework of the Lawyer's Day, the President of the Mexican National Commission for Human Rights, Dr. José Luis Soberanes Fernández, received the "Norma Corona Sapién" award, which is given by the Association of Litigating Lawyers of the Mexican Republic, to personalities who distinguish themselves by their work in the defense and promotion of the Human Rights.

During this act, Dr. Soberanes stated that "the defense of the fundamental guarantees, can only be made by holding on to the Law; any attempt made against the norm, even though because of lack of knowledge, tends to fail and to place in question the legal order".

It is worth mentioning that this decoration has the name of an outstanding woman from Sinaloa and defender of the Human Rights who was murdered in the year 1990.

The Mexican National Commission for Human Rights approves the Statute of the Civil Service Career

The Consultative Board of the Mexican National Commission for Human Rights, approved on July 8 of this year, the Statute of the Civil Service Career in this National Organism, which will take effect 30 days after its publication in the Official Diary of the Federation.

#### Training Courses

During the month of July, the Mexican National Commission for Human Rights, as a part of spreading and promotion of the Human Rights culture, realized 53 activities, among them courses, workshops, and conferences led to educational institutions, vulnerable situation groups, public servants and social organizations.

Among the subjects dealt with in the different activities of promotion and the diffusion of the culture of Human Rights are: "Rights of boys and girls", "Human Rights and family violence", "Rights of people with different capacities"; "Tender education"; "Younger rights and Public Security", "The Human Rights in the Legal Mexican System"; "Human Rights in public security matter"; "Basic Aspects of Human Rights, the use of force and the use of firearms"; "Elderly Human Rights"; "Support and financing of the ONG's"; "Introduction to the Human Rights"; "Family violence"; "ONG creation and reach of his functions"; "Formation of promoters in Human Rights".

#### FOREIGN RELATIONS

Meeting of the Coordination Committee of the Network of National Institutions for the Promotion and Protection of Human Rights of the Americas.

Last July 2nd, the National Institutions of Canadá, Colombia, Costa Rica and México, members of the Coordination Committee of the Network of National Institutions for the Promotion and Protection of Human Rights of the Americas, gathered in the headquarters of the Mexican National Commission for Human Rights to carry out its annual meeting.

The subjects discussed during this event, were focused on defining the activities and strategies of this Regional Network for the second semester of this year, as well as the activities for the year 2004.

Its important to mention that on this occasion, the proposal of the Defensor del Pueblo of Argentina, to host in the city of Buenos Aires the Third General Assembly of the Network in the year 2004 was welcomed.

Magisterial Conference by Dr. José Luis Soberanes Fernández in the Defensoría del Pueblo of Paraguay

Last July 17 and 18 2003, in the city o Asunción, Paraguay, the Defensoría del Pueblo of the afore-mentioned country organized a seminar entitled "Defender of the People and Democratic Consolidation".

During this act, the President of the Mexican National Commission for Human Rights, in his capacity as Secretary pro-tempore of the Network of National Institutions for the Promotion and Protection of Human Rights of the Americas and for the purpose of strengthening and supporting the consolidation of the Ombudsman from Paraguay, participated with the presentation on the magisterial report entitled: "Doctrinaire Foundations in the presence of the Ombudsman in the contemporary constitutions".

#### PUBLICATIONS

Gaceta, Official publication of the Mexican National Commission for Human Rights, Number 153, corresponding to the month of April, 2003.

The Familiar Violence and the Human Rights. México, CNDH, July, 2003, (Book).

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