

NEWS LETTER

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INTERNATIONAL WORKSHOP FOR THE NETWORK OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF THE HUMAN RIGHTS OF THE AMERICAS "INDIGENOUS WOMEN BETWEEN VIOLENCE AND DISCRIMINATION".

Considering that the subject of the protection and defense of the Human Rights of the indigenous women is, without doubt the central point of the work which we, the national institutions for the promotion and protection of the human rights, develop and, conscious of the broad outlook which its treatment requires, the Network of National Institutions for the Promotion and Protection of the Human Rights of the Americas held a workshop which analyzed the problems of these vulnerable sector of the population.

Under the coordination of the Mexican National Commission for the Human Rights, in its capacity as Secretary pro tempore of the Network and sponsored by the Office of the United Nations High Commissioner for the Human Rights (OACNUDH), the workshop was held in the city of Mérida, Yucatán, México on March 4th and 5th, 2004 under the heading "Indigenous Women Between Violence and Discrimination"

The President of the Mexican National Commission for Human Rights Dr. José Luis Soberanes Fernández attended the inauguration of the event accompanied by personalities from the Federal Government as well as from the State Government of Yucatán, amongst them, the Governor of the State of Yucatán and the General Director of the National Commission for the Development of the Indigenous Peoples.

During the work sessions of the Workshop 24 participants were present coming from 10 National Institutions of the American Continent: Argentina, Canada, Colombia, Costa Rica, Ecuador, Honduras, México, Panamá, Perú, Venezuela, a representative of the Association of the Ombudsman from the Caribbean (CAROA), a member from the House of Representatives from the Dominican Republic, a representatives of the OACNUDH, as well as 25 local Human Rights Institutions.

Among the experts invited, were the Special Rapporteur of the United Nations on the Situation of the Human Rights and the Fundamental Liberties of the Indigenous, Dr. Rodolfo Stavenhagen; from the Canadian Human Rights Commission, Mrs. Sherri Helgason; from the OACNUDH, Mr. Julian Burger; and from the Defender of the People of Colombia, Mr. Gabriel Muyuy, as well as different Mexican personalities, experts on the subject and representatives of the regional indigenous communities.

At the end of the meeting, the participants approved a Final Work Document which gathers all the observations and proposals of the speakers and participants, which was distributed to all the members of the Network, as well as the members of the Public Organisms for Human Rights of the country.

RECOMMENDATIONS

Recommendation 9/2004

March 9th, 2004

Case: Mr. Agustín Vargas Gutiérrez

Authority addressed: Mexican Social Security Institute

On September 30th, 2003, this Mexican National Commission for Human Rights, initiated the file in relation to the complaint presented by Mrs. María Guadalupe Navarrete Martínez, in which she pointed out deeds presumably violatory, perpetrated against her husband Mr. Agustín Vargas Gutiérrez, by public servants of the Mexican Social Security Institute (IMSS).

From an analysis of the facts integrating the file, as well as the medical opinion issued by personnel of the Coordination of Expert Services of this National Organism, sufficient elements are found which establish the legal merits of the harms validated by the plaintiff, since the medical personnel from the Traumatology Emergency Hospital "Dr. José Manuel Ortega Domínguez" in charge of the care of Mr. Agustín Vargas Gutiérrez, did not provide the required vigilance, after the surgery on both arms, and therefore it was necessary to practice the amputation of his left arm. From the above, professional and administrative responsibility is seen on behalf of personnel assigned to the afore-mentioned Hospital upon their not performing with the diligence which the performance of their position requires, this conduct, therefore, violating the right to the protection to health of the aggrieved.

For this reason the Mexican National Commission for Human Rights, issued the present Recommendation addressed to the General Director of the Mexican Social Security Institute in which it recommended the following:

- 1) Payment be order and made by concept of indemnity required under the terms on the considerations set forth in the present document.
- 2) A prosthesis of the left arm be provided and implanted on Mr. Agustín Vargas Gutiérrez.
- 3) Approval be granted to the Internal Control Organ of the Secretariat of Public Function in the IMSS, so that and administrative procedure of investigation be initiated and determined according to Law, against the attending personnel in this case, in accordance with the considerations set forth in the observations chapter of the present document.

Recommendation 10/2004

March 4th, 2004

Case: Mrs. Virginia Salazar Betancourt

Authority addressed: Mexican Social Security Institute (IMSS)

On July 10th, 2003, this National Commission received the complaint presented by Mr. Esteban Valle Nieto in which he set forth presumed violations to the Human Rights committed against his wife, Mrs. Virginia Salazar Betancourt, attributed to public servants from the Gyno-obstetrics Hospital Number 221 of the IMSS in Toluca, State of México, consisting of medical negligence.

From an analysis of the facts presented in the file as well as from the investigation undertaken by this National Commission, diverse irregularities were proven during the days in which Mrs. Virginia Salazar Betancourt was interned in the afore-mentioned Hospital since her attending physicians did not proceed opportunely and while the product was still alive, to practice a cesarean section in spite of having become aware that the fetus presented a variable cardiac frequency, which according to the medical opinion issued by the Coordination of Expert Services of this Mexican National Commission for Human Rights, was an indication of acute fetal suffering.

Due to the above on March 4th, 2004, this Mexican National Commission for Human Rights issued Recommendation 10/2004, addressed to the General Director of the IMSS so that he order and payment be made accordingly by token of indemnity to Mrs. Virginia Salazar Betancourt as a consequence of institutional responsibility for the deficient medical attention which was provided to her and which caused the death of her product.

Also, the recommendation was made that training courses on the contents of the Mexican laws and norms on the subject of health, be given to the medical personnel assigned to the afore-mentioned Hospital in order to avoid future transgressions such as in the present case, and that approval be given to the Internal Control Organ of the Secretariat of the Public Function of the IMSS in order to initiate and determine, according to Law, an administrative procedure of investigation against the attending physicians in this case, based on the considerations set forth in the present Recommendation.

Recommendation 11/2004

March 9th, 2004

Case: Mrs. Virginia Santiago

Authority addressed: General Hospital of México

On October 10th, 2003, this Mexican National Commission for Human Rights, initiated file 2003/2831-1, in relation to the complaint presented by Mr. José Refugio Montoya Olivera in which he pointed out deeds presumably in violation of the rights to the protection of health and life committed against Mrs. Virginia Santiago by public servants of the General Hospital of México.

From an analysis of the evidence, as well as from the medical opinion issued by personnel of the Expert Coordination Services of this National Organism, sufficient facts are found which establish the legal provenance of the harms validated by the plaintiff, since the attending physicians in this case did not perform an adequate evaluation upon detecting the immediate post-partum hemorrhage presented by Mrs. Virginia Santiago, causing her death due to a hypo-volemic shock grade IV, cardio-respiratory lesion.

Due to the above, the CNDH issued the present Recommendation addressed to the General Director of the General Hospital of México, in which the following recommendation was made:

- 1) Payment be order and made by concept of the corresponding indemnity, under the terms of the considerations stated in the body of the present document.
- 2) The necessary documentation be turned over to the Internal Control Organ of the General Hospital of México, for the corresponding investigation of the file and this petition be authorized so that the irregularities in the integration of the clinical file be analyzed, according to the considerations set forth in the Observations chapter of this document.

Recommendation 12/2004

March 9th, 2004

Case: Appeal presented by Mr. Isaías Pérez Torres and others

Authority addressed: Constitutional Governor of the State of Chiapas.

On May 13th, 2003, the Mexican National Commission for Human Rights received the written complaint of Mr. Isaías Pérez Torres and others, in which they presented an appeal against the determination of the Justice Attorney General's Office and the Secretariat of Public Safety, both in the State of Chiapas that they do not accept Recommendation CEDH/008/2003, issued by the State Commission of Human Rights of said federative entity, upon considering that the violation of their human rights was derived from the illegal privation of their freedom and the subsequent initiation and consignment of prior investigation 1261/CAJ4B/2001, as well as the degrading treatment they received from Attorney at Law Carlos Manuel Echeverría Méndez, then Sub-Secretary of Public Safety.

Upon analyzing the case, the CNDH declared inadmissible the specific recommendations made by the State Commission to the Justice Attorney General's Office of the State of Chiapas, in which the request was made that a procedure of investigation against those acting as Agents of the Public Prosecutor the day upon which the deeds occurred, subject of the above mentioned Recommendation.

On the other hand, this Mexican National Commission for Human Rights, determined that the specific recommendation made to the afore-mentioned Secretariat of Public Safety, that a procedure of investigation, and a prior investigation of Attorney at Law Carlos Manuel Echeverría Méndez, was in adherence to Law, since the conduct displayed against the appellants by said public servant, constituted evident degrading treatment which violated the human right to receive worthy treatment.

Based on the above, on March 9th, 2004, this Mexican National Commission for Human Rights issued Recommendation 12/2004, addressed to the Constitutional Governor of the State of Chiapas, so that the Secretary of Public Safety be order to give fulfillment to point 4 of Recommendation CEDH/008/2003, issued by the State Commission for Human Rights of that federative entity.

Recommendation 13/2004

March 10th, 2004

Case: Appeal presented by Mr. Cesáreo Quesadas Cubillas

Authority addressed: Constitutional Governor of the State of Yucatán.

On October 27th, 2003, the Commission for Human Rights for the State of Yucatán, initiated file CDHY931/III/2002, due to the complaint presented via telephone by Mrs. Verónica Quesada Yáñez, in which she stated that her uncle, Mr. Cesáreo Quesadas Cubillas was arrested by the Judicial Police of that federative entity, and she has been unable to establish his whereabouts. On the same date, the aggrieved person ratified the complaint in which he pointed out that his arrest took place within his home and he was then, taken to the cells of the Judicial Police of the State of Yucatán, place in which he was forced to sign his ministerial declaration under duress and threats by his captors, and then taken to the cells of the Judicial Police of Izamal, Yucatán, where he remained until his admission to the Social Rehabilitation Center of Mérida.

On October 23rd, 2003, the local Organism issued a Recommendation addressed to the Justice Attorney General of the State of Yucatán, pertinent to the acts he attributed to members of the Judicial Police of the State of Yucatán, as well as for the irregularities detected in the integration of the previous investigation, document which was not accepted by that authority in its points first, second, third, fourth and fifth and, therefore, on November 21st, 2003, presented an appeal indicating as a grievance the lack of fulfillment of those points of the Recommendation, which originated in this Mexican National Commission for Human Rights the opening of file 2003/466-1-I.

From an analysis of the facts, the CNDH confirmed the Recommendation issued on October 23rd, 2003, by the Commission for Human Rights of the State of Yucatán; therefore, on March 10th, 2004, this National Organism issued Recommendation 13/2004, addressed to the Governor of the State of Yucatán so that he may order the Justice Attorney General of that entity, to carry out under the terms pointed out in the Observations section, the recommended points which have as yet not been attended to of the Recommendation issued on October 23rd, 2003 by the Commission for Human Rights of the State of Yucatán.

Recommendation 14/2004

March 10th, 2004

Case:Appeal presented by Mr. José Bernal Venegas

Authority addressed:Constitutional Governor of the State of Nayarit.

On September 4th, 2003, this Mexican National Commission for Human Rights initiated file 2003/341-1-I in relation to the written appeal presented by Mr. José Bernal Venegas, in which he manifested his lack of consent for the inacceptance of Recommendation 22/2003, issued by the Commission for the Defense of the Human Rights of the State of Nayarit, on behalf of the General Direction of Transit and Transportation of that federative entity,

From an analysis of the documentation, it was observed that the local Protective Organism for Human Rights, issued its Recommendation upon considering that on December 25th, 2002, Mr. José Bernal Venegas, who while inebriated, was driving a vehicle without license plates, at the moment of his arrest was unduly attacked on the public thoroughfare by public servants from the General Direction of Transit and Transportation of the State of Nayarit.

In the present case, the specific harm consisted in the inacceptance of Recommendation 22/2003 by the General Direction of Transit and Transportation of the State of Nayarit: whoever, for this National Organism the risky conduct of Mr. José Bernal Venegas, who in a state of inebriation was driving a vehicle on December 25th, 2002, does not go unnoticed, since this conduct could endanger his life and physical integrity as well as that of other drivers, companions and pedestrians, which is in no way accepted; but, the excessive performance of the public servants of the General Direction of Transit and Transportation who physically hurt him, is in no way legitimized, and, therefore, cannot remain unpunished.

Due to the above, on March 10th, 2004, this National Organism issued Recommendation 14/2004, addressed to the Constitutional Governor of the State of Nayarit that he made instruct the General Director of Transit and Transportation of that federative entity to give fulfillment to Recommendation 22/2003 issued by the Commission for the Defense of the Human Rights for the State of Nayarit.

Recommendation 15/2004

March 16th, 2004

Case:Appeal presented by Mrs. Laura Domitila Hernández Trejo

Authority addressed: Municipal President of Apodaca, Nuevo León

On July 14th, 2003, the Mexican National Commission for Human Rights received the written complaint of Mrs. Laura Domitila Hernández Trejo, in which she presented an appeal against the decision of the Secretariat of Public Safety and Transit of Apodaca, Nuevo León, to not accept Recommendation 13/03, issued by the State Commission for Human Rights of said federative entity.

The CNDH, having analyzed the evidence integrating said unconformity, determined that the Recommendation made by the State Commission to the Secretariat of Public Safety and Transit of Apodaca, Nuevo León, was according to Law, since the conduct displayed by the public servants, upon entering the home of Mrs. Laura Domitila Hernández Trejo without authorization of the competent authority, and removing from the same Mr. Juan Oziel Mata Hernández by force, whom they hit and caused several lesions, is in violation of the Human Rights in regard to legality and legal security, as well as his right to receive worthy treatment and that his physical integrity be respected.

Due to above, on March 16th, 2004, this National Commission issued Recommendation 15/2004 addressed to the Municipal President of Apodaca, Nuevo León, that he may order the Secretary of Public Safety and Transit to give fulfillment on its terms to Recommendation 13/03 issued by the State Commission of Human Rights of that federative entity.

Recommendation 16/2004

March 24th, 2004

Case:Appeal presented by Mr. José Luis Cantoral Pérez and others

Authority addressed:President of the Commission of Human Rights of the State of Chiapas.

On May 19th, 2003, this National Commission received the appeal presented by Messrs. José Luis Cantoral Pérez and others, for the inacceptance of Recommendation CEDH/007/2003, which the Commission for Human Rights of the State of Chiapas, addressed to the Secretary of Public Safety and the Justice Attorney General both from the State of Chiapas on March 14th, 2003, for the acts which occurred on July 18th, 2002, in the communities of Laguna Chamula and San Antonio Bella Vista, municipality of Comitán, Chiapas; in which the Recommendation was made to the State Secretary of Public Safety, that it request the initiation of an administrative procedure of investigation against the Commander of the Area Police of the Comitán Sector, and of the agents under his command, who intervened in the operative, as probable persons responsible of having incurred excesses in the carrying out of their obligations consisting in the arbitrary arrest of 66 inhabitants from the communities of Laguna Chamula and San Antonio Bella Vista, breaking into homes, damages to other people's property, thefts, lesions and threats.

As a result of the integration of the file, the conclusion is reached that the local protective Commission for the Human Rights did not irrefutably and precisely accredit that in the exercise of the functions of the members of the two recommended institutions, irregularities were made, since it did not gathered the elements which prove the existence of an abuse of authority and other anomalies.

Due to the above, and for the purpose of subsequently undertaking more eloquent and thorough investigations so that, opportunely the public servants who with their performance violated the Human Rights in the exercise of their functions be sanctioned, this Mexican National Commission for Human Rights did not confirm the case Recommendation and, consequently, formulated the following recommendations to the President of the State Commission for Human Rights of Chiapas:

1) Complaint file CEDH/COM/0080/07/2003, be studied and re-evaluated, in order to determine which public servants failed to undertake the pertinent measures in order to correctly integrate the complaint file and which propitiated vagueness in demonstrating the conducts in which the existence of violations to Human Rights of the inhabitants of the communities of San Antonio Bella Vista and Laguna Chamula, both from the municipality of Comitán, Chiapas was presumed.

2) Pertinent administrative measures be adopted, so that the personnel of that local protective Commission of Human Rights who intervened in the integration and investigation of complaints, be instructed and capacitated and thus, comply with the normativity that rules the functions of that local Organism, so as to avoid in the future situations such as those contained in the present Recommendation.

Recommendation 17/2004

March 24th, 2004

Case:Appeal presented by Mr. Ricardo Osorio Briones and others

Authority Addressed:Constitutional Governor of the State of Tlaxcala.

On July 28th, 2003, this Mexican National Commission for Human Rights initiated file 2003/288-1-I, related to the written appeal presented by Mr. Ricardo Osorio Briones and others, in which they stated their unconformity over the partial acceptance, on behalf of the Justice Attorney General of that federative entity, of the first point of Recommendation 06/2003, issued by the State Commission for Human Rights of Tlaxcala, since the possible faults or crimes committed by the agents from the Public Prosecutors Office, who released the orders of presentation and summons against them, would not be investigated.

From an analysis of the documentation integrating the appeal, for this Mexican National Commission for Human Rights, it was made clear that the orders of summons and presentation that were issued against the persons harmed by the agents from the Public Prosecutor's Office assigned to the Direction of Previous Investigations of the Justice Attorney General's Office from the State of Tlaxcala, are irregular and contrary to Law, and, therefore, this National Organism issued Recommendation 17/2004 addressed to the Constitutional Governor of the State of Tlaxcala, so that he may issue his instructions to the Justice Attorney General of that State, in order that complete fulfillment be given to the first point of Recommendation 6/2003 addressed to him on June 6th, 2003, and so that he may instruct whomever it may correspond to inform this National Organism and the local court on the results of the administrative and criminal investigations which will be initiated against the agents from the Public Prosecutor's Office, in due course.

DOMESTIC RELATIONS

Work meeting between the CNDH and the Interfaith Council of México.

On last March 9th, the President of the CNDH, Dr. José Luis Soberanes Fernández, met with the members of the Interfaith Council of México made up by representatives of Catholicism, Hinduism, Islamic, Lutheranism, Presbyterianism, Orthodox, Shiks, Anglicans, Buddhists and from the Church of Jesus Christ of the Saints of the Last Days.

During this meeting, the National Ombudsman exhorted the leaders of the diverse religious creeds to prompt freedom and religious tolerance and propose working in a joint manner in the elaboration of a Collaboration Agreement which gathers and regulates the actions of both parts.

Training Courses

As part of the actions to promote a Human Rights culture, the CNDH imparted during the month of March, 26 activities, including amongst them courses, workshops and conferences, addressed to the adscript personnel to the basic and superior educational system, groups in vulnerable situation, public servants and social organizations.

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