

NEWS LETTER

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INTERNATIONAL SEMINAR "INFANTS IN A SITUATION OF EXPLOITATION: THE DENIAL OF THEIR RIGHTS"

Last July 5th, the Mexican National Commission for Human Rights organized the International Seminar "Infants in a Situation of Exploitation: The Denial of their Rights" which was inaugurated by Mrs. Martha Sahagún Fox, wife of the President of the Mexican Republic, who was accompanied by the President of the Senate Commission for Human Rights, the regional representative for México, Cuba, and Central America from the United Nations High Commissioner's Office for Refugees; the regional representative for México and Panama from the United Nations Fund for Infants; the President of the Commission for Attention to Vulnerable Groups from the House of Representatives, among others.

Amongst the principal objectives of this Seminar the following stand out: the analysis of the principal situations of exploitation suffered by the boys and girls of the world from seen from the perspective of the Human Rights of Infants; the acknowledgment of the rules foreseen in the humanitarian international right, in favor of the children in a situation of armed combat, as well as the acknowledgment of the role which the international and national Human Rights organisms play in the protection of infancy.

During the Seminar, Dr. José Luis Soberanes stated that respect, the validity and promotion of the rights of infancy, are not yet a reality in our country, given that there is not a clear awareness of the violations to physical and mental integrity suffered by children and even less of the high social costs those have. He pointed out that in the face of a "socially somber outlook for many children" , the adoption of legal and social measures which guarantee better health, education and attention to childhood is urgent, according to the statistics of the UNICEF and the OIT.

GENERAL RECOMMENDATIONS

Recommendation 6/2004

July 19, 2004

Case: Use of the polygraph test

Authority addressed: Attorney Generals of the Republic and of Military Justice, heads of Autonomous Governments, Governors and the Head of the Government of the Federal District.

Based on the analysis of complaints received in this Mexican National Commission for Human Rights, it is observed that some offices and public organisms from the federal and state fields have subjected several persons to the polygraph test, especially their own, or persons who claim to be, public servants. The cases observed by this Mexican National Commission for Human Rights are derived from procedures of selection of personnel, periodic evaluations to public servants, investigations of administrative responsibility and previous investigations; also noting that it is an increasing practice.

In relation to the above, it is worth noting that the polygraph exam does not find recognition within the Mexican legal system, nor ruling in the way that it is undertaken, nor the destination of its results, as well as not knowing the time period which such information must be preserved, which weakens the fundamental rights to legality and legal safety of the persons subjected to this test, as well as the physic integrity to intimacy and human dignity.

Consequently, this Mexican National Commission for Human Rights makes the following recommendations to the Office Secretaries, Attorney Generals of the Republic and Military Justice, heads of autonomous organisms, Governors and Head of the Government of the Federal District:

FIRST. The above mentioned persons order the corresponding administrative measures in order to avoid the use of the polygraph exam in administrative responsibility procedures, in procedures of selection of personnel, in periodic evaluations to public servants and in prior investigations, as well as in any other not expressly called for by law, in order to duly protect the rights which private persons and public servants have that their human dignity and intimacy be respected.

SECOND. The necessary policies with which to avoid the use of the polygraph tests, be ordered, unless its use it indicated by the Political Constitution of the Mexican United States, or by the laws emanating from it, and thereby promote respect of the human rights of the persons subjected to this kind of test.

THIRD. Measures be taken leading to duly safeguarding the information obtained by means of the polygraph tests, of urine and blood, practiced upon the persons harmed and others who might be an object of these, and the results of the same be communicated to them, and that free, express, specific and unequivocal consent be obtained from the public servants who were informed so that the information may remain in the safekeeping of that office, or on the contrary, it be destroyed.

Recommendation 7/2004

July, 2004

Case: Violations to the freedom of expression of journalists and communicators.

Authority addressed: Attorney Generals of the Republic and of Military Justice, Governors, and the Head of Government of the Federal District.

From the analysis of the complaints received on this particular, this Mexican National Commission notices that as of the year 1999 some offices in the federal, state and municipal field have violated the right to freedom of expression of the journalists and communicators, upon requesting that they reveal their sources of information as a means of intimidation in order to inhibit them, and avoid the news being broadcast, and it is noticed that it is a growing practice.

In this context, this Mexican National Commission for Human Rights reiterates that the State body is obliged to guarantee respect for the rights which the people they govern hold, and particularly, avoid abuse against the journalists being committed, so as to counteract and eradicate the acts which may weaken or inhibit freedom of expression, in accordance with the legal national and international framework.

Therefore, for this Mexican National Commission for Human Rights, all acts contrary to the legal framework which may affect or inhibit journalists in relation to the exercise of their profession implies a violation to the rights of legality, legal safety, freedom of expression and physical integrity, as well as the right not to be harassed nor to have to reveal their sources of information.

Consequently, and exercising the attributions which the Law and its Internal Ruling grant this national organism, the recommendation is made to the diverse authorities of the country so that, in their corresponding fields, they propitiate respect for the human rights of journalists, particularly in regard to the exercise of freedom of expression and profession secret, upon believing that the duty of the State exists to respect and observe each and every one of the rights acknowledged by the Political Constitution of the Mexican United States, as well as by the international treaties of which it is part.

Due to the above, this Mexican National Commission for Human Rights makes the following recommendations to the Attorney Generals of the Republic, of Military Justice, Governors and Head of the Government of the Federal District:

FIRST. The corresponding administrative measures be ordered, so that the public servants who because of their position have dealings with journalists, be instructed regarding the way they conduct themselves, in order to guarantee that the right of journalists to perform their activities with full exercise of the right to freedom of expression be exercised.

SECOND. The necessary administrative policies be ordered so that the agents from the Public Prosecutor's Office avoid applying pressure, or force the journalists to divulge their sources of information.

RECOMMENDATIONS

Recommendation 39/2004

July 2, 2004

Case: Appeal presented by Mr. Julio González Palacios and others

Authority addressed: Honorable Town Council of Puebla, Puebla

On September 27, 2003, the State Commission for Human Rights of Puebla, Puebla, began the investigation related to the deeds contained in journalistic notes published that same day in the newspaper El Sol de Puebla, concerning the evacuation of municipal public offices to which union and retired personnel from the Town Council of Puebla were subjected, as well as the aggression which reporters covering the news received from police personnel from that township, on September 26th of that year.

The State Commission investigated and integrated the complaint file 5111/02-C , and derived from this, on November 11, 2002, addressed Recommendation 52/2002 to the Municipal President of Puebla, Puebla, requesting him to guide the institutional discharge of functions within the Human Rights framework and to avoid a repetition of such deeds. Also, the State Commission recommended that the State Justice Attorney General issue his instructions so that the investigations initiated regarding the afore-mentioned deeds be duly integrated and that he solve them as soon as possible, according to law, this request being accepted.

However, the Municipal President of Puebla did not accept Recommendation 52/2002, because he believes that during his tenure he has been respectful of the Human Rights, and that to accept it, would imply legal uncertainty and ignorance of the institutions in charge of the doling out of justice, besides which that Recommendation lacks objectivity and impartiality, since it has never deprived any municipal employee of the right to freedom of expression and association, and in its case, he said, the exercise, or not, of legal action regarding the complaints made concerns the Public Prosecutor.

Derive from the non acceptance of the Recommendation, the aggrieved placed before the Mexican National Commission for Human Rights the appeal against the non acceptance of Recommendation 52/2002, on behalf of the Municipal President of Puebla, and therefore, this National Organism investigated and gathered the respective documentation.

Once made the logical-legal analysis of the deeds and the circumstances integrating the appeal file, this National Organism reached the conclusion that the State Commission for Human Rights of Puebla issued Recommendation 52/2002 in accordance with the Law, by virtue of having legally accredited the violation to the Human Rights regarding the physical integrity and the personal safety of the aggrieved, by public servants of the Town Council of Puebla, Puebla, derived from excessive use of public force.

Due to the above, this Mexican National Commission for Human Rights on July 2, 2004 formulated Recommendation 39/2004, addressed to the Town Council of Puebla, Puebla, so that it may issue its instructions in order to fulfill Recommendation 52/2002, issued by the Commission for Human Rights of the State of Puebla, under the terms pointed out in the observations paragraph of the present Recommendation.

Recommendation 40/2004

July 2, 2004

Case: Mrs. Minerva López Hernández

Authority addressed: Town Council of Tampico, Tamaulipas

On May 14, 2004, this Mexican National Commission for Human Rights received the appeal of Mrs. Minerva López Hernández presented before the Human Rights Commission of the State of Tamaulipas, against the non acceptance , by the Municipal Presidency of Tampico, of Recommendation 073/2004.

From the legal-logical analysis of the proofs integrating the file, it is found that on July 12, 2003, Mrs. Minerva López Hernández was arrested in the "Plaza de Armas" of Tampico by personnel from the Preventive Police of that municipality who took her that same day before the qualifying judge assigned to the Public Safety and Transit Direction, without first having applied the procedure established by the Police and Good Government Proclamation of Tampico.

On March 29, 2004, the Municipal President of Tampico informed the State Commission of the non acceptance of the cited Recommendation, after which Mrs. Minerva López Hernández presented an appeal.

Concerning this matter, this Mexican National Commission for Human Rights integrated the appeal file and from the logical-legal analysis of the deeds reached the conclusion that her rights to legality and legal safety were violated, in prejudice of the appellant, and for this reason issued on July 2, 2004 Recommendation 40/2002, same which was addressed to the Republican Town Council of Tampico, Tamaulipas, under its terms confirming that Recommendation 073/2004 requesting in one only point that instructions be issued to whomever it corresponds so that an administrative procedure of investigation be initiated against the agents from the Municipal Preventive Police of Tampico who intervened in these deeds and that , should administrative responsibility be found, a sanction be applied in accordance with the Law.

Recommendation 41/2004

July 7. 2004

Case: Appeal presented by Messrs. Francisco Silva Monreal and Gabriel Gúzman Silva

Authority Addressed: Town Council of Tampico, Tamaulipas.

On February 26th, 2004, the Mexican National Commission for Human Rights received the written complaint from Messrs. Francisco Silva Monreal and Gabriel Guzmán Silva, means by which they presented an appeal against the decision of the Municipal President of Tampico, Tamaulipas, to not accept Recommendation 232/2003, issued by the State Commission for Human Rights on November 27, 2003, within file 219/03-T, in relation to the revision of the fulfillment of the duties of Berenice de Jesús Ortiz Barrera, qualifying judge from the afore-mentioned locality, upon considering that her performance countermanded that arranged in article 14 of the Police and Good Government Proclamation of that city, upon denying the offenders the opportunity to pay a fine, and instead subjecting them in an authoritarian manner to a 24 hour arrest.

The appeal was placed in this National Organism with file number 2004/70-3-1, and once analyzed the proofs which integrate it, it was seen that the Recommendation of merit was adherence to the Law, all the while that the conduct of the aforementioned qualifying judge, upon sanctioning the administrative fault committed by the appellants with an immutable 24 hour arrest, impeded these persons from deciding between the corporal or monetary punishment.

Based on the above, on July 7, 2004 this Mexican National Commission issued Recommendation 41/2004, addressed to the Town Council of Tampico, Tamaulipas, so that it may give fulfillment to Recommendation 231/2003, issued by the State Commission.

Recommendation 42/2004

July 8, 2004

Case: Appeal promoted by Mr. Francisco Javier González Aleu

Authority Addressed: Constitutional Town Council of San Pedro Garza García, Nuevo León

On June 27, 2003, this Mexican National Commission initiated file 2003/249-2-1, motivated by the appeal placed by Mr. Francisco Javier González Aleu because of the non acceptance of Recommendation 125/03, which the State Commission for Human Rights of Nuevo Leon on April 21, 2003 addressed to the Municipal President of San Pedro Garza García, Nuevo León, derived from file CEDH/345/2002.

From the logical-legal analysis of the documentation sent to this National Organism it is noticed that personnel from the Direction of Ordinance and Inspection of the Legal Direction, and persons from Public Safety, from the municipality of San Pedro Garza García from that federative entity, on August 31st, 2002 arrived at the business place of the plaintiff, called San Pedro Bar y Mar, together with other officers from the Municipal Police, inspectors from the aforementioned Direction, the Secretary of Protection and Transit, the Transit Director, the Police Director and diverse media elements, which entered the establishment without authorization, in their position of public servants, proceeding to physically check all those persons present, as well as inspecting the establishment.

Relative to this which has been presented, this Mexican National Commission noticed that the acts of physical inspection, within the interior of the establishment, as on the persons who found themselves there, without have any written order or authorization constitutes an act of aggression, which hurts and violates the Human Rights in regard to the legality and legal safety of the aggrieved, since the authority cannot undertake acts which exceed the faculties legally conferred upon them.

Due to the above, on July 8, 2004, this Mexican National Commission issued Recommendation 42/2004, addressed to the Constitutional Town Council of San Pedro Garza García, Nuevo León, in which it confirms Recommendation 125/03, issued by the State Commission of Human Rights of Nuevo León, so that a procedure of administrative and criminal responsibility be initiated against the public servants involved, upon their having incurred violations to the Human Rights and crimes because of the activity undertaken by them during the inspection of the business place San Pedro Bar and Mar, besides having to make reparation for the material damages caused to the plaintiffs.

Recommendation 43/2004

July 8, 2004

Case: Appeal promoted by Mr. Javier Meneses Cabrera and another.

Authority addressed: Constitutional Governor of the State of Tlaxcala

On February 17th, 2004, this Mexican National Commission initiated file 2004/55-2-1, in relation to the appeal presented by Messrs. Javier Meneses Cabrera and Amalia Cabrera Morales for the non acceptance of the third point of Recommendation 01/2004, which the State Commission for Human Rights of Tlaxcala addressed on January 8th, 2004 to the Justice Attorney General of the State, derived from file CEDHT7121/2002-1.

From the logical-legal analysis of the documentation sent to this National Organism, it was noticed that the person from the Ministerial Police assigned to the Justice Attorney General's Office from the State of Tlaxcala, Alejandro Cuéllar Meneses, in order to avoid the escape of Mr. Régulo Botello Mora grabbed him by the neck, causing the now deceased to faint and die.

Due to the above, this Mexican National Commission for Human Rights noted that the person referred to from the Ministerial Police did not comply with the duty that his position required, consisting in safeguarding the legality, honesty, loyalty, impartiality and efficiency which he should observe in the carrying out of his obligations, position or commission and diligence towards the persons with whom he comes in contact with in the performance of his duties.

Therefore, for this Mexican National Commission for Human Rights it is accredited that Mr. Alejandro Cuéllar Meneses violated the right to life, legality and legal safety of Mr. Régulo Botello Mora, and considers misleading the refusal of the authority to proceed to the reparation of the damage, since this demonstrates a lack of will to undertake actions against impunity and the tolerance of those conducts contrary to law.

Due to the above, on July 8th, 2004 this Mexican National Commission issued Recommendation 43/2003 addressed to the Constitutional Governor for the State of Tlaxcala, in which it confirms the third point of Recommendation 01/2004, issued by the State Commission for Human Rights of Tlaxcala, in the sense that the relatives of the deceased Régulo Botello Mora be indemnified, since the persons involved in his death were public servants.

DOMESTIC AFFAIRS

The President of the CNDH met with the members of the Human Rights Commission from the Senate of the Republic

In a work meeting with members of the Commission for Human Rights from the Senate of the Republic last July 6th, Dr. José Luis Soberanes Fernández requested that the work of the CNDH be have a voice amongst the senators, in the cases of forced disappearances, of the murdered women in Ciudad Juárez, the migrants, the detention centers, the fight against corruption among the personnel of the National Institute of Migration, the lack of public safety and the attention to victims of crimes, access to health, amongst others. He also called upon the legislators to support the initiatives presented by the CNDH so that the PGR may intervene and attract serious cases of violations to the human rights, and so that the reform which insured the right of the journalists to keep confidentiality of their sources of information.

On their part, the senators offered their complete support to the CNDH in order to strengthen their faculties and they committed to soon having modifications which will allow the legislators to immediately call to accounts the authorities who do not comply with the Recommendations issued by this National Organism.

Dr. José Luis Soberanes Fernández inaugurated new offices of the State Commission of Querétaro.

Dr. José Luis Soberanes Fernández, President of the Mexican National Commission for Human Rights inaugurated the new offices of the State Commission of Querétaro and witnessed accompanied by the Governor of Querétaro, Francisco Garrido Patrón the presentation of appointments and oath taking of three new members of the Consulting Council of that local institution. Also, the National Ombudsman signed the General Collaboration Agreement on the Matter of Training, Education, Promotion and Attention to Complaints.

Training Courses

As part of the actions to promote a culture of Human Rights, the CNDH held during the month of July, 60 activities, included among them courses, workshops and conferences , addressed to the personnel assigned to the systems of basic, and higher education, groups in vulnerable situations, public servants and social organizations.

PUBLICATIONS

Gaceta. Official monthly publication of the Mexican national Commission for Human Rights, number 164, corresponding to the month of March, 2004, México, CNDDH, July, 2004. (book)

Political Constitution of the Mexican United States, México, C NDH, July, 2004. (spanish version)

The Human Rights of Persons with a Hearing Disability (in Braille) México CNDH, July, 2004. brochure (spanish version)

Uniform Rules on the Equality of Opportunities for Disabled Persons, (in Braille) México, CNDH, July 2004 brochure (spanish version)

The Right of Disabled Persons to Work: Agreement 159 of the International Organization of Labor (OIT) on the Professional Readaptation and the Job (invalid persons) 1983, México CNDH, July 2004 . brochure (spanish version)

Discrimination towards Persons with a Disability: Interamerican Convention for the Elimination of All Forms of Discrimination against Disabled Persons. México CNDH, July, 2004. brochure (spanish version)

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