

NEWS LETTER

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THE CNDH TOGETHER WITH MEMBERS OF THE HUMAN RIGHTS COMMISSION OF THE SENATE MET WITH CENTRAL AMERICAN CONSULS

As part of the activities of the National Ombudsman, Dr. José Luis Soberanes Fernández and of several members of the Human Rights Commission of the Senate of the Republic, on August 12 th a meeting was held with the consuls of El Salvador, Honduras and Guatemala referent to the situation of Central American migrants in the South, who denounced discrimination, abuse, traffic of persons and other irregularities to which they are frequently subjected in México's southern frontier by representatives of Mexican authorities, as well as the impunity enjoyed by police and migration agents, who systematically extort and deprive them of their belongings.

The members of the Mexican National Commission for Human Rights, (CNDH) as well as representatives OF the Senate expressed their intention of working on the modification of the legal framework, so that the traffic of persons without identification papers be classified as a crime according to our laws, and they also stated that they will seek the strengthening of the institutions which can implement mechanisms so as to give security to the migrants in the economic remittances which they send to their countries.

RECOMMENDATIONS

Recommendation 44/2004

August 3, 2004

Case: Minor Julio César Vázquez Meza

Authority Addressed: Constitutional Governor for the State of Tlaxcala and General Director of the Mexican Social Security Institute, (IMSS)

On February 3, 2004, the CNDH received the written complaint of Mrs. María Eugenia Meza García and of Mr. Antonio Vázquez Morales, in which they denounced deeds in violation of the right to life of their deceased son, committed by public officers from the IMSS and the

Health Secretariat of the State of Tlaxcala .

Based upon an analysis of the deeds, this CNDH issued Recommendation 44/2004 addressed to the Constitutional Governor of the State of Tlaxcala and the General Director of the IMSS in which among other points, it was recommended that the feasibility be determined of that federative entity having a hospital which provides third level services, and in the meantime, that the agreements with the Federal Secretariat of Health, IMSS and ISSSTE be instituted, in order to provide the state population the high quality service which is indispensable in order to efficiently guarantee the right to health; also, that indemnity payment, according to Law, be ordered in favor of Mrs. María Eugenia Meza García and Mr. Antonio Vázquez Morales.

Recommendation 45/2004

August 3, 2004

Case: Mr. Raúl Martínez Flores

Authority Addressed: General Director of the Mexican Social Security Institute (IMSS)

On March 22, 2004, the CNDH initiated a file in reference to the complaint presented by Mrs. Hermelinda Medrano Morán, in which she pointed out deeds presumably in violation of the rights to the protection of life and health, committed against her husband, Mr. Raúl Martínez Flores, by public officers of the IMSS.

Based upon an analysis of the proofs, this National Organism issued the present Recommendation addressed to the General Director of the IMSS, in which among other points, the recommendation was made that adequate payment by concept of indemnity be made, according to Law; that an administrative procedure of investigation be initiated and determined, of the medical personnel who rendered attention to this case, and that training courses pertinent to the matter of health be given to the medical personnel assigned to the hospitals of this federative entity.

Recommendation 46/2004

August 3, 2004

Case: Appeal of Mr. Francisco Nolasco Sánchez and others.

Authority Addressed: Town Council of Pijijiapan , Chiapas

On January 22 nd and 27 th , March 19 th and May 2 nd , 2003 Mr. Francisco Nolasco Sánchez presented a written complaint and additional information on the same before the State Commission for Human Rights of Chiapas, in reference to presumed violations to the Human Rights committed against him, as well as 74 other persons, by the Town Council of Pijijiapan, in that entity, since it has not complied with the decision of August 18 th , 1999, dictated by the Tribunal of Civil Service of the State of Chiapas.

Based upon an analysis of the evidence integrating the appeal, the CNDH issued Recommendation 46/2004, so that in the expense budget of the next fiscal exercise the necessary resources be included in order to give complete fulfillment to the decision cited against that Town Council.

Recommendation 47/2004

August 19, 2004

Case: Appeal presented by Mr. José Rivera Martínez

Authority Addressed: Municipal President of Cuautla, Morelos

On July 21, 2003, Mr. José Rivera Martínez presented an appeal against the non-acceptance of the Recommendation which gave rise to file number 191/2002, addressed to the Municipal President of Cuautla, Morelos, issued by the State Commission for Human Rights of Morelos, in which violations to the Human Rights of Mr. Rivera Martínez are attributed to personnel from the Police and Municipal Transit Department of Cuautla, Morelos.

Based upon an analysis of the deeds, the CNDH issued Recommendation 47/04, requesting that fulfillment be given on all its terms to the Recommendation of the State Commission for Human Rights of Morelos.

Recommendation 48/2004

August 25, 2004

Case: Minor Marlen Magali Felipe Trigueros and other minors of Central American origin

Authority addressed: Commissioner of the National Institute of Migration.

On May 13 th , 2004 the CNDH received the written complaint from the Defense Sub-Coordinator of the Non-Governmental Organization for Human Rights "Without Frontiers", Marta Villarreal Ruvalcaba, in which she pointed out presumed violations to the Human Rights committed against the minor Marlen Magali Felipe Trigueros, of Guatemalan nationality, and of 18 other minors of Central American origin, all of them migrants without proper identification papers.

From the analysis of the facts, this Mexican National Commission issued Recommendation 48/2004, addressed to the Commissioner of the National Institute of Migration, so that, accreditation be made, amongst other points, of the form, place, date and authority before whom the repatriation of the minors from San Salvador took place and norms and procedures be established which allow an adequate control in order to verify the name and position of the foreign authorities before whom the repatriation takes place, as well as the identity of the illegal migrants repatriated.

Recommendation 49/2004

August 27, 2004

Case: Referent to the practice of an HIV/AIDS test without having first obtained an informed consent

Authority Addressed: Secretary Admiral CGDEM, Secretary of the Navy

On February 23 rd the CNDH initiated file 2004/538- 1 in reference to the complaint presented by Mr. BAB, in which he pointed out deeds presumably in violation of his Human Rights, committed by public officers from the Secretariat of the Navy, violations which were

accredited by this Mexican National Commission, reason for which a proposal of conciliation was sent to that Secretariat; however, the Head of the Legal Unit of the Secretariat of the Navy reported the non-acceptance of that proposal, and therefore, this National Organism issued the following Recommendations which indicate, amongst other points, that Mr. BAB and his family must be given the medical attention and medications which their illness requires; that an investigation be initiated against the physicians assigned to the Naval Medical Center, and the necessary measures be taken so that in the medical services of the Secretariat of the Navy they abstain from practicing the detection tests for HIV on the personnel assigned to that Secretariat, without first obtaining their informed consent.

Recommendation 50/2004

August 31, 2004

Case: Mrs. Rosario Toledo Fuentes

Authority addressed: General Director of the Mexican Social Security Institute (IMSS)

On March 1 st , 2004, this Mexican National Commission received the complaint presented by Mr. Reynaldo Cruz Sandoval before the State Commission for Human Rights of Oaxaca, in which he denounced deeds presumably in violation of the rights to the protection of the health and life of his wife, Mrs. Rosario Toledo Fuentes, committed by public servants of the IMSS, in a private clinic integrated to the Mexican Foundation for Family Planning, A.C. (Mexfam), derived from a collaboration agreement between the afore-mentioned and the Institute.

Based upon an analysis of the facts, the CNDH addressed the following recommendations, amongst others, to the General Director of the IMSS: An administrative procedure of investigation be initiated against the medical and nursing personnel who participated in the deeds, and indemnity payment made, in accordance to Law, to the spouse of Mrs. Rosario Toledo Fuentes, for having given the aforementioned inadequate medical attention, in conformance with that ordered by the applicable legislation.

Recommendation 51/2004

August 31, 2004

Case : Mr. UOU

Authority addressed: General Director of the Mexican Institute of Social Security (IMSS)

On March 18, 2004, this Mexican National Commission received the complaint presented by Mrs. EOU before the State Commission of Nuevo León, in which she denounced deeds presumably in violation of the right to health of her deceased brother, Mr. UOU, committed by public servants belonging to Clinic Number 15 of the IMSS in Monterrey , Nuevo León.

Based upon the logical-legal analysis undertaken, of the facts and evidence of the present case, the CNDH addressed these and other recommendations to the General Director of the IMSS, as follows: an administrative procedure of investigation be initiated against the doctors who participated in the deeds, for their possible administrative responsibility, and that the necessary mechanisms tending to instruct and train the medical personnel assigned to the IMSS of the Family Medicine Unit in Monterrey, Nuevo León be implemented, regarding the medical attention and treatment which must be given persons infected with HIV/AIDS, or those already suffering from the disease.

Recommendation 52/2004

August 31, 2004

Case: Mrs. María Gabriela Hernández Alcántara

Authority addressed: General Director of the Mexican Social Security Institute (IMSS)

For jurisdictional reasons, the CNDH received on March 25 th , 2004 from the Commission for Human Rights of the Federal District, the complaint made by Mr. Francisco Contreras Álvarez, in which he stated presumed violations to the Human Rights committed against his wife, María Gabriela Hernández Alcántara, and her newborn child, attributable to public servants from the Gyno-Obstetrical Hospital with Family Medicine Unit Number 13, Hospital "Friend of the Child and the Mother UNICEF" of the IMSS in this city of México.

Based on an analysis of the facts, the CNDH issued Recommendation 52/22004, addressed to the General Director of the IMSS, in which it recommended, among other issues, that payment be ordered and made of the indemnity which proceeds, according to Law, to Mrs. María Gabriela Hernández Alcántara, as a consequence of the institutional responsibility in the deficient medical attention rendered her and which resulted in the death of her newborn daughter.

Recommendation 53/2994

August 31, 2004

Case: Sexual abuse of a minor in the elementary school "Bernal Díaz del Castillo"

Authority Addressed: Secretary of Public Education (SEP)

On February 26 th , 2004, the CNDH initiated file 2004/5578- 1 in reference to the complaint presented by Mrs. "Y", in which she pointed out deeds presumably in violation to the right of minors that their integrity be protected, committed against her minor son by public officers of the SEP.

Based on the analysis of the facts, this National Organism issued the present Recommendation to the Secretary of Public Education in which it recommended, amongst other points, that the administrative procedure of investigation be initiated and determined against the public officers who participated in this case and due to the conducts set forth in the observations chapter of the present document, and that professor "Z" be assigned as a precautionary measure, to non teaching areas nor to the care of minors, so as to obtain the best protection for the students.

Recommendation 54/2004

August 30, 2004

Case: Abuse of minor "A" in the Elementary School "Virginia Rivera Lozano" of the Secretariat of Public Education in the Federal District

Authority Addressed: Secretary of Public Education (SEP)

On April 5, 2004, this National Organism received the written complaint interposed by Mrs. "X", in which she expressed presumed violations to the Human Rights, committed against minor "A" attributed to public officers from the Elementary School "Virginia Rivera Lozano" of the SEP, consisting in the violation of the fundamental right of minors that their integrity be protected, and the undue exercise o the public function.

Based on the analysis of the facts, the CNDH issued Recommendation 54/2004, addressed to the Secretary of Public Education, so that an administrative procedure be initiated and determined against the public officers who intervened in this case, and authorities who knew the facts and did not act immediately. Also, that the teacher be separated from her functions before the students, and that the necessary evaluations be made to guarantee their fitness in the fulfillment of this function, and that the mother of the minor in question be made aware of the result of the investigation undertaken by the psychologist, and the necessary psychological aid be given.

Recommendation 55/2004

August 31, 2004

Case: Abuse of minor students from the Kindergarten "Mazatl" of the Secretariat of Public Education in the Federal District

Authority Addressed: Secretary of Public Education (SEP)

the CNDH received on the 22 nd of March, 2004, the written complaints of Mrs. "W", "X" and "Y", in which they stated presumed violations of the rights of minors to the protection of their integrity, committed against their children, attributed to a professor who is currently assigned to the Kindergarten "Mazatl" of the SEP in the Federal District .

Based on the analysis of the facts and evidences, the CNDH issued Recommendation 55/2004, addressed to the Secretary of Public Education, in which it is recommended, amongst other points, that an administrative procedure be initiated and determined against the public officers who intervened in this case, and that care be given to the recommendation of the Unit for the Attention to Infantile Mis-Treatment and Sexual Abuse, and without prejudice to her work rights, the teacher be separated from her functions before and with the students and she be given the necessary evaluations in order to guarantee her suitability in the fulfillment of that function, and the necessary psychological aid be given to the minors immediately.

Recomendatio56/2004

August 31, 2004

Case: Appeal presented by Mr. Daniel Armando Torres Félix

Authority Addressed: Constitutional Governor of the State of Chihuahua

On April 20 th , 2004, the CNDH received the complaint file, referent to the written appeal presented by Mr. Daniel Armando Torres Félix, in which he manifests his non-acceptance of Recommendation 012/2004, issued by the State Commission for Human Rights of Chihuahua, by the Justice Sub- Attorney General, Center Zone, of that Justice Attorney General's Office of that federative entity.

Based upon an analysis of the documentation integrating the appeal, the CNDH issued Recommendation 56/2004 addressed to the Constitutional Governor of the State of Chihuahua, so that the Justice Attorney General of that State be instructed to initiate and determine a prior investigation against the police agents, for the deeds committed prejudicial to Mr. Daniel Armando Torres Félix; also, that an administrative procedure be initiated and determined against the agents from the Judicial Police of that State, who undertook the arrest of the aggrieved person.

Recommendation 57/2004

August 31, 2004

Case: Appeal presented by Mrs. Carmen Cabañas Hedman

Authority Addressed: Town Council of Mérida, Yucatán

On February 24 th , 2004, the CNDH received the appeal presented by Mrs. Carmen Cabañas Hedman, in which she manifests her unconformity for the non-acceptance of the Recommendation issued by the Human Rights Commission of the State of Yucatán, on July 15, 2003, by the Town Council of Mérida, Yucatán, situation, which in her concept, is a violation of the Human Rights.

Due to the above, this Mexican National Commission coincides with the reasoning and legal foundations of the Commission for Human Rights of the State of Yucatán to issue Recommendation 29/2003, and therefore, this National Organism recommended the Town Council of Mérida Yucatán to give fulfillment to that which is expressed in that Recommendation.

Recommendation 58/2004

August 31, 2004

Case: Appeal presented by Mr. Jaime Humberto Constantino Trujillo

Authority Addressed: Constitutional Governor of the State of Chiapas

On December 19 th , 2003 the CNDH received the appeal presented by Mr. Jaime Humberto Constantino Trujillo, in reference to the inadequate fulfillment of the friendly conciliation which regarding his case the State Human Rights Commission of Chiapas celebrated with the Secretariat of Public Safety in that federative entity, since the money which was unduly requested from him, by persons from the Auxiliary Police from the Secretariat of Public Safety has not been returned to him.

Based on the analysis of the facts, this National Commission made the following recommendations, amongst others, to the Constitutional Governor of the State of Chiapas: that the detriment occasioned the patrimony of Mr. Jaime Humberto Constantino Trujillo be restituted promptly in an adequate and efficient manner; it be determined which public officers failed to make the pertinent measures and so permitted the impunity of those who did not perform in strict accordance with the law, and that the State Justice Attorney General be instructed, so that the conducts displayed by the public officers mentioned in the present document be investigated, and should a crime have been committed, they be sanctioned according to Law.

Recommendation 59/2004

August 31, 2004

Case: Mr. Jaime Arias Sealauder

Authority Addressed: Constitutional Governor in the State of Baja California

On October 25, 2003, this National Organism received the complaint presented by Mr. Jaime Arias Sealauder, in which he stated presumed violations to the Human Rights committed against him, attributed to public officers from the Offices of the Attorney General of the Republic and of Justice, in the State of Baja California, as well as by the Municipal Police of Tijuana, in that federative entity, consisting in a cruel and degrading treatment, arbitrary detention and false accusation.

Based on the analysis of the facts, this Mexican National Commission issued Recommendation 59/2004, addressed to the Constitutional Governor of the State of Baja California, so that an administrative procedure of investigation be initiated against the public officers responsible for the injuries to the plaintiff and so that the corresponding prior investigation be initiated, against the persons from the Ministerial Police involved in the present case.

Recommendation 60/2004

August 31, 2004

Case: Appeal presented by Mr. José Gutiérrez Rodríguez

Authority Addressed: Constitutional Governor of the State of Chiapas

On February 13, 2004, the CNDH initiated file 2004/51-1- 1, in reference to the written appeal presented by Mr. José Gutiérrez Rodríguez, in which he stated his unconformity with the non-acceptance of the Secretariat of Economic al Development of the State of Chiapas, to Recommendation CEDH/070/2003, issued by the local Organism, since in his opinion, with that negative response, his individual guarantees were violated and economical harm was caused him upon not granting him a concession for public transportation service, by means of his taxi.

Based upon the analysis of the facts, the CNDH issued Recommendation 60/2004, addressed to the Constitutional Governor of the State of Chiapas, so that fulfillment, on its terms, be given to Recommendation CEDH/070/2003, issued by the State Commission for Human Rights of Chiapas.

Recommendation 61/2004

August 31, 2003

Case: Appeal presented by Mrs. Rosalba Gutiérrez Medrano

Authority Addressed: Town Council of Chihuahua , Chihuahua

On March 24 th , 22004, the CNDH initiated file in reference to the appeal presented by Mrs. Rosalba Gutiérrez Medrano, sent to this National Organism by the State Commission for Human Rights of Chihuahua, in which it signaled out as a non-violatory deed the non-acceptance, by the Municipal President of Chihuahua, Chihuahua, of Recommendation 65/2003, issued by the state Organism.

Based on the analysis of the evidence integrating the present appeal, this National Organism considered well based the grievance made valid by the plaintiff, and therefore, this National Organism issued Recommendation 61/2004, in which the recommendation was made that the Department of Internal Affairs of the Secretariat of the Town Council of Chihuahua, Chihuahua, be informed of the irregularities incurred by the municipal police and the qualifying judge and fulfillment be given to the second point of Recommendation 65/03, issued by the State Commission for Human Rights of Chihuahua.

Recommendation 62/2004

August 31, 2004

Case: Evangelical Huichol Indigenous persons from the Community of Pedernales of Santa Catarina, Mezquitic, Jalisco

Authority Addressed: Constitutional Governor of the State of Jalisco , and Municipal President of Mezquitic, Jalisco.

On August 9 th , 2002, the written complaint undersigned by the pastor Arturo Farela Gutiérrez, legal representative of the "Vid Verdadera, A.R.", who requested the intervention of this Mexican National Commission for Human Rights in order to avoid the ejection and the commission of crimes in prejudice of the parishioners of the community of Pedernales of Santa Catarina, municipality of Mezquitic, Jalisco.

Given the motives set forth in this Recommendation, the CNDH made a Recommendation to the Governor of the State of Jalisco, so that amongst other matters, in coordination with the Federal Government, the actions for the solution of the problems presented by the Huichol Community of Pedernales, Mezquitic, Jalisco, continue to be implemented, and that in coordination with the municipal authority of Huejuquilla El Alto, Jalisco, the actions tending to the solution of the problems of housing, education, and basic services of the indigenous Huichol population removed from the municipality of Mezquitic, Jalisco, be continued. Also, that the Justice Attorney General of the State of Jalisco be exhorted so that a review of the previous investigations initiated in relation to deeds possibly criminal, be undertaken, and the corresponding follow-up be given , according to Law

PUBLICATIONS

- The Human Rights of Persons with Different Capacities. Pictorial Exhibition, México, CNDH, August 2004. (Spanish)
- Memorial of the Encounter on Human Rights of the Mexican Migrants in the United States . México, CNDH, August 2004. (Spanish)
- Support Network for Women, Girls and Senior Citizens whose Human Rights, have been violated. México, CNDH, August 2004. (Spanish)
- Second Contest of Reflection on Human Rights. México, CNDH, August 2004. (Spanish)
- The Fundamental Rights in México, México, CNDH, August 2004. (Spanish)
- The Human Rights of Women with Dissabilities in the International Context, México, CNDH, August 2004. (Spanish)
- The Human Rights of Persons with Physical Dissability, México, CNDH, August 2004. (Spanish)
- The Human Rights of Persons with Intellectual Dissability, México, CNDH, August 2004. (Spanish)
- The Human Rights of Persons with Visual Disability, México, CNDH, August 2004. (Spanish)

- Older Women, their Aging Process and their Human Rights, México, CNDH, August 2004. (Spanish)

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