

# NEWS LETTER

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### INTERNATIONAL SEMINAR: "ILLICIT TRAFFIC OF MIGRANTS, HUMAN RIGHTS AND NATIONAL INSTITUTIONS"

As a result of the commitment acquired by representatives of National Institutions involved in the International Seminar "Causes, Effects and Consequences of the Migratory Phenomenon and the Protection of Human Rights", held in Zacatecas, Mexico, on October 14 and 15, 2004, in order to provide follow-up for issues approved at that time, the Mexican National Commission of Human Rights, (CNDH), the Office of the United Nations High Commissioner for Human Rights and the Special Fund for Ombudsman an National Institutions of Human Rights in Latin America and the Caribbean held a Seminar focused on specific problems faced by this vulnerable group: "Illicit Traffic of Migrants, Human Rights and National Institutions", which was held in the city of Campeche, Mexico, on March 10 and 11, 2005.

The main goal of this Seminar consisted in analyzing the existing relationship this organized-crime-related activity within the context of human rights, taking into consideration that human life, freedom, integrity, and dignity are put at risk.

This Seminar was inaugurated by the Constitutional Governor of the State of Campeche, Mr. Jorge Carlos Hurtado Valdéz, and featured the presence of representatives of the Chambers of Senators and Deputies of the Mexican Congress belonging to the Government of the State of Campeche, 24 presidents of Human Rights state commissions of the Mexican Republic, as well as representatives of civil corporations. Thirteen National Institutions were present represented by their head of offices or high officials from Argentina , Colombia , Guatemala , Honduras , Mexico , Panama , Paraguay , Peru and Venezuela , in addition to human rights institutions from El Salvador , Nicaragua , Antigua and Barbuda , and Haiti , as well as a representative of the National Institutions Team of the Office of the United Nations

High Commissioner for Human Rights, and some members of the International Ombudsman Institute, (IOI).

The aforementioned National Institutions participated throughout the meeting, along with state commissions and attending representatives of NGOs in the work sessions of the seminar. In addition to the participation of these representatives, the seminar also featured distinguished figures who provided interesting reports regarding the illicit traffic of human beings, with a focus on different perspectives. Among the speakers we should point out the participation of Mr. Juan Artola, representative in Mexico of the International Organization for Migrations, P. Ademar Barilli, representative of Guatemala 's Migrant House, as well as the holders of office of the attending National Institutions, among others.

Once the meeting ended, the National Institutions compiled the conclusions they had reached during the Seminar and they approved a final report entitled "Conclusions accorded in Campeche " which points out main issues that are to be the center of focus as well as proposals that National Institutions should follow while carrying out their work.

### RECOMENDATIONS

Recommendation 3/2005

March 18, 2005

Case : "Recurso de impugnación", (remedy of first instance) submitted by Mrs. Adriana Mújica Murias

Responsible Authority: Constitutional Governor of the State of Morelos

On March 16, 2003 the CNDH received an "recurso de impugnación" (remedy of first instance) submitted by Attorney at Law Adriana Mújica Murias before the Human Rights State Commission of the State of Morelos, regarding the fact that the subjugation she was subjected to during her stay in the Ministerial Police's facilities failed to be investigated.

The logical-legal analysis of the records which comprise file 2003/135-4-I, reveal that during the period in which the appellant was under the custody and care of the Ministerial Police of the State of Morelos , her physical integrity was harmed.

Due to the facts stated above, on August 21, 2002, Mr. Florencio López Velarde submitted a complaint before the Human Rights State Commission of the State of Morelos in favor of the members of the movement "Frente Civico "Pro Casino de la Selva " (Civic Front for Casino de la Selva ), among them, Mrs. Adriana Mújica Murias, against public officers belonging to several police institutions of that State as a result of the detainment the appellants were subjected to on August 21, 2002 when they were participating in a protest near the former Hotel Casino de la Selva. As a result of their investigation, on March 12, 2003, the Human Rights State Commission of the State of Morelos issued a Recommendation addressed to several state and municipal authorities of the aforementioned State.

Local authorities accepted said Recommendation, however, Mrs. Adriana Mújica Murias filed an remedy for the first instance due to the fact that she considered that the investigation did not include all the facts involved in and relevant to the complaint submitted before the state Commission.

In this regard, the CNDH compiled the remedy for the first instance file, and as a result, reached the conclusion that appellant's the right to physical integrity, on March 18, 2005 this National Commission issued Recommendation 3/2005, which was addressed to the Constitutional Governor of the State of Morelos, amending the Recommendation issued on March 12, 2003, requesting, as a first item, the initiation of the corresponding prior investigation in order to discover and establish exactly who was responsible for harming the physical integrity of the appellant and, once having identified those responsible for this act, to determine the probable civil responsibility which the individual might have incurred; as a second item, to allow access to the Visitorship of that Attorney's Office in order to begin an administrative process of investigation against the public officers who neglected to provide information to this National Commission as regards this matter, and as a third item, to have them promote the regulatory provisions in order to ensure that the public officers of that agency comply with that which is established in article 69 of the Act of this National Commission .

## RECOMMENDATIONS

Recommendation 4/2005

March 18, 2005

Case: Journalists Jorge Fernández Menéndez and Leopoldo Mendivil E.

Responsible Authority: Constitutional Governor of the State of Oaxaca

On April 13, 2004 the CNDH received a written complaint submitted by Mr. Jorge Fernández Menéndez, a columnist for the daily Milenio Newspaper, against the person who at that time was Coordinator of Social Communication of the Government of Oaxaca, as a result of his payment for the advertisements that were published on March 29 and 31 of 2004 in La Jornada newspaper. In said advertisements, he denounced that he was being subjected to incompetence, aggressions and grievances.

On September 6, 2004, the CNDH received a complaint filed by Mr. Leopoldo Mendivil, a columnist of La Crónica de Hoy newspaper, against the same public officer as a result of the letters published in the newspaper where he works as a contributor, in which, as was pointed out, statements were made in order to inhibit and taint his journalistic background.

From the analysis of the records which comprise the file revealed that the Social Communications Coordinator of the Governor of Oaxaca at the time did not comply with the process established by the Press Act, in order for said communication media to publish corrections or responses which, should it be the case, were deemed appropriate; this in addition to the fact that their behavior overstepped their right to offer a response.

In this regard, the CNDH came to the conclusion that the rights of the complainants in terms of lawfulness and freedom of expression, as well as their collective right to receive information from the public officer of the State of Oaxaca at the time, were indeed violated.

In light of the above, on March 18, 2005 the CNDH issued Recommendation 4/2005, addressed to the Constitutional Governor of Oaxaca, requesting that he allow the proper parties to obtain access to the office of the Auditor General of that State so that an administrative investigation process may be established against the previous Coordinator of Social Communication of that federal entity, and, if such should be the case, that an agent of the Government's attorney office be informed of the matter in order to determine the penal responsibility for what may have happened, and that he issue orders through the Coordination of the State Social Communications department, seeking to generate a public announcement through the same media in which the paid statement was published, informing the aggrieved parties regarding the institutional commitment towards showing respect for their freedom of expression, vowing never to incur, in the future, in the behaviors described in the aforementioned Recommendation .

Recommendation 5/2005

March 28, 2005

Case: 46 undocumented migrants hired in the "El Terrero" ranch, in Tonalá in the State of Chiapas

Responsible Authority: Minister of Navy

The CNDH opened the official document in regards to a complaint connected to a supervisory visit carried out on March 10 of 2004 by the internal criminal investigations unit linked to this National Commission, at the migratory check point of the National Migration Institute (INM) named "Volanta Calera" in Arriaga, Chiapas, where it was revealed that personnel from the Navy Ministry submitted 46 undocumented migrant workers to the INM. Said workers were detained during an operation carried out by personnel from the Department on the railroad tracks in an area known as the "El Terrero" ranch, a municipality of Tonalá , Chiapas .

After due analysis of the evidence presented before this CNDH, it was determined that the measures taken by members of the Navy Ministry Department, as well as by officials of the INM, infringed on the human rights of lawfulness and legal security of those 46 migrants, and therefore, these authorities were issued conciliatory proposals; said Institute accepted the referred proposal, however, the Navy Ministry did not accept this document. Relevant analysis of the circumstances revealed to the CNDH that the 46 aggrieved migrants' rights to the guarantees granted by the Political Constitution of the United Mexican States, were indeed violated.

Due to the above, on March 28 of 2005, this CNDH issued Recommendation 5/2005 addressed to the Navy Ministry, which suggested that he issue orders to allow the Department of Inspection and the Auditor General to review the matter, in order to establish and to solve, in accordance with the law, an administrative investigation process against the members of the staff of that Ministry who were involved in the event specified in the chapter regarding observations for this recommendation. On the other hand, he was advised to issue orders to all employees of the Navy Ministry so that, unless there is a written request submitted to migratory authorities, according to the terms established in article 73 of the General Act of Population, they refrain from performing duties related to migratory verification, since they lack any legal faculty to do so.

Recommendation 6/2005

March 29, 2005

Case: Special Attention Center for Underage Offenders "Dr. Alfonso Quiroz Cuarón", in the Federal District Responsible Authority: Minister of Federal Public Security

On March 29 and August 13, 2004, as well as on February 8, 2005, Assistant Internal Criminal Investigators of this National Commission headed towards the site of the infraction, named the Special Attention Center for Underage Offenders "Dr. Alfonso Quiroz Cuarón", in the Federal District . Said visits revealed that the dormitories are completely surrounded by bars and are similar to adult prisons. The inmates remain locked up in their cells most of the day; in addition, there are no workshops, classrooms, a dining hall, nor an appropriate area to receive family visits.

The complaint file was officially processed through this National Organism as was the accrued evidence which comprises it. It was acknowledged that the authorities responsible for the custody of the youths confined in said institution have infringed on their Human Rights to receive respectful treatment and have neglected to promote the comprehensive development of the inmates.

Based on the above, on March 29, 2005, this National Commission issued Recommendation 6/2005, addressed to the Minister of Federal Public Security, directing him to issue orders to the corresponding authorities at the Special Attention Center for Underage Offenders "Dr. Alfonso Quiroz Cuarón" directing them to abstain from keeping inmates in conditions of prolonged confinement and to allow them, as much as possible, to wander about with a larger degree of freedom, always under the permanent monitoring of custody personnel; to treat the underage inmates according to the criteria contained in the Special Report regarding the Human Rights Situation

of Inmates in Centers for Minors in the Mexican Republic, issued by the CNDH on July 8 of 2003, and to carry out the necessary procedures in order to issue orders for the reconstruction and expansion of the Center's facilities, thus guaranteeing that the minors will enjoy a dignified stay, will have a dining hall, as well as areas specially designed to perform work-related and educational activities, in addition to executing the adaptation of an area destined to be used for family visits and, in general, to carry out all necessary tasks for the comprehensive treatment of these minors, necessary for the social adjustment specified by law relevant to the matter and the Center's internal Rule of Procedures.

Recommendation 7/2005

March 31, 2005

Case: Mrs. Elba Lerma Burgueño

Responsible Authority: General Director of the Institute of Safety and Social Services of State Workers, (ISSSTE)

On June 23, 2004, this CNDH received a complaint from Mr. Felipe González Fausto, who denounced that, on December 17, 26 and 27, 2003, his now deceased wife headed to "Cuitláhuac" Family Medicine Clinic and "Tacuba" General Hospital, both under supervision of the ISSSTE, as she was experiencing a stomach ache and inflammation of the abdomen, however the physicians who saw her at the time did not perform a thorough examination nor did they carry out the appropriate medical tests. She was initially diagnosed with a case of colitis and, later on, a tumor. For said afflictions she was prescribed several medications, without the benefit of prior tests ordered by a general surgeon. She was later immediately admitted to the hospital to undergo surgery, as she was diagnosed with appendicitis-peritonitis; all this notwithstanding, on December 31 of 2003, Mrs. Lerma Burgueño passed away at the intensive care unit of the "Tacuba" Hospital, ISSSTE.

The logical-legal analysis of the case revealed that the public health services offered did not provide the aggrieved party with appropriate care, since she received poor medical attention and her ailment was not diagnosed in a timely manner, thus causing a illness delay in the execution of the appropriate medical treatment.

Due to the above, it became clear to the CNDH that the public officers who assisted the aggrieved party neglected to provide an efficient service as a result of erroneous diagnosis and an inability to provide treatment in a timely manner, which constitutes a display of a lack of professional and administrative responsibility on behalf of the staff. In addition, attending physicians neglected to provide the care related to the right to life and the protection of health, as specified in international documents executed by the Federal Executive Authorities, which establish the minimum margin of quality in medical services provided by the State to its population.

Due to the above, on March 31, 2005 this CNDH issued Recommendation 7/2005, addressed to the General Director of the ISSSTE, suggesting that he issue orders for the payment of the due compensation, as established by law, to Mr. Felipe González Fausto, husband of the aggrieved party, under the terms established by this Recommendation and in compliance with that which is specified by the applicable law relevant to the matter; in addition, that he order that all records that might verify compliance with said law be submitted to this National Commission. He was also directed to order that necessary measures be taken in cases of emergency, in order to immediately carry out all necessary medical tests and to execute the relevant treatment to those insured, always maintaining a sufficient number of guards on the premises during holidays and vacations in order to avoid the reoccurrence of events such as those which brought about the development of this Recommendation.

## NATIONAL AFFAIRS

The President of the National Commission of Human Rights, Dr. José Luis Soberanes Fernández, appeared before the Senate of the Republic in order to analyze the CNDH's Activities Report for 2004

The President of the National Commission of Human Rights, Dr. José Luis Soberanes Fernández, appeared on March 14 before the Senate of the Republic in order to analyze the CNDH's Activities Report for 2004, before United Commissions of Human Rights and Justice Commissions of Legislative Authorities. During the course of this more than three-hour-and-a-half-long appearance, which was carried out in compliance with that which is established in articles 93 of the Constitution and 39 and 45 of the Organic Act of the United Mexican States' General Congress, the President of the CNDH pointed out that a great deal of attention has been paid to migratory matters, since, in addition to the fact that the Fifth Visitorship began operations as of the 1st day of the current year, in the following weeks, the eighth Regional Office will be opening in Coatzacoalcos in the State of Veracruz.

He also declared himself in favor of the Mexican government negotiating with the United States Government regarding migratory matters in order to protect and promote an environment of respect towards our fellow countrymen. In addition, he stated that in the

month of May, this organism would submit an evaluation regarding the follow-up carried out in connection to the report on the Deceased Women in Ciudad Juarez in the state of Chihuahua , issued last year by the CNDH.

He mentioned that, by next year, a report regarding public security will also be issued. Said report was produced based on the Undenounced Criminal Acts Census carried out by the CNDH in the course of the previous year, and it reveals that authorities must work starting from the prevention of crimes and working its way through to the penitentiary system. At least, the President of the CNDH pointed out the need for health institutions to respect an individual's rights to health in order to redress the current troubling situation.

Recently approved Proposal 200 in Arizona , U.S.A has created a precedent which promotes the establishment of similar measures in other areas of the United States

The CNDH points out that recently approved Proposal 200, in Arizona in United States , which denies undocumented migrants access to financial support provided by the State, has created a precedent which promotes the establishment of similar measures in other areas of the United States .

This National Organism, acknowledges that each country possesses full rights to establish its own migratory policies. However, in the case of regulations applicable in the United States, it cannot be ignored that, migrant workers, whether they are documented or not, provide an important productive contribution to that country's economy, and that they must be subject to social protection and receive the benefits provided by the State, and, under all circumstances, the individuals must receive dignified and respectful treatment as regards their fundamental rights.

#### Training Courses

The National Commission of Human Rights, in adherence to the spirit promoted and encouraged by the Ombudsmen institution as regards the promotion of research, education and dissemination of human rights, carried out during the month of March of 2005, 119 training activities aimed at basic, middle and higher-level students, at groups in vulnerable situations, among them, the elderly, women, youths, as well as public officers involved in public security, the pursuit of justice, penitentiary personnel, workers in the fields of health, public human rights organisms and non-government organizations, among others.

#### INTERNATIONAL AFFAIRS

Extraordinary Meeting of the Executive Committee and the Regional Vice Presidents of the International Ombudsman Institute (I.O. I.)

According to that which was agreed upon by the CNDH at the meeting of the Board of Directors of the I.O.I. which took place in September of 2004 in the city of Quebec , Canada , the Extraordinary Meeting of the Executive Committee and the Regional Vice Presidents of the I.O.I. was held in Mexico City on March 7 and 8, 2005.

National Ombudsman Dr. José Luis Soberanes Fernández, Regional Vice President for Latin America and the Caribbean, inaugurated the extraordinary meeting of this international organism, whose purpose was to strengthen and reinforce the measures taken by Ombudsmen Institutes all around the world, in order to promote the application of programs dedicated to education, the exchange of information and experiences, as well as research regarding basic guarantees.

On this occasion, attending were Mr. William Angrick, President of the I.O.I. and Ombudsman of Citizenship Aid of the State of Iowa; Mr. Lethebe Maine, Vice President of the I.O.I. and Ombudsman of Botswana; Mrs. Alice Tai, Secretary of the I.O.I. and Ombudsman of Hong Kong; and Mr. David Percy, Treasurer of the I.O.I., of the University of Alberta, Canada; Mrs. Diane Callan, Administrative Director of the I.O.I., of the University of Alberta, Canada; Mr. Bruce Barbour, Regional Australasia-Pacific Vice President and Ombudsman of New South Wales, Australia; Mr. Peter Kostelka Regional Vice President of Europe and Ombudsman of Austria; Mr. Hyden Thomas, Ombudsman of Antigua and Barbuda, in his capacity as future host of the Directors' Council Meeting to be held next November, and representing Mexico, Dr. José Luis Soberanes Fernández, President of the CNDH and Regional Vice President for Latin America and the Caribbean, accompanied by Executive Secretary, Ambassador Salvador Campos Icardo, in addition to other CNDH officials.

During course of these activities, several topics were discussed, for instance, achieving a more efficient contribution from the members of the I.O.I. towards priority issues, as well as the development and growth of Ombudsman offices in all regions.

In addition, members of the attending Board of Directors made a commitment to seek a manner in which to strengthen the regional activities of the Institute and approve of some goals, both in connection to counseling, organization, and finance. They also came to an agreement on the fact that one of the most important initial efforts should be to promote the Training Manual, created by the Institute, in a specific area and, in the near future, to issue an invitation so that proposals for future projects may be presented.

In the same manner, the participants agreed to expand the role of the I.O.I. in regards to other international and regional organizations that share mutual interests in matters of the defense and promotion of human rights. During this process, they made a commitment to identify and seek sources of financing that will enable them to fulfill the members' needs. Finally, members of the Executive Council and Regional Vice Presidents agreed to coordinate conferences and other activities among the ombudsmen, as well as between regional and international ombudsman associations.

It is important to point out that, by invitation of the CNDH, the Regional President, the Secretary and the Vice President of Europe attended the International Seminar "Illicit Traffic of Migrants, Human Rights and National Institutions" which took place in the City of Campeche, Mexico, on March 10 and 11 of the current year.

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