

# NEWS LETTER

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### PRELIMINARY REPORT ON THE ACTIONS TAKEN BY THE CNDH IN RELATION TO THE EVENTS IN TEXCOCO AND SAN SALVADOR ATENCO.

On May 22 nd of the current year, the CNDH issued a preliminary report on the actions taken with respect to the violence occurred in the municipalities of Texcoco and San Salvador Atenco, Estado de México.

On May 3 rd this National Organism accepted the file of complaint over the confrontation between federal, state and municipal public security police forces and inhabitants of the municipalities of Texcoco and San Salvador Atenco, who were blocking the highway Lechería-Texcoco, Estado de México.

The above mentioned events prompted 211 complaints later presented before the CNDH. Most of the complaints are related to alleged violations to the right of life, protection from property damage, illegal search and seizure, robbery, isolation, threats, and delay or negligence in medical assistance.

In the report, among obstacles the CNDH visitors had to face during the performance of their job, were the denial of visitors entering the "Emiliano Zapata", municipal auditorium, and some detention centers.

For the CNDH there is evidence that during the violent incidents, on May 3 rd and 4 th , in the municipalities of Texcoco and San Salvador Atenco, Estado de México, some demonstrators overstepped the limits of their right of legal and peaceful demonstration, as well as failing to obey the law and other commandments of the authorities in charge, however; this would not justify the use of excessive force by the public security elements in charge of the security and supervision of the event, to which various violations of human rights may be attributed; the protection of physical integrity, sexual freedom, judicial certainty prescribed in the Constitution and several international instruments.

### RECOMMENDATIONS

Recommendation 12/2006

May 11th 2006.

Case: File of Appeal, Mrs. Cecilia Polito Falcón.

Addressee Authority : Guerrero State Government.

On July 19 th 2005, the National Commission opened the file 2005/282//RI, as an appeal submitted by Mrs. Cecilia Polito Falcón, for the non acceptance of the 12/2005, issued by the Human Rights Office in the State of Guerrero to the Health Minister in that entity.

On October 9 th , 2004, at around 23:00 hrs. Mrs. Cecilia Politos Falcón entered the emergency room of Regional Hospital "Dr. Raymundo Abarca Alarcón" after presenting signs of beginning labor, where she was informed that because she had just one

centimeter of distension she had to return at 03:00 hrs on the 10 th , a few hours later the next day. At 04:15 hrs. she was seen again, and was told that she had two centimeters of dilation, was discharged and told to return at 07:00 hrs. However; at 06.35, the victim, gave birth prematurely, which caused intake of amniotic fluid in the new born girl, suffering in the fetus, and ultimately brought about the death of the new-born girl on October 11 th , 2004.

Based on the evidence in the file it was determined that the unexpected birth was a result of the denial of medical assistance, and caused an alteration within the mother-fetus. In addition, at the moment of birth, the medical staff who assisted her, failed to prevent amniotic liquid from being taken in through the nose and mouth of the new-born. As well, the social worker and the supervisor did not provide the opportune aid required by the minor's relatives in carrying out the necessary bureaucratic applications for handing over the minor's body promptly.

Based on this evidence, the National Commission determined that the right to protection of health of Mrs. Cecilia Polito Falcón and her infant was violated when prompt and adequate medical service access was denied.

In response, the National Commission issued the Recommendation 12/2006, addressed to the governor of the state of Guerrero, to carry out indemnization payments which legally correspond to Mrs. Cecilia Polito Falcón.

Recommendation 13/2006

May 12th, 2006.

Case: Appeal by José de Jesús Zúñiga Velázquez.

Addressee Authority: General Attorney's Office of the Republic (PGR).

The Tamaulipas State Commission of Human Rights received a complaint by José de Jesús Zúñiga Velázquez, forwarded to the CNDH, as it falls within this organism's jurisdiction, stating that on March 1 st 2005, six armed people violently broke into a restaurant owned by a family member of this man as he was in the restaurant. Upon finding him there, they apprehended and brought him to an unknown site, burned his back with a cigarette, hit him in the head with a gun, and threatened him with death unless he declared that he and his family sell cocaine. Under these circumstances he capitulated and acquiesced to the demands forced upon him.

Based on the analysis of the event, the CNDH determined that violations against José de Jesús Zúñiga Velázquez's human rights to physical integrity, legality, judicial certainty, and inviolability of home, were made by personnel of the PGR.

As well, the CNDH determined that the plaintiff was subject to torture, as noted by the serious harm done to him during his detention, and that this was carried out with the objective of obtaining a self- incriminating declaration.

The CNDH also noted that the Social Representation of the Federation had begun preliminary investigations into the events pertaining to the act of torture, which included an observation that the petitioner had been pressured to desist in his claim at the moment of presenting his declaration, for the intimidatory acts made by personnel of the General Direction of the Attendance to Recommendations and Friendly Settlements in Human Rights, of the Sub-General Attorney's Office of Human Rights, Attention to Victims and Community Services of the PGR.

Based on the above, the National Commission issued Recommendation 13/2006, addressed to the General Attorney of the Republic, requesting he instruct the Internal Control Organ to investigate additional irregularities committed by the agent of the Attorney General's Office who was involved in the incident. As well, the recommendation urged the integration and the resolution of the preliminary investigation into those elements who participated in the detention of the plaintiff.

In the same manner, it was recommended that the Internal Control Organ of the Social Representation of the Federation be notified of the acts attributed to the personnel of the General Direction of Attendance to Recommendations and Friendly Settlements in Human Rights, of the Sub-Attorney General's Office of Human Rights, Attention to Victims and Community Services, who intervened in the declaration of José de Jesús Zúñiga Velázquez, and that they formulate the guidelines necessary for the prevention of future pressure, intimidation, or coercion on the part of this organism's personnel upon victims to desist in their complaints brought before the CNDH.

Recommendation 14/2006

May 18th, 2006.

Case: 41 Central American migrants apprehended in the area "El Campito", Ciudad Hidalgo , Suchiate , Chiapas .

Addressee authority: Ministry of the Navy.

The National Commission opened the non-petitioned file of complaint relating to supervision review of by visitors of the CNDH on June 7 th , 2005, to the immigration station of the National Institute of Immigration (INM) in Tapachula, Chiapas, in which the chief of the station stated that, on June 4 th of this year, elements of the Ministry of the Navy had placed 41 migrants in their hands, who had been apprehended by personnel of the Ministry while conducting surveillance of the communal lands area called "El Campito", Ciudad Hidalgo, Suchiate, Chiapas.

Based on the analysis of evidence presented to this National Organism, it was determined that the conduct of the Navy Ministry elements were in violation of the respect of rights to free transit, legality, and judicial certainty of the 41 migrants. In response to this a conciliatory proposal was formulated and presented to the Ministry, which was responded to on April 11 th , 2006. The proposal was not expressly accepted, which led this National Organism to juridically accept the response as a non-acceptance of the conciliation.

It is important to point out that the elements of the Navy are not legally authorized to undertake the task of verification of immigration documents of foreigners who travel through national territory, nor are they consequently authorized to detain them in the event that they are found without the legal documentation accrediting their stay in the country.

It must be mentioned that the practice of immigration revisions by institutions not legally authorized to do so, as well as being an illegal practice, propitiates conditions by which all class of abuses against undocumented migrants may occur, as it places them in a situation of vulnerability.

Based on the previous discussion, the National Commission issued Recommendation 14/2006, addressed to the Minister of the Navy, where was recommended that the General Inspector and Controller of the Navy begin proceedings against the personnel involved in the incidents described; instruct all elements of the Ministry of the Navy to respect the jurisdiction of the INM and the Preventive Federal Police, and thus abstain from carrying out these actions in all cases relating to immigration, except when explicitly requested by and in coordination with the INM.

Recommendation 15/2006

May 23, 2006.

Case: Antorcha Campesina Organization, state of Querétaro.

Addressee Authority: Constitutional government of the State of Querétaro; Congress of the State of Querétaro; City Council of Tolimán, Querétaro; and the City Council of Amoles, Querétaro.

The National Commission of Human Rights, exercising its attraction faculty, learnt the complaint filed by Cristina Rosas Illesca and Vitálico Silva López, representatives of the Organización Social Antorcha Campesina, A.C . in Querétaro, in which they declared that their organization solicited before various authorities of the government of the state of Querétaro, and before various municipal authorities, 32 requests for public services for their members. For that reason they carried out various demonstrations.

During those demonstrations, five directors of the organization were arrested on July 13, 2004. Two directors were released immediately and the other three were tried for the crime of resisting the authorities.

Other arrests were made later. On October 7 and November 5, 2004, and on March 19, 2005, other arrests were made among them, the complainant, Cristina Rosas Illescas, who, once captive in the "Centro de Readaptación Social Femenil" ( Women's Public Readaptation Center ) of San Jose El Alto, was held without communication to the outside world as with her telephone calls were restricted.

The CNDH determined that the right of petition of the members of the organization was denied by the presidents of the city councils of Tolimán and of Pinal de Amoles, Querétaro.

In addition, authorities violated the human rights to legality and personal liberty of Ana Berta Valle Chávez, Verónica Juárez Olvera, Toribio Gómez López, Rigoberto García Arriaga y Julio César Medina Baltasar, and of the minor Abel Bautista Guadalupe.

The CNDH also found evidence that the director of the "Centro de Readaptación Social Femenil" at San José El Alto, Querétaro, violated the human rights to judicial certainty and legality of Cristina Rosas Illescas.

The CNDH directed Recommendation 15/2006 to various employees of Querétaro.

To the constitutional governor of the state of Querétaro, so that the administrative responsibility of agents of the Public Prosecutor's office who are responsible for investigations, and of the director of the Social Readaptation Center be determinated; review the measures imposed on prisoners of that social readaptation center; begin administrative procedures against the Minister of Interior of

the state of Querétaro; publicly rebuke the said Minister of Interior, notwithstanding the result of the administrative investigation that is begun against him.

To the president of the governing board of the congress of the state of Querétaro, asking that an administrative procedure be initiated against the municipal presidents of Tolimán and Pinal de Amoles, Querétaro, and to the city councils of Tolimán and Pinal de Amoles, Querétaro, asking that they reply to the requests made of those city councils by members of the organization in the state of Querétaro.

Recommendation 16/2006

May 23, 2006.

Case: Appeal by Mr. José Miguel Hernández Méndez .

Addressee Authority: Constitutional municipal authority of the municipality of San Salvador Huixcolotla , Puebla .

On November 12, 2004, the National Commission of Human Rights initiated case number 2004/446/PUE/4/I, based on the challenge introduced by José Miguel Hernández Méndez against the failure of the municipal president of the city council of San Salvador Huixcolotla, Puebla, to comply with Recommendation 58/2003 which was issued by the Human Rights Commission of the state of Puebla.

The facts which motivated the complaint occurred on March 24, 2003. The municipal president of San Salvador Huixcolotla , Puebla , asked José Miguel Hernández Méndez for permission to cut down trees on his parcels of land on the communal farm ( ejido ) known as San Salvador Huixcolotla, which is in the municipality of the same name. This was to be done in order to clear the land and widen the road known as " La Noria " which connects this locality with the town known as Los Reyes de Juárez. The complainant denied that authorization. Nevertheless, on the afternoon of that same day and on the next day the municipal president ordered that work to widen the road should begin. His action affected part of the land on those parcels by virtue of cutting down 35 trees.

On November 25, 2003, the local organization issued Recommendation 58/2003, directed to the municipal president of San Salvador Huixcolotla , Puebla . The recommendation was accepted, but that municipal authority did not fulfill its requirements.

The National Commission of Human Rights considered that José Miguel Hernández Méndez was dispossessed of part of the land on his parcels of the communal farm in order to widen a road. This action also resulted in the cutting down and destruction of 35 trees which had been growing there. The municipal authority which did that has not used the legal resources at its disposal to repair the damage caused, and neither has it shown the legal basis or motivation for its actions in this case which violated the human rights to judicial security, legality and possession.

For those reasons, the National Commission of Human Rights published its Recommendation 16/2006, directed to the municipal council of San Salvador Huixcolotla, Puebla, seeking the fulfillment of Recommendation 58/2003 which was emitted by the Human Rights Commission of the state of Puebla.

Recommendation 17/2006

May 23, 2005.

Case: Miguel Ángel Martínez Pérez .

Addressee Authority : State Workers' Security and Social Services Institute (ISSSTE).

Mrs. Susana Arciniega Galván presented a complain in which she expressed that her husband, Miguel Ángel Martínez Pérez, went to ISSSTE's Observatorio Clinic for a dental examination. He was sent on to "Dr. Fernando Quiroz Gutiérrez" General Hospital , where he had a surgical intervention and three of his molars were extracted. Later, Martínez Pérez went to the emergency section of the hospital complaining of an inflammation of his mouth which caused him difficulty in breathing. He then was referred to the "Lic. Adolfo López Mateos" Regional Hospital , where an operation was performed that produced a slight improvement. Nevertheless, an abscess formed in his right ear, and hospital doctors performed another operation. The patient's condition worsened. Days after the second operation he was declared brain dead, and he died on July 1, 2005.

The National Commission of Human Rights showed that medical personnel of ISSSTE's "Fernando Quiroz Gutiérrez" General Hospital did not respect the patient's human rights to life and health.

Due the above mentioned the National Commission published Recommendation 17/2006, directed to the General Director of the ISSSTE, requesting that he order necessary administrative procedures for the proper indemnification of the family of Miguel Ángel Martínez Pérez. It was requested that the General Director order a review by the internal control organ of ISSSTE to begin an

administrative procedure against the medical doctor who attended the patient. In addition, it was recommended that necessary administrative guidelines be established so that, in cases which require major surgery, the surgical procedures be done by adequately trained doctors and not delegated to lesser-prepared personnel. Finally, it was recommended that pertinent measures be dictated so that all necessary information be provided to the federal prosecutor's office, who is carrying out the investigation.

Recommendation 18/2006

May 23rd, 2006.

Case: Sandra Maycott López.

Addressee Authority : Government of the Federal District .

Abraham Nava Ausin and Sandra Maycott López presented a complaint relating to the attention given to the latter by the Hospital for Mothers and Children "Magdalena Contreras" of the Ministry of Health of the Government of the Federal District , which she visited to be evaluated, regarding her pregnancy, and she was requested to take certain studies and analysis. She was given an appointment on September 30 th , 2005, and was rescheduled for October 4 th , 2005. However, on October 3 rd , she returned to the health center and went directly to emergencies room of the General Hospital "Manuel Gea González", and on October 4 th , at 01:51 hrs., 2005 gave birth to a girl, who was subsequently diagnosed to be in serious condition and died on the 14 th later that month.

The CNDH determined that the human rights to health of the daughter of the plaintiff were violated due to inadequate attention given to her by the public servers of the Hospital for Mothers and Children "Magdalena Contreras".

In consequence, the National Commission of Human Rights issued the Recommendation 18/2006, addressed to the Government of the Federal District, recommending to do the necessary steps in order to give a proper indemnization to Sandra Maycott López; that the Internal Control Organ begin proceedings against the doctors involved in the incident; that necessary administrative measures be adopted to ensure that the Hospital for Mothers and Children "Magdalena Contreras" has enough medical personnel on hand so as to avoid suspending scheduled medical appointments and, in the case of emergencies, may offer adequate services.

## NATIONAL ISSUES

Third Workshop on the Application of the Istanbul Protocol.

May 15th and 16th, 2006 were the dates on the Third Workshop on the Application of the Istanbul Protocol in the port city of Veracruz , organized by the CNDH in coordination with the Office of the United Nations High Commissioner for Human Rights and the Ministry of Foreign Affairs.

The Workshop was directed at the State Human Rights Commissions in the southeastern region of the country, with the objective of training the personnel of these organisms in the knowledge pertaining to the Istanbul Protocol and their capacity to diagnose and detect elements of torture.

The Inauguration was attended by Dr. Javier Moctezuma Barragán, Executive Secretary of the CNDH, Noemí Quirazco Hernández, President of the State Commission of Human Rights of Veracruz; Dr. Nieves Gómez Dupuis, expert of the Office of the United Nations High Commissioner for Human Rights, and Dr. José Antonio Guevara Bermúdez, Deputy General Director of Human Rights and Democracy of the Ministry of Foreign Relations.

## INTERNATIONAL ISSUES

International Workshop "The Right to Education within the American Continent", Guayaquil, Ecuador.

The National Commission of Human Rights, in its character as General Secretary of the Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent, organized the International Workshop "The Right to Education within the American Continent" in Guayaquil , Ecuador .

This workshop, which took place on the 24th and 26th of May, this year, with the support of the Defensor del Pueblo (Ombudsman) of this country, was attended by representatives of 11 countries of the continent. Its aim was to present experiences and draw diagnostic conclusions on the state of the right to education in each of the member countries subscribing to the network.

Among the attendants to the ceremony were Dr. Javier Moctezuma Barragán, in representation of Dr. José Luis Soberanes Fernández, Ombudsman of Mexico and Secretary of the Network; Dr. Claudio Mueckay Arcos, Defensor del Pueblo of Ecuador and Jaime Nebot Saadi, Major of Guayaquil.

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Executive Secretariat  
4118, 2º piso, Jardines del Pedregal, Delegación Álvaro Obregón, México D.F., 01900  
Telephone: (52 55) 51 35 05 94  
Fax: (52 55) 51 35 05 95  
Mail to: [lgonzalez@cndh.org.mx](mailto:lgonzalez@cndh.org.mx)  
<http://www.cndh.org.mx>  
Editor: Laura Sanabria  
Deputy Director of  
E-mail: [lsanabria@cndh.org.mx](mailto:lsanabria@cndh.org.mx)  
E-mail: [sejec@cndh.org.mx](mailto:sejec@cndh.org.mx)

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