

NEWS LETTER

Number 166

December 2006

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THE MEXICAN NATIONAL HUMAN RIGHTS COMMISSION (Spanish initials CNDH) GRANTS THE 2006 HUMAN RIGHTS AWARD.

On December 13 th 2006, the CNDH granted the 2006 Human Rights National Award to Father Florenzo Rigoni and attorney Isabel García, along with a Honorary Mention granted to Reverend Robert Hoover. The recipients were honored for their longstanding efforts for the promotion and direct defense of the fundamental rights of immigrants.

The event was presided by Felipe Calderón Hinojosa, President of México, who highlighted that his Government's rule will be based on the unrestricted respect for fundamental guarantees. President Calderón also offered his full support to those who oppose people who believe that immigration or the legal search for work abroad is a crime.

In addition, Dr. José Luis Soberanes Fernández, President of the CNDH, stated that the Mexican State grants this prestigious award to individuals who have dedicated their lives to the struggle for human rights in an exemplary manner. Dr. Soberanes Fernández also highlighted that the direct and personal efforts of the recipients has helped alleviate the suffering of hundreds of thousands of human beings that have decided to face the ominous fate of immigration.

The ceremony was attended by members of the Consulting Council of the CNDH and Presidents of Human Rights Commissions from the Republic belonging to the Mexican Federation of Public Bodies

RECOMMENDATIONS

The following is a synthesis of the Recommendations issued by the CNDH for the month of December. A complete version can be found in the Institution's official website.

Recommendation 43/2006

December 12 th 2006

Case: Mr. Carlos Puch y Pech.

Addressee Authority: The Motul Constitutional City Council, in the State of Yucatán .

On January 7 th 2003, personnel of the Municipal Office of Motul, Yucatán, ordered the eviction of a property occupied by Mr. Carlos Puch y Pech for over 20 years and were charged of destroying facilities, plant and animal life found on the site. On the same date, Mr. Puch filed a complaint based on these grounds before the Commission of Human Rights of the State , thus opening the complaint file

C.O.D.H.E.Y. 012/2003. The aforementioned complaint made it possible to validate the violations to the Human Rights of Legality and Legal Safety. For this reason, on June 8th, the State Institution issued Recommendation 16/2004, addressed to the Head of Motul City Council, based on the following terms:

First: It was recommended that the Head of Motul City Council, Yucatán, made certain that things were returned back to the state they were in, before the violation of Human Rights committed to Mr. Carlos Puch y Pech took place.

Second: It was recommended to the Head Motul City Council, Yucatán, to carry out an administrative procedure meant to take proper action against police agents attached to the Municipality that intervened in the eviction of the previously mentioned property, located on twenty sixth street, number three hundred and sixty four in the Municipality of Motul, Yucatán, on January 7th 2003.

Third: It was recommended to the Head of Motul City Council, Yucatán, to order the initiation of an administrative procedure meant to take proper action against the police agents attached to the Municipality that intervened in the eviction of the previously mentioned property, located on street 26, number three hundred sixty four in the Municipality of Motul, Yucatán, on January 7th 2003.

Fourth: It was recommended that the Head of Motul City Council, Yucatán, should repair the damage done to Mr. Carlos Puch y Pech, in accordance to the Article 113 of the Political Constitution of the United States of México and the Article 72 of the Law of the Commission of Human Rights of the State of Yucatán.

The Commission of Human Rights of the State of Yucatán informed the accusing party that the Head of Motul City Council, Yucatán refused to accept Recommendation 16/2004. For this reason, the victim presented charges before the National Commission, opening file 2006/6/1/RI, which demanded the aforementioned authority to provide the pertaining report.

Based on a thorough analysis of the facts and evidence presented before the National Commission, it was concluded that the accused party had failed to fulfill the Recommendation issued by the State Commission, validating the charges of an offense to the Human Rights of Legality and Legal Safety in detriment of Mr. Carlos Puch y Pech.

Therefore, on December 12th 2006, the National Commission issued Recommendation 43/2006, addressed to the Motul City Council, Yucatán, demanding the fulfillment of the terms established by Recommendation 16/2004, issued by the Commission of Human Rights of the State of Yucatán, addressed to the Head of Motul City Council, Yucatán.

Recommendation 44/2006

December 21st 2006

Case: Minor Roberto Rosas Granados

Addressee Authority: The Constitutional Governor of the State of San Luis Potosí.

On December 28th 2005, the CNDH received file 1916/2005, through which the Head of Complaints and Counseling of the Commission of Human Rights of the State of San Luis Potosí presented complaint CEDH-Q-912/2005, originally filed before the aforementioned local Institution on December 13th 2005 by Mrs. Esther Granados Galván. The aforementioned Recommendation was

based on the grounds of deficient medical attention provided to her son, Roberto Rosas Granados, by the staff of the Psychiatric Clinic "Doctor Everardo Neumann Peña", a unit attached to the Office of Health Services of the State of San Luis Potosí. For this reason, Mrs. Granados Galván to filed Complaint 2006/92/1/Q.

Thorough analysis of the pertaining file demonstrated that, on December 7th 2005, the victim presented an acute psychotic outbreak, for which he was transported in an ambulance to the local Family Medicine Emergencies Unit, located in General Hospital No. 1 of San Luis Potosí. Based on the evaluation done in the hospital, it was determined that the patient be sent to a special psychiatric unit, for which he was referred to the Psychiatric Clinic "Doctor Everardo Neumann Peña", a unit of the Mexican Institute of Social Security (Spanish initials IMSS) for Crisis Interventions. The patient was subdued, tied down to a bed and prescribed medication unavailable in the hospital at the time. This forced Mrs. Esther Granados Galván, the mother of the victim, to leave her son's side in order to purchase the prescribed medicine. By the time she returned, Mrs. Granados Galván discovered that her son had died of asphyxia, since the medicine had not been provided in time and because the hospital's staff had failed to provide the patient with adequate surveillance.

These facts motivated the opening of investigation 876/XII/2005 before the Attorney General's Office of the State of San Luis Potosí.

A thorough analysis of the facts has led the National Commission to conclude that the death of the victim was influenced by the lack of proper medication and surveillance measures - as there was no steady watch over the patient during the time Mrs. Esther Granados Galván was forced to leave her son's side in order to purchase the prescribed medication.

Therefore, on December 21 st 2006, the National Commission issued Recommendation 44/2006, addressed to the Governor of the State of San Luis Potosí, demanding him to instruct the Head of the Secretary of Health Services of the State to carry out the proper procedures that may help regulate an adequate supply of medication, in order to properly satisfy the needs that arise, so that cases such as the one that gave origin to the present Recommendation may never come to pass again. In addition, the Head of the Secretary of Health Services of the State of San Luis Potosí must be properly instructed on how to carry out his duties as Head of the Body of Internal Control of the local Institution. This must be done in order to carry out a definitive administrative and investigative procedure, all in accordance to the Law, of the public officials of the Psychiatric Clinic "Doctor Everardo Neumann Peña", based upon the grounds of inadequate medical attention, that led to the death of Mr. Roberto Rosas Granados. The investigation must be carried out in accordance with the considerations exposed in the chapter of observations of this Recommendation and the National Commission must be kept informed at all times, from the beginning of the investigation to the very end. The Head of the Secretary of Health Services of the State of San Luis Potosí State must be properly instructed on how to issue the pertaining administrative instructions, addressed to the staff attached to the Psychiatric Clinic "Doctor Everardo Neumann Peña", in order to insure that patients receive the proper treatment and that cases such as the one that originated this Recommendation can be prevented in the future.

Recommendation 45/2006

December 21 st 2006

Case: Minor Ismael Mondragón Molina.

Addressee Authority: Constitutional Governor of the State of Sonora .

On January 14 th 2005, Mr. Édgar Mondragón Bustamante presented a complaint before the Commission of Human Rights of the State of Sonora , based on the grounds of an alleged violation of Human Rights in detriment of his deceased son, Ismael Mondragón Molina.

The complaint filed by Mr. Mondragón Bustamante states his inconformity with the performance of the medical staff of the Children's Hospital of the State of Sonora , during and after the cranial surgery performed on his son; a procedure that claimed the victim's life on that very same day.

The accuser made the facts known to the local Public Ministry, opening investigation C.I. 3907/2004. The investigation, conducted by medical advisors attached to the Attorney General's Office of the State of Sonora , demonstrated that the surgical procedure was much too long for the physical frame of the victim, proving that there are enough elements to conclude that this is a case of medical negligence.

Therefore, the Commission of Human Rights of the State of Sonora opened file CEDH/II/22/01/050/2005 , and decided to validate the violation of Human Rights. Due to the above, on August 2 nd 2005, the local Commission issued Recommendation 07/2005, addressed to the Head of the Secretary of Health of the State of Sonora .

On March 9 th 2006, the local Commission notified Mr. Édgar Mondragón Bustamante of the motions made by the Head of the Secretary of Health of the State of Sonora , in order to fulfill the Recommendation. As he presented his case, Mr. Mondragón Bustamante also filed for contention on the same day. The complaint was received by the National Commission on May 2 nd 2006 and archived as file 2006/167/1/RI.

Thorough analysis of the evidence indicates that the Public Health Secretary and Executive President of Health Services of the State of Sonora has not fulfilled the obligations presented in Recommendation 07/2005, thus contributing to the detriment of Mr. Édgar Mondragón Bustamante, in the matter of legality and juridical safety.

As a consequence, on December 21 st , the National Commission declared the fulfillment of Recommendation 07/2005 issued by the local Commission as insufficient. Therefore and through Recommendation 45/2006, the Governor of the State of Sonora must provide the Head of the Secretary of Health of the State of Sonora with the proper instructions, so that Recommendation 07/2005, issued by the Commission of Human Rights of the State of Sonora on August 2 nd 2005, is fulfilled as soon as possible. In addition, this administrative procedure, initiated by the Head of the Administrative Body of Control and Development of the Children's Hospital of the State of Sonora, must be followed up, in order to bring the responsible parties of this crime to justice and to keep the National Commission informed at all times on the final resolution this procedure may yield. The Governor must also issue proper instructions, so the damage done to the family of the late Ismael Mondragón Molina can be repaired, as a consequence of institutional responsibility.

Recommendation 46/2006

December 27 th 2006

Case: Mr. Horacio Duarte Olivares

Addressee Authority: Constitutional Governor of the State of Tabasco .

On October 13 th 2006, Mr. Horacio Duarte Olivares filed a complaint, stating that on the previous evening, several people had been detained by Agents of the Secretary of Public Safety of the State of Tabasco (Spanish Initials SSPET). He also stated that the aforementioned agents present no warrant for the detentions or arrests made and that the victims were subjected to cruel treatment, even torture.

Thorough analysis of the facts and evidence carried out by the National Commission of Human Rights and included in complaint file 2006/4808/5/Q, have proven that a violation to the Human Rights of legality, legal safety, physical integrity and personal safety, as well as human treatment did indeed take place. All of this in detriment of Messrs. Antonio Guerrero García, Gilberto Daniel García Hermosillo, Guadalupe Alberto Cristerna Soto, Gustavo Raudel Mitre Ayala, Jesús Antonio Ramírez Arias, Jesús Lucano Herrera Ochoa, Manuel Alejandro Robles Gómez and Pedro Ballesteros López, by public officials attached to the SSPET, with regards to the following considerations.

Coincidences found between statements issued by four of the victims before the Public Ministry on October 12 th 2006 and an additional account of the facts made by the victims before the personnel of this National Institution, during interviews held with them on a separate basis, were deemed enough evidence to sustain the aforementioned violations. In addition, results yielded by medical examinations conducted by a certified doctor attached to the National Commission clearly indicated that the evaluated persons presented psychological flashbacks produced by inhuman, cruel, degrading treatment and/or torture. In addition, eight of the victims claimed that personnel attached to the SSPET held them in detention for six hours; this, according to statements presented by the aforementioned victims before the Public Ministry.

A video recording that shows members of the SSPET obtaining statements from Messrs. Gilberto Daniel García Hermosillo, Gustavo Raudel Mitre Ayala and Manuel Alejandro Robles Gómez should also be taken into serious consideration. This information, broadcasted by several different members of the written press and television, showed the victims accepting their involvement in several crimes, even before the Public Ministry had determined that these individuals were the main suspects of accusations presented against them.

The National Commission did not overlook the omission committed by the practicing medics attached to the General Attorney's Office of the State of Tabasco (Spanish initials PGJET). These medics were responsible for elaborating the medical certificate yielded by the evaluation conducted on Messrs. Gilberto Daniel García Hermosillo and Jesús Antonio Ramírez Arias. The evaluations concluded that the victims presented no signs of any recent physical injury worthy of certifying, which contradicts the medical certificates elaborated by qualified personnel attached to the National Commission. In this case, the aforementioned certificates corroborated that the victims did suffer injuries sustained at about the same time that they were detained.

Staff from this National Commission corroborated that the Agent of the Third Shift Investigations, attached to the Sixth Delegation of the PGJET, held the victims in a cell with no artificial lighting, trash accumulated in one corner and water leaking from one of the walls, making the floor of the cell wet and slippery. Seven of the victims corroborated these facts before Adjoining Visitors of this National Commission, with regards to the inhuman conditions under which the agent of the Investigating Public Ministry held them.

ecause of all of the above, on December 27 th 2006, this National Commission issued Recommendation 46/2006, addressed to the Governor of the State of Tabasco , asking for him to work in collaboration with the Comptrollership of the State of Tabasco , in order to carry out an administrative procedure and see it done to its conclusion. Such investigation should be carried out according to the Law and help determine the actions of the responsible agent of the SSPET, with regards to any physical, oral and psychological damage done to, and sustained by the victims, from the moment of their detention to the moment they were brought before the agent of the Municipal Court of the Public Ministry. Also in accordance to the Law, an administrative procedure must be initiated and seen through to its conclusion to determine the actions of the agent of the SSPET responsible for the video recordings of the victims and its consequent leak to the media. The Head of the Comptrollership of the State of Tabasco must be granted with the authority to start an administrative procedure and see it through to its conclusion in accordance to the Law, in order to help determine the actions of agents of the SSPET responsible for the detention of the victims and for taking them before the agent of the Municipal Court of the Public Ministry. The present Recommendation must be added to the previous investigation under file AMI-DAPC-141/06, initiated on grounds of torture, among other charges, so the social representative of the Municipal Court can properly evaluate the outcome of the Recommendation before issuing a final verdict. Necessary and immediate motions must be put forth, in order to repair the psychological damage suffered by the victims with the help of specialized treatment. The Head of the Comptrollership of the State of

Tabasco must be granted with the authority to initiate and conclude an administrative procedure that may determine the responsibility of doctors Carlos Fernández Enríquez and Luis Martín Romero Jesús, both attached to the PGJET, with regards to the medical certificates yielded by evaluations conducted on Messrs. Gilberto Daniel García Hermosillo and Jesús Antonio Ramírez Arias. In addition the actions of public officials attached to the PGJET, responsible for the inhuman conditions of the cell where the victims were held during their detention at the hands of the Agent of the Third Shift of Investigations of the Public Ministry attached to the Sixth Delegation. Likewise, the proper channels and actions must be established, in order to avoid torture, by providing SSPET agents with better training.

DOMESTIC AFFAIRS

The CNDH presents the National Diagnose of Penitentiary Supervision.

On December 20th, the National Commission presented the National Diagnosis of Penitentiary Supervision.

During the ceremony, and in the company of the President of the Mexican Federation of Public Bodies and the Third General Visitor, Dr. José Luis Soberanes Fernández pointed out that the National Diagnosis is a tool devised to contribute to the improvement of the efforts of local institutions dedicated to the supervision of penitentiaries.

The seven fundamental rights supervised are those related to the guarantee of: 1) the current legal situation of inmates; 2) decent and safe living conditions within prisons; 3) physical and moral integrity; 4) the development of productive and educational activities; 5) social interaction of inmates; 6) the upholding of order and the application of sanctions, and 7) special groups within the facilities of penitentiaries.

Dr. Soberanes Fernández said that the Presidents and representatives of Commissions that form part of the Mexican Federation of Public Bodies of Human Rights were unanimous in their approval of the project and adaptation of this Guide. It was also determined that the CNDH is to become responsible for the coordination of this project and to elaborate the Diagnostics, based on the results delivered by local Ombudsmen.

PUBLICATIONS

Publications issued during the month of December 2006.

- Libro: Certamen Nacional de Ensayo 2006. los derechos del Hombre en la Constitución de 1857.
- Libro: Memoria del Primer Congreso Internacional sobre Iglesias, Estado Laico y Sociedad.
- Libro: Cuartas jornadas Nacionales sobre Víctimas del Delito y Derechos Humanos.
- Calendario: Derechos de las Víctimas del Delito
- Organizador: Organizador 2007. Concurso Nacional de Fotografía sobre Derechos Humanos.

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