

NEWS LETTER

Number 168

February 2007

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THE MEXICAN NATIONAL HUMAN RIGHTS COMMISSION (SPANISH INITIALS CNDH) SUBSCRIBES AGREEMENT OF TECHNICAL ASSISTANCE FOR THE PROMOTION AND PROTECTION OF MIGRANTS' RIGHTS.

On February 21 st , in the city of San Salvador , El Salvador , the CNDH and the Attorney's Office for Human Rights of El Salvador signed an Agreement for Technical Assistance that both Institutions shall use to develop several activities meant to promote and protect the rights of migrants, specifically those who hail from El Salvador that may come across Mexican territory.

In the company of Mauricio Farah Gebara, Fifth General Visitor, and Javier Moctezuma Barragán, the Executive Secretary, José Luis Soberanes Fernández, the Mexican National Ombudsman, said that México's long standing tradition of hospitality and solidarity has recently been threatened by the incomprehensible lack of attention to the subject of migration; a situation that crooked public officials and shameless delinquents have taken full advantage of. He added that the CNDH shall persist in its motions, until jails are no more used as migratory stations.

Speaking before members of the Legislative Assembly of the Republic of El Salvador, delegates of a diplomatic body and members of civil society, Soberanes Fernández insisted that he will put major emphasis to his efforts before the Mexican Congress so that Migration and migrants are not penalized, in order to lift the weight that presses down on them, regarding the fear of physical damage and to bring to an end the abuse created by this situation

The agreement, signed by the President of the CNDH and by Dr. Beatrice Alamanni de Carrillo, Head of the Attorney's Office for the Defense of Human Rights of El Salvador, foresees the implementation of communications, collaboration and support mechanisms between both institutions, in order to promote and push forward the validity and effectiveness of the rights contained in the subject of migration.

Both, México and El Salvador , have subscribed to this document, based on the contents of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

Earlier, the Mexican Ombudsman had held an interview with Salvadorian Legislators belonging to the Human Rights Parliamentary Commission, explaining the way that institutions such as the CNDH and the Mexican Federation of Public Institutions for the Defense and Protection of Fundamental Guarantees work.

As part of his working trip to San Salvador , Dr. José Luis Soberanes Fernández also paid a visit to María Isabel Rodríguez, the Rector of the University of El Salvador , with whom he discussed the potential reach of the agreement and the possibility for future joint work and research in the subject of migration.

RECOMMENDATIONS

The following is a synthesis of the recommendations issued by the CNDH for the month of February. A complete version can be found on this Institution's official website.

Recommendation 4/2007

February 9 th 2007

Case: Social Rehabilitation Center of Manzanillo, in the State of Colima.

Addressee Authority: The Constitutional Governor of the State of Colima.

On October 22 nd 2006, the CNDH personnel made a standard penitentiary supervision visit to the Social Rehabilitation Center of Manzanillo (called Cereso de Manzanillo), in the State of Colima . During the aforementioned visit, inmates and their visiting relatives alike stated that visitors to the penitentiary are subjected to shameful revisions, claiming that, among other things, they are forced to take off their clothes and do sit-ups.

A thorough analysis of statements gathered in a file compiled by visitors helped to prove the existence of a violation to the Human Rights of the persons who pay visits to the inmates held in the Cerezo de Manzanillo Center, especially with regards to shameful treatment. It has been established that visitors are subjected to revisions before allowed into the facility, then forced to take off their clothes and do sit-ups. In addition, female visitors having their period are forced to change their sanitary towels for new ones, while in the presence of security personnel in charge of inspection. Similarly, male visitors are instructed to lift their scrotums when they are suspected of having introduced or intending to introduce drugs into the facility.

Clause B of the 55 th Article of the State Rehabilitation Center Inner Rulebook is also applied. Such rule demands for all visitors suspected of carrying illegal substances or objects with them to be subjected to a thorough revision of private body parts.

Based on all of the above, on February 9 th 2007, the CNDH issued Recommendation 4/2007, addressed to the Constitutional Governor of the State of Colima, petitioning for the Warden of Cereso de Manzanillo to properly instruct all personnel in charge of revisions to abstain from doing their jobs in such a shameful manner, thus avoiding potential violations to the Human Rights of all visitors. Any Addressee parties must be informed that a new revision procedure will be established shortly; a procedure meant to guarantee the unrestricted respect for the Human Rights of all visitors. For this reason, a Procedure Manual must be produced and the facility must be immediately provided with the proper and available equipment and technology for the detection of illegal substances. All personnel of Cereso, especially the staff in charge of Security and Custody, must be provided with adequate information and training in the proper way of handling the equipment and technology for the detection of illegal substances and objects, as well as the proper manner in which visitors must be treated. Any actions deemed necessary to revise and reform the contents of the 55 th Article of the Inner Rulebook of the State's Social Rehabilitation Center must be taken, in order to suppress the rule that demands the revision of the private body parts of visitors, according to the terms of the observations made regarding the aforementioned document.

Recommendation 5/2007

February 13 th 2007

Case: A ppeal submitted by Mr. Bulmaro Jiménez Domínguez.

Addressee Authority: The Constitutional Governor of the State of Veracruz .

On August 28 th 2006, the CNDH opened the file 2006/307/1/RI, based upon the grounds of an appeal submitted by Mr. Bulmaro Jiménez Domínguez. The appeal was based on Mr. Jiménez Domínguez' inconformity with the refusal to accept Recommendation 36/2006 as issued by the Human Rights Commission of the State of Veracruz and addressed to the State Health Secretary and to the Director of the Health Services of the aforementioned state. According to the appeal, the refusal to comply with the Recommendation by the two aforementioned authorities has left two minors without their mother.

Thorough analysis of the facts contained in the appeal, has led the CNDH to observe that, on July 8 th 2005, the Human Rights Commission of the State of Veracruz was presented with a complaint filed by Mr. Bulmaro Jiménez Domínguez, among others, stating several alleged violations to the Human Rights of Mrs. Francisca Gutiérrez Martínez, attributable to the medical staff of the Regional Hospital "Dr. Héctor Miguel Moreno Mendoza". It was claimed that the hospital's medical staff failed to provide the patient with the proper attention that she required. On the same day, the local Institution opened file Q-5497/2005.

Enough evidence has been gathered to validate the violation to the Human Rights of the right to life and protection of health committed against Mrs. Francisca Gutiérrez Martínez, and to attribute the responsibility for this action to the Health Secretariat of the State of Veracruz . It is safe to assume that the medical staff of the Regional Hospital "Dr. Héctor Miguel Moreno Mendoza" of Catemaco , Veracruz , failed to provide the patient with the immediate surgical procedure she needed. This situation was created by the lack of the proper equipment, materials and medical specialists, leading to the victim's death on May 24 th 2006. For this reason, the Human Rights Commission of the State of Veracruz issued Recommendation 36/2006, petitioning that: a) the family of the victim were granted with full payment of compensation for the damage suffered; b) the necessary administrative measures be taken in order to provide the hospital with capable, trained personnel at all times; c) the hospital be provided with the necessary infrastructure and equipment for medical activities to be carried out in proper fashion, and d) the Director of Health Services of the State of Veracruz must make certain that all official norms and regulations are applied in the aforementioned hospital.

On July 31 st 2006, the Health Secretary and Director of Health Services of the State of Veracruz informed the local Institution of their refusal to accept clauses a) and c) as demanded by Recommendation 36/2006, claiming that, in order for these bodies to cover for the compensation, a procedure had to be carried out in accordance to the Law. At the same time, the authorities claimed that the Regional Hospital "Dr. Héctor Miguel Moreno Mendoza", of Catemaco , Veracruz , did comply with all the terms established by the Official Mexican Norm.

Based on evidence found in the file, the CNDH certified the existence of inadequate functions regarding public health services, since the Regional Hospital "Dr. Héctor Miguel Moreno Mendoza", of Catemaco , Veracruz , had neither the proper specialized medical personnel, infrastructure, nor the equipment to carry out the urgent surgical procedure as demanded by the condition of the victim. This was a direct violation of her rights to life and to the protection of health.

Likewise, the CNDH considered that it is true that one of the proposed solutions provided by the Mexican legal system, in order to repair the damage caused by professional responsibility, consists of presenting a claim before the Addressee jurisdictional body. Nonetheless, it is also true that the Non-jurisdictional System for the Protection of Human Rights, as established by the 44 th Article of the CNDH' Law, foresees the possibility of validating a violation of Human Rights when committed by public officials. In other words, the Addressee Recommendation must be fulfilled in its entirety, including any measures deemed necessary to repair the damage suffered by the alleged victim, thus helping restitute their fundamental rights. Therefore, the compensation established in favor of Mrs. Francisca Gutiérrez Domínguez's family has been validated by right and must be paid by the Health Secretariat of the State of Veracruz, the institution responsible of failing to provide the aforementioned hospital with all the necessary instruments and specialized personnel required to provide all of its patients with the adequate attention and efficient medical services that they require.

Due to all of the above, on February 13 th 2007, the CNDH issued Recommendation 5/2007, addressed to the Constitutional Governor of the State of Veracruz, so that he may issue the necessary instructions to whom it may concern, in order to make certain that clauses a) and c) of the Recommendation 36/2006, as issued by the Human Rights Commission of the State of Veracruz on May 24 th 2006, are completely fulfilled.

Recommendation 6/2007

February 15 th 2007

Case: Appeal submitted by Mr. Arturo Fernández Luna.

Addressee Authority: Constitutional Governor of the State of Chihuahua .

On April 4 th 2006, the CNDH opened file 2006/120/4/RI, based on a appeal submitted by Arturo Fernández Luna, against the refusal to accept Recommendation 70/2005 by the Director of Transportation Department of the State of Chihuahua , issued by the Human Rights Commission of the State of Chihuahua .

The file notes that on September 13 th 2004, at 9:54 PM, an inspector attached to the Transportation Department of the State of Chihuahua's General Secretariat of Government, reprimanded Mr. Arturo Fernández Luna, driver of a public transport unit, for not complying with his schedule and handed him a ticket as he drove his unit into a gas station located at the corner of Tecnológico and Pinabete avenues in Chihuahua city. This led Mr. Arturo Fernández Luna to file a complaint before the Human Rights Commission of the State of Chihuahua on October 5 th 2004.

In order to attend to the filed complaint and after having held the corresponding investigations, the local Institution issued Recommendation 70/2005, addressed to the Director of Transportation Department of the State of Chihuahua on December 30 th 2005. Nevertheless, the aforementioned authority rejected the Recommendation, leading the accuser to file for a contestation appeal before this National Institution.

Judging from the logical-judicial analysis yielded from the evidence found in this file, the CNDH agreed with the criteria sustained by the local Commission of the State of Chihuahua . It has been decided that a violation of Human Rights had indeed been committed against Mr. Arturo Fernández Luna by the inspector attached to the Transportation Department of the General Secretariat of Government of the State of Chihuahua . This was due to the fact that the victim had made no fault that could justify such an act on behalf of the aforementioned inspector.

In effect, the aforementioned ticket demonstrates that the Transport Inspector omitted to report, first, any legal disposition or dispositions signaled by the Roads and Transport Law of the State of Chihuahua that may be applied to this particular case. Secondly, the Inspector failed to prove any special circumstances or immediate causes he might have taken into consideration, in order to issue the ticket, which would also have helped justify his motivation for such a penalization in accordance to norms and regulations.

Therefore, on February 15 th 2007, the CNDH issued Recommendation 6/2007, addressed to the Constitutional Governor of the State of Chihuahua , as the chief responsible authority in this case, according to the following terms:FIRST. The Governor must instruct any and all parties he deems necessary, so that they fulfill Recommendation 70/05, issued on December 30 th 2005 by the Human Rights Commission of the State of Chihuahua .

SECOND. The Governor must instruct any and all parties he deems necessary, so that all the actions needed in order to retribute Mr. Arturo Fernández Luna are taken, in full restitution of his violated Human Rights.

DOMESTIC AFFAIRS

WORKSHOP ON THE APPLICATION OF THE ISTANBUL PROTOCOL AND THE OPTIONAL PROTOCOL

On February 26 th and 27 th 2007, the city of La Paz, Southern Baja California, became the site for the “Workshop on the Application of the Istanbul Protocol and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment”, ratified by México on April 11 th 2005.

The objectives of the Workshop were to provide attendees with the proper training on how to diagnose and detect torture and advise local public officials on how to detect and inform of such practices, as well as how to create a conscience regarding the obligations needed for the prevention of torture, as assimilated in México.

FOREIGN AFFAIRS

THE CNDH PARTICIPATED IN THE SECOND MIGRANT RALLY

On February 4 th of this year, the CNDH participated in the Second Migrant Rally, started in San Isidro , California , and marching throughout the borderline states between México and the United States of America , from February 2-17 of this year. The rally was held as an expression of support to those who have been forced to leave their homelands in search for a better life, along with the mourning families of over four thousand Mexicans who have died at the border over the last 12 years.

The rally, which was arranged by civil organizations dedicated to the defense of migrants, departed from San Diego , California and arrived on Brownsville Texas , only to return to California on February 17 th . Among them were the Angels of the Frontier and People United, led by Enrique Morones.

Mauricio Farah Gebara, Fifth General Visitor of the CNDH, said that one of the Rally's objectives is to gather stories from migrants; as a testimony of their suffering and all the adversity they face, which many times leads to the death of many of those who are forced to leave their homelands in order to seek working opportunities elsewhere.

These stories were read aloud and in front of the public during the different stages of the Rally. Also, crosses were put in the ground to honor the memory of fallen migrants. A recount of the stories read will be delivered to the White House and to the Congress of the United States of America.

The Second Migrant Rally marched across the four American states that border with México –California, Arizona, Texas and New Mexico— as well as the six Mexican states that border with the U.S. –Baja California, Sonora, Chihuahua, Coahuila, Nuevo León and Tamaulipas— thus, the Rally became a demonstration of unity for the defense and promotion of the human rights of all migrants to the United States of America.

This march is part of an orderly and pacific struggle to obtain justice for migrants, which in turn means equal working opportunities, the right against discrimination, human treatment, the opening of rights to regularization and legal migration and the respect of the fundamental rights of all migrants.

The Rally began with a gathering of one hundred people divided into 22 automobiles, growing as it went along during the next two weeks.

During his speech at the beginning of the Rally, the Fifth General Visitor of the CNDH stated that "we expect that the principle invoked by the founding fathers of the United States of America, which says that all Men are created equal, becomes a reality in American public policies and legislation, so that the human and working rights of all migrants are recognized with that same equality".

He noted that, "the United States is quite upset with complaints made by Mexico , regarding violence against migrants. Like them, we also wish to stop complaining, but not because we've become silent partners in crime, but because this would mean that abuse against migrants has come to an end. Likewise, this would mean that the United States have renounced their hard line immigration policy; a policy that, when not expressed through direct violence against immigrants, manifests itself by forcing them to migrate to even more dangerous zones, sometimes with deadly results".

The Rally started in the midst of a very hostile environment, directed towards migrant workers, by some anti-immigrant groups that have been growing steadily in the United States recently.

PUBLICATIONS

Publications issued during the month of February 2007.

- Libro Dilemas de Bioética..

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