

NEWS LETTER

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MEXICO SIGNS THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The past March 30th, more than 70 countries from around the world signed the United Nations Convention on the rights of Persons with Disabilities at the headquarters of the UN in New York.

In the opening ceremony for the signature the document, the Vice Secretary General of the UN, Asha-Rose Migiro, reiterated that the Convention prohibited the discrimination against persons with disabilities, including their access to work, justice, health and education.

"In three years, the Convention has turned from being a dream to being a reality. With its adoption by the General Assembly last year, it became the first human rights Convention of the 21st Century, and the most rapidly agreed upon international tool in history", said Migiro.

Some 15 Latin American countries signed to the Convention. One of those was Mexico , one of the principle promoters of the document.

"Today we are taking some of the first steps towards a new stage on the matter of respect for persons with disabilities around the world. The immediate challenge will be, in short, to work to have those instruments of ratification necessary to bring into effect the Convention", said the president of the National Council on Discrimination Prevention, Gilberto Rincón Gallardo, who participated in the signing ceremony.

As soon as the Convention comes into effect, México and the other Signatory States , who have ratified it, will have the challenge of carrying out the harmonization of its internal legislations, with the involvement of federal authorities at the national and local levels, to disseminate, apply, and promote the contents of the agreements.

Moreover, they will need to establish a mechanism for oversight of the Convention, since the role of the national institutions will be of utmost importance in such follow up and monitoring mechanisms of the agreement.

RECOMMENDATIONS

The following presents a synopsis of the recommendations issued by the CNDH (National Human Rights Commission) in March. The complete version can be found at this institution's official website.

Recommendation 7/2007

March 23th, 2007

Case: Appeal presented by Ms. Laura Patricia López González and others.

Addressee Authority: Constitutional Government from the State of Jalisco .

On July 18th 2006, the National Human Rights Commission received an appeal from Ms. Laura Patricia López González and others, against the non acceptance of the Recommendation 12/2005 by the Jalisco State Attorney General, which was issued November 16th, 2005, by the Human Rights Commission of that federal entity, within the Inquiry 2212/2002-II and its accumulated file 2213/2002-II.

The appeal was registered by this National Institution with the file number 2006/275/3/RI and, after having analyzed the evidence it comprised, it was noted that the Recommendation in the merits is well based, due to the fact that a violation of Human Rights was accredited against the human rights of legality, legal certainty, personal freedom, physical integrity and privacy in detriment to Mr. José Luis López González, on behalf of the agent of the Public Prosecutor's office, ascribed to the Special Agency of Intentional Homicides for the Public Prosecutor's office of the State of Jalisco, as well as by members of Second Group of Intentional Homicide of the Investigatory Police of the said federal entity.

The above, by virtue of the fact that it was proven that the social representative in question issued a summons which was not properly founded and motivated, and because the act of releasing such an presentation order with those effects wasn't found to be included in any of the laws of the state of Jalisco, for which in this case the Human Rights of legality and legal certainty contained in articles 14 and 16 of the Political Constitution of the United States of México were violated, without ignoring the fact that with this, the Human Rights of dignity and privacy are affected, as well as providing protection by law against those who don't recognize or respect those rights.

At the same time, elements of the referred police corporation submitted an investigation report without specifying the circumstances of time, mode and place in which the investigations were carried out, nor the day or time of the arrest of Mr. José Luis López González.

In addition to the irregularities referred to, this National Commission observed that the corresponding ministerial authority ordered the detention of Mr. José Luis López González without having legal justification, since they didn't gather the requirements needed to issue the order for arrest.

This National Commission also noted that upon entering the Preventative Prison of the Metropolitan Zone of the State of Jalisco , Mr. José Luis López González had a wound on his head. Despite not being able to specify the moment in which the wound was inflicted, it coincides with the statement that the victim made before personnel from the State Commission, indicating that he was struck by a police agent; Consequently, the Investigative Police elements from the state of Jalisco involved in the case which we have taken up violated with prejudice the human right of Mr. José Luis López González to receive dignified treatment and respect for his physical integrity.

Finally, elements of the said Investigatory Police let themselves into the home of Ms. Laura Patricia López González and searched it without any warrant issued by a competent authority; as such, it is evident that the actions of the public servants in question are in violation of the rights of legality and legal certainty.

Based on the above incidents, on March 23th, 2007 this National Commission issued Recommendation 7/2007 to the Constitutional Governor of the State of Jalisco, establishing as the only recommendation the following: to issue the order to the Public Prosecutor of the State of Jalisco that he complete the first, second, and third points of the Recommendation issued by the Human Rights Commission from said federal entity, conforming with the supplemental considerations in the observation section of this document.

Recommendation 8/2007

March 29th, 2007

Case: Ms. María del Pilar Pérez Sosa.

Addressee Authority: Mexican Institute of Social Security (IMSS).

On May 3rd, 2006 this National Commission received the complaint from Mr. Margarito Santiago Aguilar in which he denounced acts presumably in violation of the human rights of his wife, Ms. María del Pilar Pérez Sosa, committed by public servants from the IMSS, affirming that on November 30th, 2004, his wife turned to the Regional General Hospital Number 72 of the IMSS in the State of México, so that they might perform a cesarean section on her. In said location the doctor who attended her asked her if she wanted to be operated on so she wouldn't have more children, to which both she and her spouse answered no; this caused the agitation of the doctor who shouted that she must do it since she already had four children and it was her third cesarean section, and indicating to her to sign a document wherein she assumed responsibility for rejecting the operation and authorized the intrauterine device.

Likewise, he specified that his spouse was taken to the operating room where her hands were tied and she was anesthetized. She told them that the anesthesia was not having an effect on her, for she could feel it as they cut her with the scalpel, and it caused her to faint; afterwards, the doctors told them that they had had to remove her uterus because it was bleeding a lot. In virtue of this, he believed that this behavior infringed upon his and his spouse's right to decide about the number of children they wanted to have. Likewise, he stated that three days later she was discharged and told to come back later for the pathology report. However, up to the date that he presented his complaint they still had not delivered the document. Despite having solicited it from the time his spouse was discharged, on April 26, 2006 the hospital personnel told him that they could not find it.

From the analysis conducted on the evidences comprising the file, this National Commission had in its possession elements that permitted the accreditation of violations of the right to the protection of health, as well as the freedom of procreation, in detriment towards Ms. María del Pilar Pérez Sosa, on behalf of public servants from the IMSS, who issued a diagnosis that was not sustained with clinical evidence that might have founded the decision to perform an obstetric hysterectomy, with a basis in a state of emergency that might have put her life in danger, and as such violated her liberty to decide in a free, responsible, and informed manner about the number of children she would have and the number of years between them, upon materially depriving her of the possibility of becoming pregnant again.

Motivated by the above mentioned, on March 29, 2007, this National Commission issued the Recommendation 8/2007, directed to the General Director of the IMSS, in which it was recommended that he orders and carries out the payment that proceeds from the concept of reparation for the injury caused to Ms. María del Pilar Pérez Sosa, as a consequence of the institutional responsibility derived from the inadequate medical attention that she was given, and in conformity with that which is perscribed in the applicable legislation about the matter.

Likewise, the evidences that accredit its fulfillment shall be sent to this National Commission; While at the same time, instructions shall be sent to the effect that, through the corresponding area of the IMSS, Ms. María del Pilar Pérez Sosa shall be given a psychotherapeutic treatment faced with the impossibility of being able to procreate again. In the same manner, the file that is currently comprised of the reason she was given by the official for the delay in the completion of the report of the histopathological study of the uterus that was removed from the plaintiff shall be given to the Internal Control Organ in the IMSS. Also, said document shall be delivered to the patient, all with the objective of concluding the administrative investigation procedure in order to determine the responsibility for the mistakes made by the public servants from the IMSS ascribed to the Regional General Hospital Number 72 in Tlalneapantla, State of Mexico, for the acts committed in detriment to Ms. María del Pilar Pérez Sosa

Finally, instruct that training courses shall be imparted in order to avoid the occurrence of future omissions like those referred to in the Recommendation in question..

NATIONAL ISSUES

National Human Rights Commission (CNDH) inaugurates new regional office in the city of Campeche , Campeche .

On the 28 th of March, Dr. José Luis Soberanes Fernández, President of the CNDH, together with the Governor of the state of Campeche, Mr. Jorge Carlos Hurtado Valdéz, inaguarded the new Regional Office of that entity .

During the ceremony, Dr. Soberanes Fernández explained that traveling through México carried with great difficulties for migrants, above all because they confront, as much, the unacceptable conduct from bad public servants who threaten, extort, and attack them, as the indifference from authorities in the face of abuses perpetrated against them by common and organized crime.

He said that this office will be able to open complaints in general, related to presumed violations of human rights on behalf part of whichever federal authority. He noted that the capacity of the CNDH to respond will be substantially strengthened with the work of the new office that will seek to contribute to strengthening the culture of respect for human rights in the entity.

Equally, he expressed that the challenge that confronts the new office is large, but he is certain that with the support of sensitive authorities and a participatory civil society it will be able to overcome. "We also hope," he said, "that this office will become a nodal point for the communication of the CNDH, the society, and the authorities of Campeche ".

INTERNATIONAL ISSUES

Participation of the CNDH in the 19 th Period of Sessions of the Annual Meeting of the ICC.

From March 21 to 23 of the current year, Dr. Javier Moctezuma Barragán, Executive Secretary of the CNDH, participated in the 19 th period of sessions for the annual meeting of the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), that took place within the framework of the 4 th period of sessions for the UN on Human Rights Council, in Geneva, Switzerland.

Ms. Louise Arbour, High Commissioner of Human Rights for the United Nations, was in charge of the inauguration of the sessions, who directed a message to the National Institutions, reiterating the importance of these institutions as key elements for strengthening the national systems for the protection of fundamental rights, whose activity contributes to broaden the climate of security and equitable development.

Likewise, she pointed out the interest of her office in increasing the cooperation with the National Institutions, through the work of United Nations teams in the countries and the working together of special organisms of the UN.

Within the framework of the said session, the CNDH also participated in the Thematic Dialog about "The Role of the National Institutions in the prevention of torture: challenges and opportunities".

Equally, the meeting, which was carried out with the President of the UN Human Rights Council, together with the titleholders of the National Institutions from Canada and Denmark , was attended in respect to the role of said Institutions in the Council sessions and the possibility of broadening and strengthening their participation.

On the other hand, the Executive Secretary of the CNDH presided over the special meeting of the Network of National Institutions for the Promotion and Protection of Human Rights on the American Continent. In said meeting, representatives participated from the National Institutions of Argentina, Canada , Costa Rica , El Salvador , Nicaragua and Venezuela.

Likewise, she took part in meeting the 10th of the Steering Committee of the Special Fond for Ombudsman and National Human Rights Institutions in Latin America and the Caribbean , in which the Annual Work Plan was discussed and the evaluation of the report carried out by the donars was considered.

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