

# NEWS LETTER

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### THE MEXICAN NATIONAL HUMAN RIGHTS COMMISSION (Spanish initials CNDH) AND UNESCO SIGN A COLLABORATION AGREEMENT

On April 24<sup>th</sup>, the Mexican National Human Rights Commission and the United Nations Educational, Scientific and Cultural Organization (UNESCO) signed a collaboration agreement that seeks to promote the right to education, specifically related to fundamental guarantees.

During the ceremony and in the company of the director and representative of UNESCO in Mexico, Luis Manuel Tiburcio, Dr. José Luis Soberanes Fernández, President of the CNDH, spoke of the urgent need to provide education with humanizing elements that allow the modification of behavior trends that offend human dignity. Dr. Soberanes Fernández stated that fundamental rights include basic values and ethics that must confront the challenges presented by the current times.

Dr. Soberanes Fernández highlighted the indispensable educational function that the CNDH must have, in order to promote and protect the fundamental rights and freedom of all Mexicans, and in this difficult task there could be no better support than the one offered by UNESCO.

"We recognize," he added "that UNESCO assumes a leadership role, on an international level, in the creation of learning societies that provide opportunities for all of the planet's population to receive proper education. We are well aware of their (UNESCO's) great efforts to turn the development of education into a force that transmits values to help strengthen the identity and dignity of individuals and societies alike".

The National Ombudsman pointed out that the combined collaboration and teamwork between both institutions will help intensify the results of making education the main tool for the construction of a free and more democratic society, which is capable of respecting the fundamental rights of all people.

The agreement foresees the establishment of cooperation mechanisms between both institutions, which seek to promote human rights' education in our country and to push for the validity and effectiveness of the right to education in the Continent. It is based on the Action Plan for the Promotion and Protection of the Right to Education, which has been signed by 15 Human Rights National Institutions of the American Continent, headed by the CNDH.

Various officials attached to both institutions were present during the ceremony.

### RECOMMENDATIONS

The following is a synthesis of the recommendations issued by the CNDH for the month of April. The complete version can be found in the institution's official website.

Recommendation 9/2007

April 2nd 2007

Case: Mr. Jorge Luis Zerón Martínez.

Addressee Authority: The General Attorney's Office for Military Justice.

On November 28 th 2005, the CNDH received a complaint filed by Mr. Víctor Rosalino Zerón Amador, related to charges of an alleged violation against Human Rights in detriment of his son, Infantry Sub-lieutenant Jorge Luis Zerón Martínez and attributable to members of the Secretariat of National Defense, located in Mexico City. According to the complaint, on the morning of March 12 th 2005, Mr. Zerón Martínez arrived from Escobedo, Nuevo León, and presented himself at the Military Camp Number 1 in Mexico City for the first time. He was received by the Commander of the 78 th Battalion, who allegedly was drunk and led the aforementioned Sub-lieutenant to the Airborne Battalion, also located within Military Camp Number 1. As a welcoming, and in the presence of other military personnel, the Commander ordered Mr. Zerón Martínez to consume huge amounts of liquor (rum). The victim suffered an acute secondary respiratory insufficiency sometime later, caused by the bronchial inhalation of gastric content, which eventually led to his death.

As a result of the complaint, file number 2005/4991/2/Q was opened and the corresponding reports were petitioned before the General Attorney's Office for Military Justice.

Once completed, the CNDH found that members of the Mexican Armed Forces violated the rights to legality and legal safety in detriment of the late Infantry Sub-lieutenant Jorge Luis Zerón Martínez. This, in light that they failed to fulfill the duties conferred to them, by issuing orders that went against their legal responsibilities and by omitting their duties for caution.

Indeed, on March 12 th 2005, at 07:00 AM, Infantry Sub-lieutenant Jorge Luis Zerón Martínez arrived at the Military Camp 1-A, located in Mexico City , from Escobedo, Nuevo León. Colonel Uriel Ríos Velásquez, who led him to the quarters of Major Carlos Suárez Martínez, received him. Once in the Major's quarters, Colonel Uriel Ríos Velásquez ordered the victim, Infantry Sub-lieutenant Luis Aurelio Flores Vargas and Infantry Lieutenant Arturo Rivera to consume alcohol (rum).

At 2:30 PM approximately, on the same day, the late victim was alone and apparently asleep in the quarters of Major Carlos Suárez Martínez, until 06:30 PM. On their arrival, Major Carlos Suárez Martínez and Sub-lieutenants Luis Aurelio Flores Vargas and Vinicio Juárez, realized that Infantry Sub-lieutenant Jorge Luis Zerón Martínez was not showing any visible reactions.

The victim was taken into the infirmary of the 2 nd Independent Infantry Brigade, located at Military Camp 1-A, where he would receive urgent medical attention. Once at the site, Infantry Sub-lieutenant Jorge Luis Zerón Martínez received first aid and revival procedures, but since no positive results were obtained, he was taken to the Central Military Hospital , where he arrived at 7:25 PM. At the hospital, efforts were made to resuscitate him. However, the victim was declared dead at 7:40 PM.

The Central Sector of the Attorney General's Office integrated initial investigation SC/135/2005/V for further investigation of the facts for Military Justice. This would prove necropsy by law, thus determining that the death of Infantry Sub-lieutenant Jorge Luis Zerón Martínez was caused by an acute secondary respiratory failure, provoked by bronchial inhalation of gastric content. Likewise, several injuries were found on the body of the victim.

However and despite all of the above, the Attorney General's Office for Military Justice informed the CNDH that the Army and Air Force Inspection and Comptrollership did not accept the administrative procedure regarding the involvement of any military personnel whatsoever. This omission favors impunity and shows a lack of discipline on the part of those who failed to fulfill responsibilities imposed on them by applicable laws. In addition, Colonel Uriel Ríos Velásquez was only arrested, on orders of his commanding officer, in his personal quarters for an indeterminate period of time, on charges of presenting himself at roll call, with alcohol on the breath at 1:00 PM on Saturday, March 12 th 2005. This situation means that military authorities minimized the seriousness of the facts, for such penalty is not related to the proper sanctioning for the aforementioned facts, but simply because an officer failed to present himself at roll call properly.

With regards to the penal investigation, the initial investigation SC/135/2005/V, determined that a thorough analysis of the facts had to be ordered to investigate other potential criminal behavior. Regarding this situation, it is necessary for the Public Military Ministry to make a statement on a possible abuse of authority, the origins and the amount of intoxicants that were present in the blood, as well as to determine the injuries sustained by the victim. Regardless of their seriousness, it is a fact that third parties inflicted such injuries upon the victim while he was still alive.

All of the above points to evidence of omission to the duty of caution on the part of military personnel involved in the facts, since they are mentioned in several ministerial and judicial statements in the sense that they ordered the affected lieutenants to consume alcohol (rum) against their will. This type of misconduct is unbecoming to public duty.

Likewise, the intervention of the Army and Air Force General Inspection becomes indispensable in order to investigate not only the actions of the colonel in question, but also the actions of all the personnel that intervened in the actions and omissions that led to the death of Infantry Sub-lieutenant Jorge Luis Zerón Martínez. It will be the responsibility of the Office of the Manager of General

Inspection to investigate the irregularities and deficiencies in which elements attached to the Secretariat of National Defense could have incurred, during the production of the initial investigation.

On the other hand, this omission and misconduct must be investigated, since the late victim had been left all alone in a moment when he found himself in a vulnerable state, to the point that no one noticed the moment he suffered the bronchial inhalation that caused his death. Also, he was not provided with the medical first aid necessary to prevent the fatal outcome.

Of all of the above, it can be said that the death of Sub-lieutenant Jorge Luis Zerón Martínez, (though produced by a serious ethylic intoxication that led to respiratory insufficiency), happened because of the orders issued by Colonel Uriel Ríos. The fact that such orders were made can be proven through the different ministerial statements that comprised initial investigation SC/135/2005/V, therefore constituting a violation against Human Rights.

Therefore, on April 2 nd 2007, the National Commission issued Recommendation 09/2007, addressed to the General Attorney for Military Justice, based on the following points: FIRST. The General Unit of Inspection and Comptrollership of the Army and Air Forces must be ordered to initiate an administrative process against the military personnel that intervened in the facts mentioned in this recommendation, based on their actions and omissions. The National Commission must be opportunely informed from the beginning of the investigation to the conclusion of the pertaining procedure, as well as of the final resolution. In the case that it is determined that criminal, anti-constitutional misconduct was committed, the social representative of the Military Forces must be brought into the case to ratify the respective questioning process; SECOND. Instructions must be issued to whom it may concern, so that the necessary procedures are carried out, in order to immediately pay the compensation that proceeds in favor of the beneficiaries of Mr. Jorge Luis Zerón Martínez, that are credited with such right; THIRD. The Military Forces Public Ministry agent must be brought into the case in order to investigate the injuries inflicted on Sub-lieutenant Jorge Luis Zerón Martínez on March 12 th 2005, when he was still alive, so that the agent may execute his legal authority and inform the National Commission about the initiation of his investigation until its final resolution; FOURTH. Instructions must be issued to whom it may concern, so that the officers of the Mexican Army are instructed and trained regarding the behavior they must observe in order to respect the Human Rights of all members of the Mexican Army, specially while on duty. At the same time, training must be given to the commanding officers of the Mexican Army, regarding their power to issue orders with plain responsibility and with respect to the fundamental rights of the personnel under their command; and FIFTH. Instructions must be issued to whom it may concern, so that public military officials abstain from playing so-called "rookie pranks", in order to avoid the type of situation that gave place to this recommendation occurring ever again.

## DOMESTIC AFFAIRS

The CNDH petitions for the reinforcement of BETA groups

On April 29 th , the CNDH made a petition before the National Immigration Institute (Spanish initials INM) for the reinforcement of Beta Groups, as well as to help promote the creation of similar groups in other areas where, up to now, none are operating and where their presence is needed.

Given the heat that this season brings, which increases the risks of migrants suffering and even dying from exposure to the heat and dehydration in the borderline with the United States, this National Institution has demanded for the INM to spare no expenses regarding material and human resources they have. In addition they must use all of their resources to negotiate with the authorities attached to Beta Groups, so that these are reinforced and have enough elements in order to fulfill their responsibility of bringing opportune and efficient aid to migrants.

The CNDH informed the INM that it has received different petitions from non-governmental organizations dedicated to the defense of the human rights of migrants, demanding the reinforcement of Beta Groups, since their numbers have diminished in places, while in other places there is no personnel whatsoever, despite the fact that such sites are corridors of important migrant flow, such as certain areas of the states of Baja California, Sonora and Tamaulipas, especially around Nuevo Laredo city.

In its missive addressed to the INM, the National Commission stressed that the flow of migrants during the summer has always been of considerable size, which implies serious risks to the physical integrity and even the lives of such migrants due to the high temperatures. In addition, the reinforcement of surveillance measures established by the United States Immigration authorities in recent years over the traditional crossing points has forced this flow to move towards zones that offer inhospitable conditions and extreme weather conditions.

The CNDH considers that the reinforcement in the capacity for aid that can be offered by Beta Groups will help diminish the number of deaths among migrants that take place in Mexican territory. When migrants die in the territorial United States , several Mexican organizations present continuous protests, arguing that illegal migrants are left out on their own with no assistance at all.

## FOREING AFFAIRS

The CNDH participated in the International Summit "The Implementation of Recommendations by International Human Rights Bodies by the Peoples Defenders".

The International Summit The Implementation of Recommendations by International Human Rights Bodies by the Peoples Defenders took place this year, from April 16 th – 19 th in the city of Cartagena de Indias , Colombia .

The event was organized by the Office of the UN High Commisioner for Human Rights, the Ibero-American Federation of Ombudsman and the Center of Cooperation Initiatives for Development of the University of Alcalá , Spain .

Among many important guests were Dr. Javier Moctezuma Barragán, Executive Secretary of the National Commission, the President of the Inter-American Commission of Human Rights and the President of the Inter-American Court of Human Rights.

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