

NEWS LETTER

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CONTENTS

- WORKSHOP ON THE APPLICATION OF THE ISTANBUL PROTOCOL AND THE FACULTATIVE PROTOCOL ON THE CONVENTION AGAINST TORTURE
- RECOMMENDATIONS:
 - 34/2007 Case of Mrs. Ernestina Ascencio Rosaria.
 - 35/2007 Case of Mr. Orosmán Marcelino Cabrera Barnés and Yordy Gamez Olivier36/2007 Appeal of Mr. José Luis Manuel Mejía Pérez.
 - 36/2007 Case of the immigrant Martín Antonio Figueroa Landaverde and other foreigners of Salvadoran nationality.
 - 37/2007 Case of 14 women victims of attacks against their personal integrity and sexual freedom.
 - 38/2007 On the events occurring May 2, 3, and 4, 2007, in the Municipalities of Nocupétaro, Carácuaro and Huetamo, in the State of Michoacán.
 - 39/2007 On the acts of violence occurring May 7, 2007, in the city of Apatzingán, in the State of Michoacán.
 - 40/2007 Case of the family of Esparza Galaviz and others, in the Municipality of Sinaloa de Leyva, in the State of Sinaloa.
 - 41/2007 Case of the policy holder of the General Hospital of Zone Number 53 of the IMSS.
 - 42/2007 Appeal by Mr. Federico Cavia Orta.
 - 43/2007 By Mr. Juan Ignacio García Zalvidea.
- NATIONAL ISSUES

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

On September 20 and 21, 2007, the "Workshop on the Application of the Istanbul Protocol and the Optional Protocol on the Convention against Torture, and other cruel, inhuman or degrading treatment or punishment" was carried out in Obregón City, State of Sonora.

This event was organized by the National Human Rights Commission, in coordination with the Human Rights Commission for the State of Sonora as well as by the Medical Federation of Sonora, the College of Surgeons for Obregón City, the Ministry of Public Health of Sonora, and the Mexican Institute of Social Security.

This workshop had as its objective the training of the functionaries from the local authorities involved in the detection and denouncement of practices of torture, in the detection and diagnosis of elements of torture, and at the same time to raise consciousness around the obligations of the prevention of torture contracted by Mexico through the April 11, 2005, ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatments or Punishments.

This event was carried out in the facilities of the Medical College of Surgeons of Obregón City A.C., where 130 participants came together from diverse sectors, among them the State Judicial Power, officials from the Public Prosecutor's Office and the Attorney General's office, Public Security Forces, members of the Army and non- governmental organizations, institutions of public health, as well as law students from diverse institutions of higher education.

During the inauguration ceremony Minister Jorge Sáenz Félix, President of the Human Rights Commission for the State of Sonora; Dr. Luís Benavides, Director of International Policy on Civil and Political Rights for the Ministry of Foreign Relations and Dr. Miguel Ángel Ortiz Martínez, President of the Medical College of Surgeons for Obregón City A.C. were present.

RECOMMENDATIONS

The following presents the synthesis of the recommendations emitted by the CNDH during the month of September. The complete version can be seen on the webpage of this institution.

Recommendation 34/2007

September 3, 2007

Case: Of Mrs. Ernestina Ascencio Rosaria

Addressee Authority: Ministry of National Defense, Government of the State of Veracruz, LX Legislature of the H. Congress of the State of Veracruz, State Human Rights Commission of Veracruz.

On February 27, 2007, this National Commission, by virtue of the journalistic information collected through the monitoring of media sources on the above mentioned date, initiated the related complaint motivated by the presumed attacks on the fundamental rights to life and sexual freedom against a person 70 years of age who answered to the name of Ernestina Ascencio Rosaria, on the part of members of the Ministry of National Defense, in the community of Tetzatzinga, municipality of Soledad Atzompa, in the mountains of Zongolica, State of Veracruz.

From the analysis of the evidences which make up the file of complaint, this National Commission accredited violations of the Human Rights of legality, and judicial certainty in detriment to the family of the death woman, consisting of an irregular integration of the ministerial investigation undertaken by the office of the Agency of the Public Prosecutor Specialized in Crimes against Freedom, Sexual Security, and Family, in Orizaba, Veracruz, as well as the Special District Attorney, each attached to the Public Prosecutor's office for the State of Veracruz, in light of the fact that during the ministerial investigation they incurred in negligence and carelessness of the prosecutorial function of the crimes.

This National Commission gathered all the technical-scientific elements that led to the real causes of the death of Mrs. Ernestina Ascencio Rosaria and, at the same time, made clear the lack of expertise and negligence with which the personnel from the Directorate of Forensic Services of the office of the Public Prosecutor for the State of Veracruz conducted themselves during their participation in the integration of the ministerial investigation.

Due to the above, this National Commission, on September 3, 2007, issued the Recommendation 34/2007, directed to the Ministry of National Defense to the effect of: FIRST. Issue instructions to expedite the closure of the preliminary investigation, filed located in the agency of the Public Prosecutor attached to the 26/a. Military Zone of Lancero, Veracruz. Upon its definitive resolution, punctually inform this National Human Rights Commission. SECOND. Notify the Ministry of the Public Function so that they begin an administrative investigation proceeding against the personnel of the Inspection and Comptroller General of the Army and Air Force, which was in charge of putting together the file, for the omissions and irregularities incurred which are described in the body of the present recommendation. THIRD. Issue instructions to those to whom it corresponds so that the Inspection and Comptroller General of the Army and Air Force, in accordance with their regulations, take into consideration the evidences and observations of the present Recommendation, while carrying out the internal administrative investigation procedure AJ-07-07, in order to demarcate the responsibilities of the public servants of the Directorate General of Social Communication for the Ministry of National Defense who committed the actions and omissions specified in this document and, upon realization of the above, make this National Human Rights Commission aware immediately of the proceedings that the cited administrative authority carries out, from their intervention to their conclusion. FOURTH. Issue instructions to the Inspection and Comptroller General of the Army and Air Force to initiate an internal administrative investigation proceeding against the agent from the Military Public Prosecutor's Office who is in charge of putting together the preliminary investigation, and in said proceeding to take into consideration the evidences and observations contained in the present Recommendation with those that accredit the actions and omissions incurred by the Military Social Representation, report back punctually about the advances of the administrative investigation until its complete conclusion. FIFTH. Instruct those to whom it corresponds to intensify the training of personnel who make up the different Bases of Operations, on conduct and respect for Human Rights which they must observe while carrying out their actions, and inform this National Human Rights Commission punctually of the advances and results of the achievements.

To the Constitutional Governor of the State of Veracruz: FIRST. Issue instructions to the Public Prosecutor of that State so that the Supervision and Comptroller Subprosecutor, in accordance with the norms, takes into consideration the evidences and observations of the present Recommendation, during the investigation procedure for the administrative proceeding of responsibility 061/07 in order to demarcate the responsibilities of the public servants responsible for the actions and omissions specified in this same document and, upon completing the above, inform this National Human Rights Commission punctually of the actions taken by the cited Subprosecutor, from the time of intervention until its complete conclusion. SECOND. Issue instructions to the Public Prosecutor for the State of Veracruz to begin an administrative proceeding of responsibility against all those public servants who committed the actions and omissions described in the body of this document and who intervened directly or indirectly in the integration of the ministerial investigation. Periodically inform this National Human Rights Commission of the advances and results of said investigation. THIRD. Issue instructions to the Public Prosecutor's office for the State of Veracruz to swiftly resolve the ministerial investigation begun in the agency of the Public Prosecutor of Investigation Southern Sector, with residence in Orizaba, Veracruz, motivated by the presumed responsibility of whomever improperly circulated a photo of the corpse of the person who, in life, answered to the name of Ernestina Ascencio Rosaria, obtained during the autopsy of February 26, 2007. FOURTH. Issue instructions to the Public Prosecutor's office for the State of Veracruz to begin a ministerial investigation for the probable criminal behaviors for which the public servants may be responsible who intervened in the integration of the inquiry and who did not preserve or properly look after the evidences obtained in the investigation. FIFTH. Instruct the Public Prosecutor for the State of Veracruz to initiate a ministerial investigation against the persons unassociated with the institution who helped the experts from the Directorate of Forensic Services, in order to determine, as well, the penal responsibility of those same functionaries who may have been in error when they tolerated said help. SIXTH. Instruct the corresponding persons to carry out the necessary actions to periodically evaluate the forensic findings, and in regards to the Human Rights of the public servants attached to the Directorate of Forensic Services for the Public Prosecutor's office for the State of Veracruz, that which will permit the identification, if appropriate, of the public servants who improperly preserved the evidences given over to their care and thereby impeding an adequate exercise of public function, so as to avoid behaviors such as those which gave rise to the present Recommendation. SEVENTH. Take the necessary measures to strengthen the procedures relating to the Civil

Service Career for selecting and hiring personnel, taking into consideration the profile and necessities of the position, the training and evaluation of the functionaries or public servants attached to the different delegations for the Directorate of Forensic Services for the Public Prosecutor's Office of that State, in the adequate management of evidences and elaborations of reports and, in this way, guarantee the appropriate emission of forensic reports. EIGHTH. Realize the necessary steps, before the competent authorities, so that the different Delegations of the Directorate of Forensic Services of the Public Prosecutor's Office for the State of Veracruz be given sufficient material, economic, and human resources to establish the necessary measures designed to achieve the adequate carrying out of work on the part of experts attached to that Directorate and, to avoid future irregularities in the preservation, care, and study of the evidences gathered in the ministerial investigations. NINTH. Issue instructions to the corresponding persons to professionalize the work of the translators who offer help to the different agencies of the Public Ministry of the Public Prosecutor's Office for the State of Veracruz, or make agreements to collaborate with institutions that have specialists on the subject, with the intention of supporting the different indigenous communities with the necessary translations of the ministerial declarations which they yield in the corresponding inquiries. Similarly, seek out those mechanisms so that the actions carried out by the Social Representation are also written out in the indigenous language, as are the declarations of the involved victim or perpetrator. TENTH. Issue instructions to the Social Representation of the State, to communicate to the Civil Registry Official, under terms of article 758 of the Civil Code of said federative entity, to carry out the corresponding insertion in the death certificate of Mrs. Ernestina Ascencio Rosaria. The above mentioned should also be completed in terms of what is prescribed in article 149 for the Code of Criminal Proceedings for the State of Veracruz de Ignacio de la Llave.

To the President of the Board of Directors of the LX Legislature of the H. Congress of the State of Veracruz: FIRST AND ONLY. Issue the necessary instructions to the corresponding persons to investigate the omissions and irregularities which are accredited in the body of this Recommendation and which are attributed to the Municipal President and to the Director of Public Works and Development, both from the municipality of Soledad Atzompa, Veracruz, and, when appropriate, maintain the spirit of what the Law requires.

To the President of the State Human Rights Commission of Veracruz: FIRST. Issue your instructions to train the personnel who are in charge of providing services to the ethnic communities located in the State of Veracruz, with the aim of providing sufficient preparation for them to translate the different languages that are spoken in said federative entity and, with it, to contribute an optimal defense to their Human Rights. SECOND. Give a review of the present Recommendation to the Organ of Internal Control in that State Human Rights Commission of Veracruz so they take into consideration the evidences and observations from the present document, in the administrative investigation proceeding which was initiated against the Ethnic Delegate of the Zongolica Region, attached to that Local Organism, for the irregularities which took place during his time as translator in the testimonies gathered by this National Human Rights Commission, about the case with which we are concerned. Similarly, periodically inform this National Organism of the advances and the conclusion of the referenced administrative investigation.

Recommendation 35/2007

September 5, 2007

Case: Of Mr. Orosmán Marcelino Cabrera Barnés and Mr. Yordy Gamez Olivier

Addressee Authority: National Institute of Migration.

Mr. Orosmán Marcelino Cabrera Barnés and Mr. Yordy Gamez Olivier, of Cuban nationality, entered Mexico by way of Cozumel, Quintana Roo, on February 17, 2006, and in that place and date personnel from the National Institute of Migration (INM) arrested them for lacking the documents that accredit their legal stay in the country. Three days later, on February 20 of the cited year, the local Sub-delegate of the INM put them at the disposal of the Coordination of Migration Control and Verification of the INM in the Federal District, from where, on March 1 of the same year, they delivered them to the INM in Tapachula, Chiapas, the last place they were kept until their repatriation.

On April 21, and May 8 of 2006, the arrestees requested refuge before personnel from the Mexican Commission of Refugee Aid, and the Delegate made this known to the migration authorities.

On June 9, 2006, the aggrieved were repatriated to Cuba, without having been informed by the migration authorities of any resolution regarding their request for refuge, thereby violating article 49 of the Federal Law of Administrative Proceeding, which orders the realization of all necessary acts for the determination, understanding, and verification, of the events about which a resolution must be dictated, and must be carried out by the organ which submitted the procedure as part of its obligations.

Due to the above, on August 8, 2007, this National Commission issued the Recommendation mentioned, to the Commissioner of the INM, asking her, first, to communicate the case to the Internal Organ of Control of the Ministry of Public Function in that Institute, in order to initiate and, in the appropriate case, establish administrative proceedings of responsibility against the involved public servants for the events of the complaint and, second, to take the necessary administrative measures, as much to provide sufficient information about the review process to the migrants requesting refuge as, when there is notice of such solicitations, to initiate the respective proceeding until its completion.

Recommendation 36/2007

September 5, 2007

Case: Of the migrant Martín Antonio Figueroa Landaverde and other foreigners of Salvadoran nationality

Addressee Authority: National Institute of Migration

On November 21, 2006, at the entrance to the city of Palenque, Chiapas, personnel from the National Institute of Migration (INM) requested and verified the immigration documents of Mr. Martín Antonio Figueroa Landaverde, Mr. Willians Enrique Cerón Avelar or William Enrique Avelar Cerón, Mrs. Jacqueline Lissette Padilla Orellana, Mrs. Sandra Carlina Menjivar Mena or Mrs. Sandra Carolina Menjivar and Mr. Williams Ernesto Menjivar Martinez or Mr. William Ernesto Martinez Menjivar, whom they let continue on their way. Nevertheless, that same day, in the hotel where they were staying, Immigration agents returned to review their documents, and because of supposed irregularities in their immigration forms they arrested them, taking them to the immigration station in that area, to investigate further the authenticity of their forms. The following day, November 22, they arrived at the immigration station of the INM in Tapachula, Chiapas with the status of deportees.

From the logical-judicial analysis of the evidences which comprise the file, it was accredited that said agents violated the rights of legality and judicial certainty of the aggrieved individuals, since they never received a warrant nor a summons when they were arrested, nor was the corresponding form filled out, limiting the agents to yield an informative report.

On September 5, 2007, this National Commission issued the Recommendation 36/2007 to the Commissioner of the INM, wherein a review was requested of the Internal Organ of Control for the Ministry of Public Function in that Institute in order to initiate and resolve in accordance with Law an administrative investigation proceeding, first, against the federal Immigration agents attached to the Local Sub-delegation of the INM in Palenque, Chiapas, and second, against the local delegate of the INM in that city, Mr. José Manuel Santiago Prospero, the one responsible for the immigration proceeding, for the deficiencies and irregularities in that proceeding, as well as for not having reviewed the irregular behaviors of the federal immigration agents. Finally, to instruct the corresponding person so that the public servants of the INM are trained with respect to the required observance of the formalities of the proceeding on migratory issues, so as to avoid omissions and irregularities such as those that were evidenced.

Recommendation 37/2007

September 21, 2007

Case: Of 14 women victims of attacks on their personal integrity and sexual freedom

Addressee Authority: Ministry of National Defense and Congress of the State of Coahuila

On July 20, 21, and 27, 2006, this National Commission received the written complaints that four Non-Governmental Human Rights Organizations and a network comprised of six civil associations presented which enumerated presumed violations of human rights committed by elements of the military from Regiment 14/o. of the Motorized Cavalry of the Ministry of National Defense, against the sexual freedom and personal integrity of 14 women who work in the bars "El Pésico Dancing" and "Las Playas Cabaret", inclusive, they abused one of them violently and they induced the abortion of another woman who was pregnant.

Similarly, on August 8 of the same year, this National Commission received a letter from the Diocese of Saltillo, which requested that this National Commission investigate the appropriate integration of the preliminary inquiries started in the Public Prosecutor's Office for the State of Coahuila against the military elements of the Ministry of National Defense; at the same time, it requested that preventative or precautionary measures be taken to guarantee the physical and psychological integrity of the aggrieved persons and their families.

With attention to the severity of the acts, on August 8, 2006, this National Commission requested that the Public Prosecutor's Office of Military Justice adopt the precautionary measures to guarantee the respect for the physical and psychological integrity of those who offer their services in the bars "El Pésico Dancing" and "Las Playas Cabaret", for the municipal police who were injured on July 11, 2006, in the zone of tolerance in Castaños, Coahuila, as well as for their respective families, those which were accepted by said authority.

On August 15, 2006, this National Commission received a letter signed by the 14 aggrieved women in which the complaints presented in this National Institution were confirmed; they designated their legal representatives; they requested that this National Organism watch over the ministerial proceeding being carried out in Monclova, Coahuila, and that their identity be maintained in strict secrecy.

From the logical-legal analysis realized together with the evidences that make up the complaint file number 2006/3789/2/Q, this National Commission accredited the violation of the human rights of personal integrity (physical, psychological, and moral), sexual freedom and integrity, to a life free from violence, as well as violations to rights of legality and judicial certainty and irregular integration of preliminary inquiry in detriment to 14 women who on the day of the events were providing their services in the bars "El Pésico Dancing" and "Las Playas Cabaret" in the zone of tolerance in Castaños, Coahuila, as well as the right to life for the product of conception.

Due to the above, this National Commission issued Recommendation 37/2007, on September 21, 2007, directed to the General Ministry of National Defense to the effect of:

FIRST. Issue instructions for the review of the Inspections Unit and Comptroller General's office of the Army and Air Force, to initiate an administrative investigation proceeding and, at the appropriate time, to inform this National Commission from the beginning of the investigation until the conclusion of the respective proceeding, as well as of the resolution that is emitted and, upon accrediting behaviors constituting a crime, to request that the social representative for the military police begin the respective investigation.

SECOND. Review the Inspections Unit and Comptroller General's office of the Army and Air Force, in order to initiate an administrative investigation proceeding, for presumed participation in the events which occurred on July 11, 2006, in the zone of tolerance in Castaños, Coahuila.

THIRD. Review the Inspections Unit and Comptroller General's office of the Army and Air Force, in order to initiate an administrative investigation proceeding against the personnel who authorized the discharge of a soldier, in spite of finding him involved in the events which occurred on July 11, 2006.

FOURTH. Review the Inspections Unit and Comptroller General's Office of the Army and Air Force, in order to begin an administrative investigation proceeding against the personnel who gave to this National Commission incomplete, incorrect, and contradictory information.

FIFTH. Give the necessary collaboration to succeed in finding and apprehending 3 soldiers who continue to be fugitives from legal action.

SIXTH. Notify the Inspections Unit and Comptroller General's office of the Army and Air Force to begin an administrative investigation proceeding against the military personnel who participated in the events, who carried the regulation uniform, loaded fire arms, being on board of an official vehicle, and in the appropriate moment, to determine what corresponds to law, with the obligation to inform this National Commission from the start until its conclusion.

SEVENTH. Issue instructions to the corresponding persons, in order to realize the necessary procedures and immediately do the reparation of damages in favor of the 14 women and seven police.

EIGHTH. Issue instructions to the corresponding persons, so that troop personnel, chiefs, and officials for the Mexican Army are instructed and trained with respect to the treatment they must give to women, in order to avoid acts of violence of whatever type against them: as well as issues relating to the prevention and eradication of torture.

NINTH. Issue instructions to the corresponding persons, so that the necessary procedures are realized with respect to the reparation of the physical, psychological, and medical damages for the aggrieved persons, designed to reduce the suffering which presents itself in each case in particular, through an institution of health, satisfactory to the aggrieved, for whatever time is necessary, in the terms indicated in the final part of the chapter of observations in this recommendation.

To the Governor of the State of Coahuila:

FIRST: Issue instructions to initiate, integrate and resolve a preliminary inquiry for the crime of abortion committed by military personnel, in the early morning of July 11, 2006, in the zone of tolerance in Castaños, Coahuila.

SECOND. Issue instructions to initiate integrate and resolve preliminary inquiries for the presumed crimes of torture committed in detriment to 14 women and 7 police, with obligation to inform this National Commission from the beginning to end of the inquiry.

THIRD. Initiate an administrative proceeding of responsibility for the medical expert attached to the Coordination of Forensic Services, Central Region, from the Public Prosecutor's Office for the state of Coahuila, who determined that there existed no relationship between the abortion and the physical and sexual aggression of which the woman was victim, and inform this National Commission from beginning to end of the proceeding.

FOURTH. Review with the purpose of initiating an administrative proceeding against the investigating agent of Castaños, Coahuila, for the irregularities in the compiling of the preliminary inquiry motivated by the acts of July 11, 2006, and inform this National Commission from beginning to end of the proceeding.

FIFTH. Continue with the actions and oversights necessary to find and apprehend the military personnel who are fugitives from the law.

To the President of the Board of Directors for the LVII Legislature of the H. Congress of the State of Coahuila:

FIRST AND ONLY. Issue the necessary instructions to the corresponding persons to investigate all the acts, omissions, and irregularities that are accredited within the body of this recommendation and that are attributed to the Municipal President for the tolerance of private prisons next to saloons and bars, as well as to the personnel from the Directorate of the Municipal Preventative Police and Civil Protection for Castaños, Coahuila, for the deprivation of freedom, illegal detention, that which diverts the meaning of public security, and when appropriate, respecting what the law requires.

Recommendation 38/2007

September 21, 2007

Case: On the events which occurred on May 2, 3, and 4, 2007, in the Municipalities of Nocupétaro, Carácuaro and Huetamo, in the State of Michoacán

Addressee Authority: Ministry of National Defense

On May 3, 2007, the State Human Rights Commission of Michoacán received a telephone call from a Mr. Marco Antonio García Galindo, Municipal President of Nocupétaro, Michoacán, wherein he asserted violations of human rights in detriment to inhabitants of the cited municipality, consisting of arbitrary detentions, torture, inappropriate exercising of public function, searches, as well as attacks on the physical integrity and violation of the right to legality and judicial certainty, motivated by the events of May 2 and 3, 2007, in the municipality of Nocupétaro, Michoacán. He indicated that in that place, elements of the Mexican Army, from the Federal Agency of

Investigation and from the Attorney General's Office, had carried out illegal searches in homes of inhabitants of the cited municipality and apprehended people without informing them of the corresponding judicial orders, causing damage to their property and that, in some cases, people were seen tied to posts, and even one man was seen being asphyxiated by submersion in a water tank.

As such, from information gathered from newspapers and other means of communications, the events that motivated the complaint had their origin after an ambush against military elements on May 1, 2007, in Carácuaro, Michoacán, by armed groups, and wherein five soldiers were killed, causing the displacement of hundreds of soldiers to the place of the events, generating the acts which motivated the complaint analyzed in this recommendation, in light of the fact that from demonstrations of aggrieved people and testimonies gathered, after the aggression towards the soldiers, they carried out acts against their human rights upon entering various individual homes without permission from the owners and without search warrants, causing damages, theft, and in some cases, arbitrary detentions and injuries against their inhabitants.

By virtue of the preceding, this National Human Rights Commission formulated the following recommendations for the General Ministry of National Defense:

FIRST. Notify the Inspections Unit and Comptroller General's office of the Army and Air Force, in order to begin an administrative investigation proceeding against the military personnel who participated in the events concerning the present recommendation, for the actions and omission specified in the observations chapter of this document, as well as in the individual identification number that for each specific case are comprised within this recommendation and, in the appropriate moment, to keep this National Commission informed from the start of the investigation until the respective resolution of the procedure.

SECOND. Notify the agent of the Military Public Prosecutor's Office with a copy of the present recommendatory document and carry out as quickly as possible the preliminary inquiry 21ZM/20/2007, which was begun against the military personnel for the acts and omissions specified in the observations chapter of this document, especially related to the elements of the Army that detained, moved, held in the installations of the military compound of the Military Zone 21/a. of Morelia, Michoacán, and put the aggrieved minors A26, A27, A28 and A29, at the disposal of social representation of the Federation, and inform this National Commission of its resolution.

THIRD. Issue instructions to the corresponding person, in order to realize the necessary procedures and, immediately make the reparations of physical, psychological, and medical damage, favoring the aggrieved persons, detained and illegally held in the installations of the military compound of Military Zone 21/a. in Morelia, Michoacán, and submitted to cruel, inhumane, and/or degrading treatment, causing injuries, on the part of the military elements involved in their detention, move, and holding, in terms of that which is indicated in the observations chapter of this recommendation, and inform this National Commission of its completion.

FOURTH. Issue instructions to the corresponding person, in order to realize the necessary procedures and, immediately make the reparations of damages favoring the victims of damages to homes and theft of various objects, on the part of the military personnel who participated in the events concerning the present recommendation, and inform this National Commission of its completion.

FIFTH. Notify the agent of the Military Public Prosecutor's Office with the contents of the present recommendatory document, in order to begin the corresponding preliminary inquiry, for irregular behaviors committed by the involved military elements, denounced before the agent of the Federal Attorney General's Office by the aggrieved persons in terms of the observations chapter of this recommendation, consisting of injuries and presumed acts of torture, if that is the case, increase the exercise of penal action for the crimes referenced against the responsible military personnel, and inform this National Commission from the start of the investigation until the corresponding resolution of the inquiry.

SIXTH. Issue instructions to the corresponding person, in order to instruct and train the elements of the Mexican Army with respect to behavior they must display to respect Human Rights of the individuals while carrying out the functions with which they may be entrusted, and inform this National Commission of its completion.

SEVENTH. Issue instructions to the corresponding person, so that within the scope of their powers, they establish themes and actions for the appropriate prevention of conducts such as those accredited, through the training of military elements on the use of force and of firearms, extending said training to those troops, chiefs and officials, and inform this National Commission of its completion.

EIGHTH. Issue instructions to the Inspections Unit and Comptroller General's office of the Army and Air Force, to establish the corresponding administrative procedures for responsibility against the public servants who slowed down the investigation work of this National Commission by giving partial, delayed, and contrary to the historical truth of the events, in terms of the observations indicated in this recommendation, and inform this National Commission of its completion.

Recommendation No. 39/2007

September 21, 2007

Case: On the violent events occurring on May 7, 2007, in the city of Apatzingán, in the State of Michoacán

Addressee Authority: Ministry of National Defense

On May 7, 2007, this National Commission, by virtue of the information collected from the monitoring of newspapers and other means of communications from that date, took notice of events which violated human rights, in light of the fact that, being approximately 10:30, in the streets of the Miguel Hidalgo neighborhood, in the municipality of Apatzingán, Michoacán, the Mexican Army probably used a bazooka, during a battle with presumed drug dealers, taking the lives of four persons (one woman and three men), on which the corresponding complaint was started and assigned the file number 2007/1944/2/Q.

From the investigation realized by this National Commission, various evidences are available which give notice of human rights violations relating to integrity and personal security, to legality and judicial certainty; similarly, to personal freedom and the right of minors to have their integrity protected, the military authority being responsible for arbitrary detentions, torture, cruel and/or degrading treatment, lack of communication and inappropriate imputation of the events, in detriment to the aggrieved persons cited in the body of this recommendation, who were detained and put at the disposal of the agent of the Public Prosecutor's Office of the Federation, as well as in detriment to those who were victims of searches, damages to their homes, theft of their possessions, and the inappropriate exercise of public function on the part of elements of the Mexican Army.

Resulting from the above, this National Commission, on September 21, 2007, issued the recommendation 39/2007, directed to the General Ministry of National Defense, in the following terms:

FIRST. Notify the Inspection Unit and the Comptroller General for the Army and Air Force of the present document, in order to start an administrative investigation proceeding against the military personnel involved in the events relating to the present recommendation, for their actions and omissions specified in the chapter of observations of this document, and in its opportunity, to inform this National Commission from the start of the investigation until the resolution of the respective proceeding.

SECOND. Notify the Military Public Prosecutor's Office of the present document in order to carry out as quickly as possible the preliminary inquiry 43ZM/07/2007 which was initiated against military personnel for the acts and omissions specified in the chapter of observations from this document, and when appropriate, inform this National Commission of its resolution.

THIRD. Issue instructions to the corresponding person in order to realize the necessary procedures, and immediately bring about the reparations of damages in favor of Mr. Bernardo Arroyo López, Raúl Zepeda Cárdenas, Mr. Alejandro Juvenal Guzmán Suastegui, Mr. Gustavo Orozco Villegas, Isaías Suastegui Ponce, Mr. Miguel Valerio Durán, Mrs. Teresa Valencia González and of the minor MCR, for having been illegally detained and submitted to an investigation and, upon completing this, notify this National Human Rights Commission.

FOURTH. Issue instructions to the corresponding person in order to carry out the necessary procedures, and immediately affect the reparation of damages in favor of Mrs. Claudia Sánchez Pineda, Mrs. María Guadalupe Alemán Maravilla, Mrs. Lorena Vázquez Sánchez and Mrs. Julia Valencia Serrato, as well as Mr. Margarito Toledo Cervantes, Mr. Juan Gabriel Palomares Farias, Mr. Mario Espino Sánchez, Gilberto Ochoa Serpas, Mr. Lenin de Jesús Quiroz Lozano and Mr. Juan Sandoval Padrón, for having been victims of damages to their homes and the theft of various possessions on the part of military elements who carried out attacks against property (searches, damages, and theft) and, upon complete the above, punctually notify this National Human Rights Commission.

FIFTH. Issue instructions to the corresponding person, in order to instruct and train the elements of the Mexican Army with respect to the behavior they must exhibit in order to respect human rights of individuals during the carrying out of the functions with which they are entrusted, and upon completing this, punctually notify this National Human Rights Commission.

SIXTH. Issue instructions to the corresponding person, so that, within the scope of their power, establish axis and actions to adequately prevent behaviors such as those accredited be established, thought the training of the military elements on the use of force and of firearms, extending said training to the superior commanders who in the way of support or collaboration may become commissioned to be in charge of that Ministry, and completing the above, punctually notify this National Human Rights Commission.

SEVENTH. Issue instructions to the Inspection Unit and Comptroller of the Army and Air Force, in order to establish the corresponding administrative proceedings of responsibility against the public servants who slowed down the investigation work of this National Commission by giving partial and delayed information, contrary to the historical truth of the events, in terms of the observations indicated in this recommendation and, upon realizing the above, punctually inform this National Human Rights Commission.

Recommendation No. 40/2007

September 21, 2007

Case: On the case of the family of Mrs. Esparza Galaviz and others, in the Municipality of Sinaloa de Leyva, in the State of Sinaloa.

Addressee Authority: Ministry of National Defense.

On June 2, 2007, this National Commission received a telephone call from Mr. Rubén Palazuelos Ortiz, in which he asserted violations of human rights, consisting of violations of the right to life, to integrity and personal security, among others, committed by elements of the Mexican Army in detriment to Mr. Adán Abel Esparza Parra, Mrs. Griselda Galaviz Barraza and Mrs. Gloria Alicia Esparza Parra, as well as to the minors Teresa de Jesús Flores Sánchez, Eduin Yoniel Esparza Galaviz, Grisel Adanay Esparza Galaviz, Juana Diosnirely Esparza Galaviz, and Josué Duvan Carrillo Esparza.

Motivated by the referenced events, the complaint file number 2007/2346/2/Q was initiated, wherein, in order to have a complete, clear and documented diagnosis of the violations of human rights committed in detriment to the aggrieved persons, a team comprised of a total of nine associate visitors and two experts from this National Commission in charge of finding and compiling information, testimonies, as well as documents carried out an array of field work; having also obtained photographic and film evidences of the

aggrieved persons and their families, as well as of the place of the events. In parallel form to said steps, the corresponding reports were solicited from the involved authorities.

It bears specifying that from the investigation brought about by this National Commission, various evidences which give notice of violations of human rights have been successfully gathered, consisting in the violation of the right to life, to integrity, and personal security, to legality, and judicial certainty, as well as to freedom of movement, as well as irregular acts and omissions consisting in the refusal of assistance to the victim of crime, arbitrary detention, violation of the rights of minor to the protection of personal integrity, irregular integration of the preliminary inquiry and an inappropriate exercise of the public function, in detriment to the persons who were killed resulting from the events subject to this recommendation, as well as those who were injured; and in detriment to Mr. Omar Flores Sánchez, José Luis Flores, Mr. Gorgonio Flores Lara and Mr. Mario Galaviz, who were deprived of their personal freedom and freedom of movement, by elements of the Mexican Army, while helping injured people. Carry out the preceding, in attention to the following considerations:

With the demonstrated behavior by the elements of the Mexican Army, fundamental rights were violated, and as a result of the above, this National Commission, on September, 21, 2007, issued the Recommendation 40/2007, directed to the General Minister of National Defense, in the following terms:

FIRST; Notify the Inspection Unit and Comptroller General of the Army and Air Force, in order to initiate the corresponding administrative investigation proceeding against the military personnel who were involved in the events related to this present recommendation, for their actions and omissions, particularly during the transport of injured people to a hospital to receive emergency medical attention, as well as against the agent of the Military Public Prosecutor's Office, who integrated the preliminary inquiry 9ZM/36/2007, for the acts and omissions specified in the observations chapter of this document and, report back to this National Commission from the beginning of the investigation until its conclusion of the respective proceeding, as well as the resolution that will be emitted.

SECOND. Notify the Attorney General of Military Justice so that the contents of the present document are made known to the military judge, that is judging the criminal trial 1531/2007, in the Third Military Region with headquarters in Mazatlán, Sinaloa, through the attached Military Public Prosecutor's Office, as well as the Inspection Unit and Comptroller General of the Army and Air Force, so that it be taken into consideration by the cited judicial organ and the referenced comptroller unit, in the moment of handing down the sentence and administrative resolution that they consider precedents, respectively against the 19 military elements consigned and involved in the events concerning this recommendation.

THIRD. Notify the Attorney General of Military Justice in order to start the respective preliminary inquiry against the military personnel who obstructed and delayed the movement of the injured persons from the place of the events to the Integral Hospital of Badiraguato, Sinaloa, as well as the agent of the Military Public Prosecutor's Office who integrated the preliminary inquiry 9ZM/36/2007, for the acts and omissions specified in the observations chapter of this document, and report back to this National Commission from the beginning of the investigation until its completion.

FOURTH. Issue instructions to the corresponding person to carry out the necessary procedures with respect to the reparation of the physical, psychological, and medical damages in favor of Mr. Adán Abel Esparza Parra, and of the minors Josué Duvan Carrillo Esparza and Teresa de Jesús Flores Sánchez, as well as the relatives of those whom in life carried the names of Griselda Galaviz Barraza, of her minor children Juana Diosnirely, Grisel Adanay and Eduin Yoniél, the three with last names of Esparza Galaviz, and of Gloria Alicia Esparza Parra, designed to reduce the suffering which are felt in each case in particular, through an institution of health satisfactory to the aggrieved, for whatever time is necessary, in the terms indicated in the final part of the observations chapter of this recommendation.

FIFTH. Issue instructions to the corresponding person to carry out the necessary procedures with respect to the reparation of the material damages caused to the red ford pickup truck, which was carrying the aggrieved persons, license plate number TW 48-927 from the State of Sinaloa, to the owner of the property.

SIXTH. Notify the Attorney General of Military Justice in order to begin the respective investigation of the irregular behaviors that were not considered during the integration of the preliminary inquiry 9ZM/36/2007, and that have been specified in the observations chapter of this recommendation, in the point relative to the irregular integration of the preliminary inquiry, in order to exercise its legal faculties and, if that is the case, increase the exercise of penal action for accredited crimes, and report back to this National Commission from the start of the investigations until their completion.

SEVENTH. Issue instructions to the corresponding person, to instruct and train the officials of the Mexican Army with respect to the conduct they must display in order to respect human rights of individuals while carrying out the functions with which they have been entrusted.

EIGHTH. Issue instructions to the corresponding person, in order to implement a control mechanism so that the military public servants attached to that Armed Institute be subjected to toxicological exams periodically, in such as way as to impede elements of their command with drug addiction from carrying out actions against narco-trafficking.

NINTH. Issue instructions to the corresponding person, so that in the scope of their power, axis and actions for the adequate prevention of behaviors such as those accredited, be established through the training of the military elements on the use of force and of firearms, extending said training to the superior commanders who by way of support or collaboration are commissioned to be in charge of that Ministry.

TENTH. Issue instructions to the Inspection Unit and Comptroller General of the Army and Air Force, in order to establish the corresponding administrative proceedings of responsibility against the public servants who slowed down the investigation work of this National Commission by giving partial and delayed information contrary to the historical truth of the events.

Recommendation 41/2007

September 26, 2007

Case: Of the policy holders of the General Hospital of Zone Number 53 of the IMSS

Addressee Authority: General Director of the Mexican Institute of Social Security.

On August 24 and 30; September 1,6,7, and 11, and December 7 and 14, 2006, this National Commission received the written complaints that numerous policy holders of the General Hospital of Zone (HGZ) Number 53 of the Mexican Institute of Social Security, presented through the Support Group for Persons with AIDS (GAPES). In the same way, on February 14 and 16, 2007, this National Commission received complaints presented by C1 and C2, representing the organizations GAPES and Mexsida, wherein the acts were indicated presumably in violation of Human Rights with respect to the protection of health and of confidentiality, committed in detriment to the policy holders of the General Hospital of Zone Number 53, by public servants of the Mexican Institute of Social Security.

As a result of the above, this National Commission issued, on September 26, 2007, Recommendation 41/2005, directed to the General Director of the Mexican Institute of Social Security, requesting him to adopt the necessary administrative measures so that the medications, which are required by the policy holders from the HGZ Number 53 from the Mexican Institute of Social Security and by all other hospital dependents from the National Institute, be delivered at all times and immediately, by virtue of the exposed considerations in the observations chapter of the present Recommendation; furthermore, to take the adequate measures to regularize the supply of medication in the pharmacies for the Mexican Institute of Social Security and in the warehouses of all the delegations in which the IMSS is divided on the national level, in accordance with the established dispositions that were established toward that effect, to avoid future shortages of supplies and the delay of the delivery of antiretroviral medication for the policy holders of Social Security, in order to not put at risk the treatments to which they are subject, and avoid a worsening of their state health, and report back to this National Commission of the results of the actions carried out; in the same way, establish permanent training programs for the personnel regarding the rules relating to the patients of that Institute with this type of suffering, to safeguard their rights at all times, and avoid similar situations in the future, as well as communicate periodically to this National Commission the results that exist on said matter; similarly, issue instructions to increase the oversight of the Internal Organ of Control in the IMSS, for the events which occurred in the HGZ Number 53 of the IMSS, based on the referenced considerations in the present document, with the object being to carry out an administrative proceeding against the personnel responsible for administrating, providing and delivering the antiretroviral medications, as well as about the exhibition of the lists in the referenced hospital, keeping this National Commission informed until its resolution.

Recommendation 42/2007

September 26, 2007

Case: Appeal by Mr. Federico Cavia Orta

Addressee Authority: H. Constitutional City Council of the Municipality of Huitzilac, State of Morelos

On August 10, 2006, this National Commission initiated the file 2006/281/4/RI, motivated by the appeal interposed by Mr. Federico Cavia Orta, wherein he specifies as a grievance the non-acceptance, on the part of the municipal President of Huitzilac, Morelos, of the Recommendation derived from the file 17/2006-3, which the Human Rights Commission emitted to the State of Morelos on May 3, 2006, and which was started in virtue of the refusal of that City Council to give a response to the letter presented by the now appellant. From the analysis carried out, it appears that once the Local Organism finished the investigation of the file 17/2006-3, it confirmed that there existed a lack of response by the municipal authority to the petition by Mr. Federico Cavia Orta, presented in writing on November 17, 2005, which had the seal of receipt from the City Council of Huitzilac, Morelos.

Because of that, this National Organism considered the pronouncement of the Human Rights Commission for the State of Morelos to be correct and adherent to law, upon deeming the Municipal President of Huitzilac, Morelos, committed the violation of the right of petition protected by article 80. from the Political Constitution of the United States of Mexico, in detriment to Mr. Federico Cavia Orta.

As a consequence, on September 26, 2007, this National Commission emitted Recommendation 42/2007, directed to the Constitutional City council from the municipality of Huitzilac, Morelos, in which it was requested that instructions be issued for the completion, on its terms, of the Recommendation derived from file 17/2006-3, which the Human Rights Commission for the State of Morelos emitted on May 3, 2006.

Recommendation 43/2007

September 26, 2007

Case: Of Mr. Juan Ignacio García Zalvidea

Addressee Authority: Governor of the State of Quintana Roo; President of the XI Legislature of the H. State Congress of Quintana Roo; H. Constitutional City Council of Benito Juárez, for the State of Quintana Roo.

On January 10, 2007, this National Commission attached the investigation upon the actions or omissions on the part of public servants who, while completing their assignment, participated in the investigations contained in the administrative proceedings and criminal record which was established against Mr. Juan Ignacio García Zalvidea, initiating for it the complaint file 2007/172/1/Q, wherein a collection of evidences was added that accredited that the Superior Audit, the Public Prosecutor's Office, and the municipality of Benito

Juárez, all those from the State of Quintana Roo, committed actions that implied a deprivation of the right to personal freedom; violation of judicial certainty, of legality, of defense, and of due process; the right of all people to have their dignity respected, and the presumption of innocence, that which led to an inappropriate exercise of duty and an incompleteness of the public function in the procurement of justice.

Under those circumstances, on September 26, 2007, this National Commission issued Recommendation 43/2007, directed to the Governor of the state of Quintana Roo, requesting him to intervene in the corresponding Internal Organ of Control, in accordance with the norms, to start an administrative investigation against the public servants of the Attorney General of that federative entity that committed the cited actions and omissions, and to report back periodically to this National Human Rights Commission, on the actions taken by the cited administrative authority, from the start of its intervention until its conclusion; furthermore, notify the corresponding Social Representation to begin a preliminary inquiry against the cited public servants, in order to investigate the possible unlawful conducts which they committed in the exercise of their functions and, completing the above, punctually inform this National Human Rights Commission of the actions taken, from the start of the intervention until its conclusion; in the same way, encourage all public servants who have as part of their responsibilities the integration of preliminary inquiries the urgent necessity which the institution of the Public Prosecutor's Office to align their actions strictly to the guidelines established in the criminal legislation that regulates the Mexican legal order, through training courses and updates, that would allow them to act in the exercise of their functions with legality, honesty, loyalty, impartiality, and efficiency which that service demands; similarly, issue instructions to the head of the Attorney General's Office for that federative entity, in order to quickly promote the impartation of courses for functionaries in charge of making that institution comply with the law, so that they know and respect the Human Rights of the citizens, and, finally, to take the appropriate measures to guarantee that the right of the presumption of innocence be effective to all who find themselves in situations similar to that of the aggrieved in the present Recommendation, with the intention of insuring that the people not be deprived of their freedom without exercising their right to defense in accordance with the essential formalities of the proceeding.

To the President of the XI Legislature of the State Congress of Quintana Roo, it is recommended to intervene in the corresponding Internal Control Organ, in conformity with the guidelines which regulate the Law of Responsibilities of Public Servants existing in that federative entity, in order to begin an administrative investigation against the President of the Commission of the Treasury, Budget and Account from the XI Legislature of the H. State Congress from Quintana Roo; against the Municipal President of Benito Juárez, Quintana Roo; against the then acting head of the Superior Audit for the State of Quintana Roo; against the Judicial Coordinator, attached to the Directorate of Legal Matters for the Superior Audit of the state, and against the head of the Superior Audit for the same federative entity, who committed actions and omissions described in the observations chapter of the present Recommendation; furthermore, the first and the last of those mentioned, for having not yielded the report that was required of them, and upon completing the above, punctually inform this National Human Rights Commission about the actions which the cited administrative authorities carried out, from the beginning of their intervention until the conclusion; furthermore, in conformity with the guidelines that regulate the Law of Responsibilities of the Public Servants, in concordance with the Current Substantive Criminal Code for that federative entity, notify the corresponding Social Representation, in order to initiate a preliminary inquiry against the cited public servants, so that the possible unlawful behaviors are investigated which they committed in the exercise of their functions and, upon completing the above, punctually notify this National Human Rights Commission of the actions taken, from the beginning of the intervention until its conclusion.

To the members of the H. Constitutional City Council of Benito Juárez, Quintana Roo, it is recommended to intervene in the corresponding Internal Control Organ, in conformity with the guidelines which regulate the Law of Responsibilities of Public Servants existing in that federative entity, in order to begin an administrative investigation against the public servants, then attached to the Directorate General of Public Security, Transit, and Fire Fighters from the municipality of Benito Juárez, Quintana Roo; against the Union and the Director of Legal Matters for the cited municipality, respectively, who committed the actions and omissions described in the observations chapter of the present Recommendation, and with respect to the last of those mentioned for having failed to yield the report that was required, and upon realizing the above, punctually report back to this National Human Rights Commission about the actions taken by the cited administrative authority, from the beginning of its intervention until the conclusion; furthermore, and in conformity with the guidelines that regulate the Law of Responsibilities of Public Servants, in concordance with the Current Substantive Criminal Code for that federative entity, notify the corresponding Social Representation in order to start a preliminary inquiry against the cited public servants, in order to investigate the possible unlawful behavior committed in the exercise of their functions, and, upon completing the above, punctually let this National Human Rights Commission know about the actions taken, from the beginning of the intervention until its conclusion.

NATIONAL AFFAIRS

On September 5, the "Forum of Analysis of Human Rights of Persons with Disabilities," was carried out in the city of Villahermosa, Tabasco, an event which was convoked by the National Human Rights Commission, the Tribunal of Justice for the State of Tabasco and the System for Integral Development of the Family from that entity. At said event the First Visitor General of the CNDH, Raúl Plascencia Villanueva José Luis Soberanes Fernández.

It included the participation of academics and national and foreign researchers, municipal coordinators from Tabasco, members from the National Council to Prevent Discrimination, from the National Council for Persons with Disabilities, from the National System for the

Integral Development of the Family and from the Ministry of Work and Social Precaution, as well as federal, state, and municipal public servants.

The Forum was inaugurated by the Governor Andrés Rafael Granier Melo and was carried out in the auditorium of the College of Police and Transit for the Ministry of Security, the Commissions and State Public Prosecutor's Offices of Human Rights, Non-Governmental Organizations, Civil Associations, media, and the general public, all took part as well, and discussed the responsibilities of the states and the goals they should reach in relation to the that vulnerable group, in order to avoid their discrimination, since the distinction that is made towards persons with disabilities is a practice that impedes or annuls the recognition, enjoyment, or exercise of their human rights and fundamental freedoms.

Participating in the diverse discussion panels were specialists such as Dr. Orlando Anisen Carrión, coordinator of the Center for Rehabilitation and Special Education of the DIF- Tabasco, who gave a comparative analysis of the human rights of disabled people; Dr. Blanca Tosca Mena, Coordinator of Regulations from Attention Centers for the Directorate of Attention to Persons with Disabilities from the DIF- Tabasco, spoke about "Accessibility to the Freedom of Movement of Persons with Disabilities".

The President of the Local Board of Conciliation and Arbitration for that entity, Eglá Cornelio Landero, developed the theme "Productivity of Persons with Any Disability", and Jesús Tosca Torres, president of the Tabascan Association of Sports in Wheelchairs, expounded on the theme "Disability in Sports".

Also participating in the Panel on "The mistreatment towards persons with disabilities", which was moderated by Mrs. Victoria Adato Green, Coordinator of the Program of Women's, Children, and Family Issues for the CNDH, were the Sub-Public Prosecutor for the entity, Oscar Rebolledo, who spoke on "The Legal Framework of Accessibility in Tabasco"; Dr. Guadalupe Cano de Ocampo, Professor from the Autonomous University of Tabasco, who spoke about the "Mistreatment of Minors with Different Capabilities" and the sub-director of the Legal Council of the State, Lilia Hortensia Maldonado García, who addressed the theme "The Human Rights in Law for the Protection and Development of the Disabled in the State of Tabasco".

Other conferences were also presented, among them being, "The Culture of Respect of Human Rights of Persons with Disabilities", by Dr. Javier Moctezuma Barragán, Executive Secretary of the CNDH; "Current Sketch of Persons with Disabilities in Mexico", by Dr. José Javier Osorio Salcido, Technical Secretary of the National Council for Persons with Disabilities.

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