

# NEWS LETTER

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### MEETING OF THE BOARD OF DIRECTORS OF THE INTERNATIONAL OMBUDSMAN INSTITUTE (OII)

From the 5th to the 9th of November, 2007, took place meeting of the Board of Directors of the International Ombudsman Institute (IOI) in the city of Sydney, Australia.

In the aforementioned meeting, Javier Moctezuma, Secretary Executive of the CNDH, presented the Latin America and the Caribbean Regional Report, as well as the Ombudsman of Peru project, called Strengthening the Institutional Capabilities of the Ombudsman of Peru: Design and Implementation of Virtual Classrooms, in order to obtain financial support from the IOI.

From the aforementioned meeting, the CNDH, as Vice-President for Latin America and the Caribbean of the IOI, obtained the financial support for the Ombudsman of Peru. Also, the President of the CNDH, José Luis Soberanes Fernández, manifested the interest of the institution of having an active participation in the celebration of the Bicentennial of the establishment of the Swedish Ombudsman in Stockholm in June 2009; and it was agreed that the next meeting of the Board of Directors of the IOI will take place in November 2008 in Hong Kong.

During the working visit, in Sydney, Australia, Javier Moctezuma, Secretary Executive of the CNDH, met with Mr. Graeme Innes, Commissioner for the Human Rights of persons disabilities from the Australian Human Rights Commission.

The purpose of the meeting was to share the experiences of the Australian Commission in the protection of persons with disabilities.

Javier Montezuma, Secretary Executive of the CNDH, met also with Mr. Kieren Fitzpatrick, Director of the Asia Pacific Forum of National Human Rights Institutions. The meeting was centered on the experiences of the Asia Pacific Forum and the Network of National Institutions to Promotion and Protection of Human Rights of the Americas, as they interact within the International Committee of Coordination of National Human Rights Institutions of (INDH), as well as the elaboration of the Disability Rights Database that the Asia Pacific Forum had proposed in other meetings.

## RECOMMENDATIONS

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

Recommendation 54/2007

November 6th, 2007

Case: Appeal of Mr. Ismael Gómez Barrios and Mrs. Patricia Elizabeth Jasso Arriaga.

Addressee Authority: Government of the State of Nuevo León.

On March 21st, 2007, this National Commission began file 2007/109/1/RI because of the appeal of Mr. Ismael Gómez Barrios and Mrs. Patricia Elizabeth Jasso Arriaga, for the non acceptance of the recommendation 168/06 that the Human Rights Commission of Nuevo Leon, sent, on December 13th, 2006, to the Prosecutors Office for the Defense of the Child and the Family in the same federal state, after they concluded file CEDH/545/06.

From the content of this appeal, this National Commission observed that on July 21st, 2006, the complainants went to the Local Commission to denounce supposed violations of their human rights committed by the personnel of the Prosecutors Office for the Defense of the Child and the Family of Nuevo Leon, because they took away their children, informing them that they were going to be examined at a place known as "Capullos", were not returned home.

When the Local Commission ended its investigation of the case, it was considered that there were violations of human rights committed against the complainants and their children, in reference to the rights of a complete development of the children and to the legality and juridical certainty of their parents, for the aforementioned it was recommended to the Prosecutors for the Defense of the Child and the Family of Nuevo Leon to issue the corresponding resolution to take out the children from "Capullos", as well as to determine within the file, interest of the child the corresponding proceedings according to the law and according to the superior interest of the child, specifically that they have the right to live within a family, it was also requested that through the corresponding jurisdictional authority the personnel of that Prosecutors Office must follow the case and act accordingly to their respective attributions. The authority answered that if didn't accept the recommendation so the complainants presented their appeal.

To attend the case, this National Commission requested, to the abovementioned Prosecutors Office, the corresponding information relating to the case, and the negativity of accepting the recommendation was repeated, arguing that investigations still being carried out in the aforementioned case and that it was not possible to send the case to the jurisdictional authority because that would be done until the release under a provisional custody, of the children was determined.

Because of the aforementioned, this National Commission determined that, although the Prosecutors Office for the Defense of the Child and the Family of Nuevo Leon has the faculty to determine, in urgent cases and in a provisional manner, to commit children in custodial centers, or within public or private institutions as a protective manner, and to save their personal integrity in front of possible eventualities that may harm their development, it is clear that such faculty is not indefinite, or subordinated to the results of a multidisciplinary investigation that has, for the moment, taken more than fourteen months to be concluded.

According to the aforementioned and because of the non acceptance of the recommendation issued by the Human Rights Commission of Nuevo Leon, on November 6th, 2007, this National Commission issued recommendation 54/2007, addressed to the Governor of the State of Nuevo Leon, requesting that instructions be given to whom it may concern to enact recommendation number 168/06 that the Human Rights Commission of Nuevo Leon sent to the Prosecutors Office for the Defense of the Child and the Family.

Recommendation 57/2007

November 29th, 2007

Case: Appeal of Mr. Marco Antonio Reynoso Alcántar.

Addressed Authority: City Council of the Municipality of Zitácuaro, Michoacán

On January 17th, 2006, the Human Rights Commission of the State of Michoacán received a complaint from Mr. Marco Antonio Reynoso Alcántar. He denounced that since 1962, his mother, Mrs. Guillermina Alcántar Maya, "has owned" stand No. 14, that is located in the market "Melchor Ocampo" in the municipality of Zitácuaro, Michoacán, as it has been proven with the municipal license No. 03770, issued on May 14th 2004, and that his mother had transferred it to him.

On January 7th 2005, Mr. Leonardo Garduño Monroy, director of Municipal Public Services, transferred the rights of that stand over to Mr. Gerardo Daniel Alcántar Loo, according to the municipal license No. 11175, and from which, it was possible to see that the number had been altered, and that the signature of the person who issued those documents, and the seals stamped upon them, were not the same.

To attend this case, the Local Commission began file CEDLDH/MICH/02/0016/17/01/06, and arrived at the conclusion that there were unlawful actions in the public service attributed to Mr. Leonardo Garduño Monroy, director of Public Services of the municipality of Zitácuaro, Michoacán, committed against Mrs. Guillermina Alcántar Maya, since he did not verify the necessary requirements to give the corresponding license. So, on June 12th, 2006, the Local Commission sent recommendation 070/2006 to the Municipal President of Zitácuaro, Michoacán.

On November 22nd 2006, the complainant presented to this National Commission the appeal against the non acceptance of recommendation 070/2006 by the City Council of the Municipality of Zitácuaro, Michoacán.

Thus, when this National Commission analyzed the evidence, it was determined that the human rights to legality and juridical certainty were violated by the municipal public servants of Zitácuaro, Michoacán, against Mrs. Guillermina Alcántar Maya, because the public servants had not carried the corresponding legal procedures to give municipal licenses to the commercial stands in the market "Melchor Ocampo".

Because of the aforementioned, this National Commission modified the recommendation issued by the Human Rights Commission of the State of Michoacán, and on November 28th, 2007, issued recommendation 57/2007, to the City Council of Zitácuaro, Michoacán, requesting to give instructions to whom it may concern to initiate the corresponding administrative procedure to determine who has the

legal rights of the commercial stand No. 14, in the market "Melchor Ocampo" in Zitácuaro, Michoacán and if from the investigation it is possible to determine the acts of a crime, to formally present a denouncement to the public prosecutor to initiate the corresponding investigation and to inform, this National Commission the results of this situation. Also, to give instructions to whom it may concern to initiate an administrative procedure against Mr. Carlos Mendoza Maldonado, who was at that time, the head of the treasury department of The City Council of Zitácuaro, Michoacán, according to the observations made in the recommendation, and to determine, according to the law, the respective responsibilities; and to give instructions ,to whom it may concern, to initiate and determine an administrative proceeding against Mr. Leonardo Garduno Monroy, director of Public Services of the municipality of Zitácuaro, Michoacán, for the irregularity incurred in the public service, when he recognized the corresponding rights of commercial stand No. 14 to Mr. Gerardo Daniel Alcántara Loo; and to give instructions to elaborate as soon as possible a commercial stand register in the market "Melchor Ocampo" in Zitácuaro, Michoacán, to know the real legal situation of the people who have them in order to avoid problems such as are apparent in this case.

Recommendation 58/2007

November 29th, 2007

Case: Appeal of Mrs. María Estela Juárez Verduzco.

Responsible Authority: Government of the State of Guerrero

On October 25th, 2006, this National Commission began file 2006/388/1/RI because of the appeal of Mrs. María Estela Juárez Verduzco, in which she denounced the non acceptance of recommendation 047/2006 that the Human Rights Commission of the State of Guerrero, sent to the General Director of the System for the integral Development of the Family in the State of Guerrero, because one of her children had not been sent home and because a copy of the aforesaid recommendation was not filed in the personal file of the corresponding ex Prosecutor for the Defense of the Child and the Family of the System for the Integral Development of the Family (DIF), since her other child had already been sent home.

Since the Human Rights Commission in the State of Guerrero considered the needs of children to be developed within a family nucleus, where they find a stable and a solidarity family environment, to obtain their physical, psychological and moral development, and being the responsibility of parents to contribute to the reaching of those objectives, while the States responsibility in reaching those objectives respectively, is to protect the children's right to live with their parents, unless the existence of a sentence or a judicial order; on August 17th, 2006, said Commission issued recommendation 047/2006, in which it was requested to have the necessary proceedings to bring the children of the complainant back to their home ,with their mother, and to add a copy of said recommendation to the personal file of the ex Prosecutor for the Defense of the Child and the Family of the System for the Integral Development of the Family (DIF), and since the authority had not answered within an appropriate time, on September 28th, 2006, the Local Commission determined the non acceptance of the aforementioned recommendation.

Because of the aforementioned, this National Commission considered that recommendation 047/2006 issued by the Local Commission was appropriate and, in consequence the child should be sent to his home immediately. Thus, on November 28, 2007, this National Commission issued a recommendation 58/2007 addressed to the Governor of the State of Guerrero to give instructions to whomever it may concern, to return the child to his familiar home as soon as possible, in fulfillment the first point of recommendation 047/2006, as was issued on August 17th 2006 by the Human Rights Commission of the Defense of the State of Guerrero, and to give instruction to begin an administrative proceeding against the public servants of the Prosecutor for the Defense of the Child and the Family who participated in the present case; to take in account the considerations of the present Recommendation and to send, when possible, the case to the Public Prosecutor, so that within his functions he starts the preliminary investigation that may proceed.

Recommendation 59/2007

November 29th, 2007

Case: Appeal of Mrs. Beatriz Adriana Zavala.

Responsible Authority: Government of the State of Sinaloa.

On April 13th, 2007, this National Commission received the writ of impugnation that Mrs. Beatriz Adriana Zavala Carrillo presented to the Commission of the State of Sinaloa for the Human Rights; she denounced the non acceptance of the recommendation 09/07 by the Secretary of Public Security of that State.

From the analysis of the content of file 2007/138/1/RI, this National Commission observed that on September 3rd, 2006, elements of the Ministry of Public Security and of the Police Department, both of the State of Sinaloa, detained Mr. Marco Antonio Zaval Carrillo in his residence without any order issued by a competent judicial authority. On September 6th, 2006, Mrs. Beatriz Adriana Zavala Carrillo presented to the Human Rights Commission of the State of Sinaloa the corresponding complaint.

The Local Commission considered that there were violations of human rights and on March 22nd, 2007, it issued Recommendation 09/07 addressed to the Prosecutors Office and to the Minister of Public Security both of Sinaloa. But, the first aforementioned authority answered that they were not going to accept the said recommendation and the second accepted it partially. In consequence Mrs. Beatriz Adriana Zavala Carrillo then presented her appeal.

Thus, when this National Commission analyzed the evidence, it was determined that when the public servants, involved in the facts of the complainants, entered the residence of Mr. Marco Antonio Zavala Carrillo without an order to detain him they violated his rights to legality and juridical certainty.

Because of the aforementioned, this National Commission, on November 28th, 2007, issued recommendation 59/2007, confirming the Recommendation 09/07, which requested the Governor of the State of Sinaloa to give instructions to whomever it may concern to accomplish the whole points of recommendation No. 09/07, issued by the Human Rights Commission of the State of Sinaloa both which was addressed to the Prosecutors Office and to the Secretary of Public Security of the State of Sinaloa on March 22, 2007.

Recommendation 60/2007

November 29th, 2007

Case: Appeal of Mr. Eduardo Guadalupe Jaime Diaz.

Responsible Authority: Government of the State of Jalisco.

On April 5th, 2007, this National Commission started file 2006/122/1/RI because of the appeal of Mr. Eduardo Guadalupe Jaime Diaz, in which he denounced the non acceptance of recommendation 10/2004 that derived from file 1464/03/II, that the Human Rights Commission of the State of Jalisco, addressed on December 22nd, 2004, to the General Prosecutors Office of Jalisco, in which they investigated acts of deprived of communication, injuries and torture, carried out by the public servants of the aforementioned Prosecutors office.

From the analysis done, this National Commission accredited human rights violations to the rights of legality and juridical certainty carried out by elements of the Judicial Police of the State of Jalisco, as well as by the agent attached to the Office of the Prosecutor of the State of Jalisco, against Mr. Eduardo Guadalupe Jaime Diaz, who was deprived of communication and tortured when at 12 o'clock of the 2nd of July, 2003, elements from the City Council of Zapopan, Jalisco detained de complainant, as well as Mr. Alejandro González, when they noticed that the vehicle that Mr. Jaime Diaz was during had its license expired, and that the circulation card did not have the some series numbers that the car had. The public servants proceeded to check the car, and found different objects, as well as a firearm whose property was not accredited by the passengers, that is why were detained, and at 12:35 they were taken to the city council's judge.

Afterwards, at 00:03 hours, on July 3rd, 2003, the detainees were taken to the agent of the Prosecutors Office attached to the 20th Agency, specializing in business and private houses robberies from the General Prosecutors Office of the State of Jalisco, in which criminal investigation 15460/2003 was started at 8:00 hours of that date. It was not until 23:00 hours of the same that personnel of the Human Rights Commission of the State of Jalisco were able to interview the complainant and obtained the ratification of the complaint. It was concluded that from the above mentioned, the complainant was been held deprive of communication for 21 hours by the personnel of the General Prosecutors Office of the State of Jalisco.

Thus, on November 28th, 2007, this National Commission issued recommendation 60/2007 addressed to the Governor of the State of Jalisco requesting to give instructions to whomever it may concern to accomplish recommendation No. 10/04, issued on December 22nd, 2004, by the Human Rights Commission of the State of Jalisco. As well as to pay the damage made to the complainant for the institutional responsibility for the inadequate acts of the personnel involved in the denounced acts, according to the considerations made in the chapter of observations of this recommendation and according to the corresponding articles of the applicable; to adopt the pertinent measurements to take care of the complainant and his family, in any medical and psychological manner that guaranties their recovery and to send the proper documents to prove all the aforementioned to this National Commission.

Recommendation 61/2007

November 29th, 2007

Case: Appeal of Mrs. María del Carmen Corona Gutiérrez.

Responsible Authority: Government of the State of Guerrero.

On July 6th, 2007, this National Commission started file 2007/229/1/RI because of the appeal of Mrs. María del Carmen Corona Gutiérrez in which she denounced the non acceptance of recommendation 19/2007 that the Human Rights Commission of the State of Guerrero, issued, on April 23rd, 2007, addressed to the Secretary General of the Government of Guerrero.

Thus, when this National Commission analyzed the evidence contained in the appeal it determined that the Human Rights Commission of the State of Guerrero issued, in accordance to the law, recommendation 19/2007 since violations to the human rights of legality and juridical certainty were accredited against Mr. Umberto Hollenstein Seoane, committed by the President of the First Local Junta of Conciliation & Arbitration of Acapulco, for the non accomplishment of the public service to administrate justice, since the award was unjustifiably delayed in the labor proceeding 164/2000, in accordance with the deadlines prescribed in the Federal Labour Law what constituted a violation of the Constitutional right of the complainant to have justice administered within the terms the law has established.

For the aforementioned, this National Commission determined that human rights violations to the rights of legality and juridical certainty were committed against the complainant since there was an evident administrative delay in the proceeding committed by the President of the First Local Junta of Conciliation and Arbitration of Acapulco in the Labour Proceeding 164/2000.

For the aforementioned, on November 28th, 2007, this National Organism issued recommendation 61/2007 addressed to the Governor of the State of Guerrero, requesting to give instructions to whomever it may concern to accomplish recommendation 19/07 issued by the Human Rights Commission of the State of Guerrero.

## NATIONAL AFFAIRS

### Award Ceremony of the Third Virtual Rally about Human Rights

The award ceremony of the Third Virtual Rally about Human Rights took place on November 12th of the present year.

"This competence is a way in which society can approach a human rights culture, since its aim is to create a social commitment towards the inherent rights of the humane" said José Luis Soberanes Fernández before the winners of the Rally and the representatives of the institutions and companies that sponsored it, in the opening of the ceremony.

He also expressed that this third edition of the Virtual Rally is an effort to increase the education about the human rights culture. It was a competition that created a channel of information and a direct contact with the Mexican population that uses the Internet, specially young students who are conscious about the importance of the articulation of a project of social relationships based on the respect of the dignity, security and freedom of the persons in an environment of tolerance and mutual recognition.

The winners were: first place, Ricardo Real Peralta, from the State of México; second place, Ana Lourdes Santana Hernández, from Jalisco; third place, Amparo Jiménez Manrique, from Guanajuato; fourth place, Ángel Gabriel Vizcaino Peredia, from Jalisco; fifth place, Ana Karen López Villeda, from the Federal District; sixth place, Milton Carlos Cortés Ortega, from the Federal District; seventh place, José Félix Guerrero Cantarell, from the Federal District; eighth place, Wilder García Reyes, from Hidalgo; ninth place, Daniel Chávez Lujano, from the State of México, and the tenth place, Rosendo Jarillo López, from the State of México.

The winners of the Optional Contest were: first place, Mayumi Elahin Romero Robledo, from the State of México; second place, Ángel Gabriel Vizcaino Peredia, from Jalisco; third place, Héctor León Rodríguez, from the Federal District.

In this ceremony, sitting along with José Luis Soberanes Fernández, Alejandro Pisanty, General Director of the Academy Computer Services of the UNAM; Fernando Rosemberg, representative of the Israel Tribune; Dana Mena Álvarez, from Telmex; Angelina Camacho, from Aeroméxico; Francisco Ramos, from Microasist, and Javier Moctezuma Barragán, Secretary Executive of the CNDH.

## INTERNATIONAL AFFAIRS

### Workshop about the interaction between National Institutions of Human Rights and the Organisms created by International Treaties

From November 26th to the 28th, of the present year, in the city of Geneva, Switzerland, took place the Workshop about the interaction between National Institutions of Human Rights and the Organisms created by Treaties.

The workshop was organized by the Unit of National Institutions of the Office of the United Nations High Commissioner for Human Rights. It was centered on the cases of the Committee against Torture, the Subcommittee of the Prevention of Torture and the Committee of Human Rights.

The aforementioned workshop had the participation of the representative of nine National Institutions, among them, this National Commission, as well members of the abovementioned Committees.

It is important to mention that the workshop was presented as a following procedure of the Conclusions of the Round Table of Berlin about Harmonized Criteria for the Participation of National Institutions of Human Rights in the work of the Treaty Bodies, that took place in Germany, on November, 2006.

From the conclusions, it is relevant to underline the importance of National Institutions of Human Rights (INDHs) in the national, regional and international levels; the support of the Harmonized Criteria for the Participation of INDHs in the work of the Treaty Bodies, adopted by the Round Table of Berlin, the presence of one representative of the International Coordinating Committee in Geneva, to facilitate the interaction between the INDHs and the Treaty Bodies; as well as the importance of the publication Manual for the INDHs about the Treaty Bodies by the German Institute of Human Rights.

## DIRECTORY

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