

NEWS LETTER

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AWARD CEREMONY OF THE NATIONAL HUMAN RIGHTS PRIZE 2007

On December 10th, the President of Mexico, Felipe Calderón Hinojosa, awarded the National Human Rights Prize 2007 to Mr. Jaime Pérez Calzada, in a ceremony that took place at the Official Residence, Los Pinos, with the presence of the members of the Consultative Council of the National Human Rights Commission, the presidents of the local Human Rights Commissions, legislators, members of the Prize Council and representatives of civil organizations.

The National Human Rights Prize 2007, according to what was valued by the Prize Council, was awarded to Mr. Jaime Pérez Calzada, a blind person who has dedicated 27 years of his life to the promotion and defense of the fundamental rights of the persons with disabilities.

The recognition to Mr. Jaime Perez Calzada was expressed in a medal, a diploma and 250,000.00 (two hundred and fifty thousand pesos).

RECOMMENDATIONS

Following, the synthesis of the Recommendations issued by the National Human Rights Commission during December is hereby presented. The complete documents can be found on the internet web page of this Institution.

Recommendation 63/2007

December 11th, 2007

Case: About the practice of the rectal hyssop to immigrants in the migratory station of the National Institute of Migration (INM) in Saltillo, Coahuila.

Addressee Authority: Government of the State of Coahuila

On November 16th, 17th, 20th, 22nd and 28th as well as in December 14th, 2006, respectively, in the migratory station of the National Institute of Migration (INM) in Saltillo, Coahuila, some men known as NAMA, JEGF, BC, NJVM, HCLR, MAMH, GRCC, RVG, AVPV, JEE, FHH, DRC, MPP, MAOO, JHCM, HMAS, EYBM, RHAI, RJE and KSSF; women known as OCPR, EOR, AM, EPFR, MEG and AEVM, as well as the children IIGP and WRT, 14 and 17 years old, respectively, were detained and sent to the medical unit where a medical examination took place. Afterwards, public servants of the Secretary of Health of the State of Coahuila, who were working in that migratory station, ordered the detained people to introduce an hyssop that was almost 20 centimeters long in the anus, under the threat that in case of not doing it they would have been punished by staying there for a further three months, or a nurse would administer it.

This practice was carried out in the medical office, that is an area about five meters in length by five meters width. The complainants were called in groups of four or five, they were injected twice, once in the arm and another in the buttocks. They were given the hyssop

and they were sent to a space that only had a small moving curtain in a corner where they had to introduce the hyssop into their anus. During the proceeding, they were watched over by medical personnel or private personnel, from the morning shift.

Public servants of the migratory station of the INM in Saltillo, Coahuila, were informed that there were not personnel from that Institution that supervised the practices of the medical department and that they do not have any knowledge related to the medical proceedings of knowing if they are appropriate. The authority that supervises that area is the Secretary of Health of the State of Coahuila (SSC), through the Sanitary Jurisdiction number 8. In the same document, they established that the hyssop examination is practiced in a voluntary way to the detained people, that only the doctor or the nurse could give them the hyssop. They, privately took the sample and returned it to be examined, as the Secretary of the Health Department so informed in the memorandum dated on January 18th, 2007.

From the logical-juridical analysis that was made to the evidence contained in the file, for this National Human Rights Commission has been proven that the public servants of the Secretary of Health of the State of Coahuila, as well as the ones of the INM, with their actions and omissions, violated the rights of the minors to protect their integrity, honorable treatment, personal integrity and privacy, as well as the legality and juridical certainty.

Because of the aforementioned, on December 11th, 2007, this National Human Rights Commission issued Recommendation 64/2007, was addressed to the Governor of the State of Coahuila, requesting him to convey to the General Legal Direction of the Health Services of the State of Coahuila the proper documents in order to initiate the corresponding administrative procedure against the public servants of the Secretary of Health of the State, that were working in the migratory station of the National Institute of Migration (INM) in Saltillo, Coahuila. To give instructions, to whomever it may concern, in the Secretary of Health of the State of Coahuila, to apply the exam of the rectal hyssop only in those cases that cholera symptoms have been seen, to convey to the General legal Direction of the Health Services of the State of Coahuila the respective documents in order to initiate the corresponding administrative proceeding against the public servants of the Secretary of Health, of the State of Coahuila, that omitted data when they rendered the information requested by this National Human Rights Commission according to the arguments given in the Observations Chapter of this Recommendation, and to order his personnel to attend the information requests that the non jurisdictional organizations that protect Human Rights have asked for.

And, to the Head of the National Institute of Migration to convey the corresponding documents to the Internal Organ of Control of the Secretary of the Public Service in the INM to initiate the corresponding administrative procedures against the director of the migratory station of the National Institute of Migration (INM) in Saltillo, Coahuila for permitting the commission of denigrated acts; to give instructions, to whomever it may concern, in the migratory station of the INM in Saltillo, Coahuila, and in all migratory stations to practice the rectal hyssop examination with strict observation to human honor, for the care and prevention, control, handling and treatment of cholera; to give instructions, to whomever it may concern, to give formative and training courses to the public servants of the migratory station of the INM in Saltillo, Coahuila, and to the medical personnel that is employed there in order to apply the rectal exam only when they have sufficient evidence of the existence of cholera in order to care, prevent, control, handle and treat it.

Recommendation 64/2007

December 11th, 2007

Case: Mr. AMP and other immigrants from Guatemala

Addressee Authority: National Institute of Migration

On October 27th, 2006, in the migratory station of the INM in Saltillo, Coahuila, the following persons were detained AMP, RMS, JESR, JIPR, JJRM, MWHV, DGMH, ECLA, ELC, JOPO, EPR, RPM, JMS and MAPH, all from Guatemala, and after their medical examination, they were sent to the childrens area of that place where personnel of a private corporation examined them, asking them to take off their shirts and pants, so they were completely naked, and then they were ordered to raise their arms, to squat down position and to jump while turning around at the same time.

It is important to say that related to the aforementioned actions, on October 27th, 2006, personnel of this National Human Rights Commission carried out an identification procedure in the migratory station of the INM in Saltillo, Coahuila, in the presence of Mr. Javier Alberto Meléndez Rios, a federal immigration agent, in which the foreigners completely identified the person of the private corporation that obligated them to take their clothes off.

In this sense, since the public servants working in that migratory station in Saltillo, Coahuila, did not accomplish with their corresponding obligations established by law and supervised and avoided the abusive and arbitrary acts carried out by the private security personnel to the detained immigrants; they violated their human rights because they, in those administrative migratory detention, at all times, were in their custody.

From the logical-juridical analysis made by the evidence in file 2006/4993/5/Q for this National Commission, it has been proven that public servants of the National Institute of Migration working in the migratory station in Saltillo, Coahuila, with their actions and

omissions violated, the human rights of honorable treatment, legality and juridical certainty of the foreigners detained AMP, RMS, JESR, JIPR, JJRM, MWHV, DGMH, ECLA, ELC, JOPO, EPR, RPM, JMS and MAPH.

It is important to mention that this National Commission did notice the acts of the private security personnel, that were recognized to have given the order to the immigrants in the migratory station in Saltillo, Coahuila, to be naked, because this was illegal according to the content of the legal paper INM/DRC/EMS/0337/06 dated on October 10th, 2006, signed by the Regional Delegate of the INM in Coahuila in which it was informed to those security personnel that their duties were only, and exclusively, the vigilance of the facilities and it was especially ordered to them not to be in contact with the persons detained.

Because of the aforementioned, on December 11th, 2007, this National Commission issued Recommendation 64/2007 to the Head of the National Institute of Migration in which it was requested to send the corresponding documents to the Internal Organ of Control of the Secretary of the Public Service in the INM, in order to initiate an administrative procedure of responsibility against the public servants working in the migratory station in Saltillo, Coahuila; to convey the corresponding documents to the Sub-secretary of Prevention and Citizens' Participation, in order to initiate an administrative procedure to determine the pertinence of the authorization and registering of the private security corporation; to inform to the Agents of the Federal Public Attorneys Office, according to its attributions and competence, about the actions committed by the personnel of the INM; to give instructions to whomever it may correspond to have the personnel of the private security corporation separated definitively from the migratory station in Saltillo, Coahuila; to give instructions, to whomever it may correspond, to have the public servants of the INM, as well as the elements of the private security corporation working at the migratory station in Saltillo, Coahuila, during the accomplishment of their duties, follow the corresponding legal norms, and according to the legal paper INM/DRC/EMS/0337/06 dated October 10th, 2006, signed by the Regional Delegate of the INM in Coahuila, as a guarantee of not having repeating the acts that originated the present recommendation; to give instructions to whomever it may correspond to give formative and training courses to the public servants of the migratory station of the INM in Saltillo, Coahuila, to stop carrying out abusive and arbitrary corporal checking practices to the foreigner, detained in those offices to protect and respect their Human Rights.

Recommendation 65/2007

December 11th, 2007

Case: About the facts occurred in the city of Ixtepec, Oaxaca, against the priest Alejandro Solalinde Guerra and immigrants from Central America.

Addressee Authority: General Attorney's Office, Government of the State of Oaxaca, Congress of the State of Oaxaca, City Council of the Municipality of Ixtepec, Oaxaca.

On January 10th, 2007, approximately at 09:30 am in the City Council of the Municipality of Ixtepec, Oaxaca, police elements detained José Alejandro Solalinde Guerra, priest, representative of the Pastoral de la Movilidad Humana of the Diocese of Tehuantepec together with the following persons: Justiniano Lorenzo Ramírez Pérez, Herminio López Ramos, Santos García Pineda, Edgar Miranda López, José Antonio García y García, José Alberto Matzuy Reyes, Víctor René Gómez Chávez, Elmer Gabriel Escobar Donis, Edwin Pérez Mazariego, Edwin Noe López López, Pedro Gómez Hernández, Liver Amilcar Yoc Gómez, Emerson David Baltasar Méndez and Benedicto López Pérez, as well as the children Keli Alvarado Rodríguez, Clemencia Gómez Chávez, Heber Manolo Fuentes Orozco and Tony Eduardo Zacarías López, all from Guatemala.

During the detention, elements of the police of the City Council of the Municipality of Ixtepec, Oaxaca, armed with sticks, tear gas and one with a gun subjugated the complainants. Nine immigrants from Guatemala were injured.

The detainees were sent to the municipal jail. The 19 persons were detained in the same confinement cell, which were in non hygienic conditions, where the complainants stayed detained without knowledge of what their legal situation was, and the only one, who was Mexican, was freed after four hours, and the other 18 Central Americans were freed seven hours later at the disposition of the National Institute of Migration in La Ventosa, Juchitán, Oaxaca.

On this same date, the local sub-delegate of the National Institute of Migration in La Ventosa, initiated for each one of the 18 complainant foreigners, the corresponding migratory administrative procedure because they could not prove their legal staying in the country, and according to the provisional measures requested by this National Commission, finished the detention that was imposed against them and ordered the transfer of ten of the complainants that voluntary wanted to denounce the actions and the injuries that nine of them had because of detention carried out by the Municipal Police before the Public Ministry Agency of the First Shift in Juchitán, Oaxaca. On January 11th, 2007, with the presence of their Guatemalan Consul Representative and personnel of this National Commission, they denounced the aggressions committed by the police elements of the City Council of the Municipality of Ixtepec, Oaxaca, when they were detained. Some of the complainants said that they had money that was stolen from them.

The complainants also denounced the kidnapping of other 12 immigrants that was carried out at 05:00 hours that same January 10th of that year, where there were four children, three women and five men that were sleeping in a train located in the city of Ixtepec, Oaxaca, by eight armed men who used violence to force them into a truck. In those acts, they said that two public servants of the Municipal Police participated and the criminal investigation 38 (1) 2007, was initiated on January 12th, 2007, for the supposed crime of injuries

and the other ones that have appeared to have been committed against the complainant foreigners. This criminal investigation was initiated nine months ago and at the moment this Recommendation was issued, it was still open.

It is important to say that the complainants declared to the public prosecutor that because of the kidnapping of those immigrant they and another almost 40 Central Americans along with the priest José Alejandro Solalinde Guerra, armed with sticks, knives and rocks, went to look for them in the security houses that were pointed out by neighbors of the neighborhood as the places where the kidnapped victims were, but as they were leaving one of the houses, they were detained by the municipal authority.

This National Commission considers that it is not justified the disproportion of the force used by the police elements of the City Council of the Municipality of Ixtepec, Oaxaca, when the complainants were detained, nor the illegal conducts committed by the complainants. These conducts should be investigated and punished by the competent authorities in use of their corresponding faculties.

On February 6th, 2007, the General Attorney's Office started in the specialized unit that investigates the traffic of children, illegal immigrants and organs, of the SIEDO, the act of facts number PGR/SIEDO/UEITMIO/09/2007, for the kidnapping and the ill treatment that the immigrants suffer when they go through the train route in Oaxaca and other states. This investigation has been integrating with the information that has been sent by this National Commission and by the National Institute of Migration as well as other delegations of the General Attorneys Office in other states.

It is important to mention that on September 28th, 2007, that is seven months later, the agent of the federal prosecution responsible of the integration of the preliminary investigation sent a copy of the preliminary investigation file to the Specialized Unit in the Investigations of Kidnappings (UEIS) of the SIEDO, because of considering that it was the competence of that office to investigate the acts of the illegal privation of freedom committed against the illegal immigrants, and in that place, on October 4th, 2007, the preliminary investigation number PGR/SIEDO/UEIS/266/2007 was started for the supposed commission of the crimes of illegal privation of freedom in the modality of kidnapping and organized crime against to whomever may be responsible and against of the victims involved in the facts. This investigation is still open.

From the logical-juridical analysis made by the evidence in the complaint's file, for this National Commission it has been proven that public servants of the General Attorney's Office of the Republic, the General Attorneys Office of the State of Oaxaca and of the City Council of the Municipality of Ixtepec, Oaxaca, with their acts, that show irregularities in the public service committed against José Alejandro Solalinde Guerra, priest, and immigrants from Central America, violated their human rights to legality and legal certainty as well as access to justice.

This National Commission has special consideration to the rights of the Child because they are a group that according to their age and since they are also immigrants are vulnerable and the authorities as well as the society must be obliged to observe their superior protection.

According to the aforementioned, the public servants that violated the human rights of the complainants through irregularities in the public services, should be in the corresponding administrative procedures of responsibilities because they did not accomplish their legal duties.

Because of the aforementioned, this National Commission requested to the Governor of the State of Oaxaca to give instructions to whomever it corresponds to initiate and determine an administrative procedure of investigation against the agents of the public prosecutor that are responsible of the integration of the criminal investigation number 38(1) 2007, as well as the ministerial police under their orders for the irregularities in which they participate and were described in the chapter of Observations of the present Recommendation, and whenever it is appropriate to convey a copy of this Recommendation to the Public Prosecutor's Office of the State of Oaxaca to have the evidence and arguments to determine the corresponding criminal investigation aforementioned.

To the Head of the General Attorney of the Republic it was requested to send the corresponding documents to the Internal Organ of Control of the Secretary of the Public Service in that institution to initiate, according to law, the corresponding administrative procedures against the agents of the Federal Public Prosecutor's Office working in the Specialized Unit in the Investigations of Traffic of children, illegal immigrants and organs, of the SIEDO, because they did not determine the acts of facts PGR/SIEDO/UEITMIO/09/2007, and in the proper moment, to determine that procedure according to law, as well as to give orders to whomever it may correspond, to initiate as soon as possible the criminal investigation of the case.

To the members of the City Council of the Municipality of Ixtepec, Oaxaca, it was requested to give instructions to whomever it may correspond, to initiate the corresponding administrative procedures against of the elements of the police, of the City Council of the Municipality of Ixtepec, Oaxaca, working in the second shift, for their irregularities that were described in the observations chapter of this document, and against of the Secretary of the City Council of the Municipality of Ixtepec, Oaxaca, for not giving the information requested by this National Commission; as well as to give instructions to whomever it may correspond to promote in their competence area, mechanisms of supervision and formative and training courses, so in similar cases, like the one that originated the present Recommendation, arbitrary acts are avoided during the detentions and transport of the detained persons, committed by public servants of the City Council of the Municipality of Ixtepec, Oaxaca, and to send the corresponding documents to the Internal Organ of Control in

that Municipality or to the appropriate authority, so an auditing procedure could be carried out in the offices of the police, of the City Council of the Municipality of Ixtepec, Oaxaca, to verify the control and registration of phone calls and the service given to the people of that Municipality related to public security.

To the President of the Board of Directors of the Congress of the State of Oaxaca it was requested to give instructions to whomever it may correspond to initiate an administrative procedure against the provisional President and the Community Representative of the City Council of Ixtepec, Oaxaca, for denying the information requested by this National Commission to integrate the investigation of the present complaint file and to convey a copy of the corresponding documents to the appropriate Public Prosecutors Office, so that public servant in the use of his legal faculties know the conducts described in the present Recommendation.

Recommendation 66/2007

December 17th, 2007

Case: Appeal of the inhabitants of the indigenous community El Camalote, City Council Municipality of Ayutla de Los Libres, State of Guerrero.

Addressee Authority: Government of the State of Guerrero.

On September 9th, 2004, this National Commission received an appeal from Mr. Marcelino Santiago Flores and others, which was presented at the local Human Rights Commission in the State of Guerrero, because of the non acceptance of the Recommendation 35/2004 issued by the local Commission to the Secretary of Health of the State of Guerrero.

From the logical-juridical analysis made by the evidence that is in the file, it is known that on April 15th, 1998, elements of the Health Program No. 3 of the Health Jurisdiction 06, Costa Chica, of the Secretary of Health of the State of Guerrero, visited the Community El Camalote in the City Council Municipality of Ayutla de Los Libres, State of Guerrero, where, with the assistance of the Commissioner Romualdo Remigio Cantú, , asked the inhabitants to a meeting in which they informed the people that the men of this said community who have had more than four children had to accept a forced sterility program, and if they do so, they would then have a medical clinic within their community.

They were told that in this clinic there would be a doctor and all necessary mendicants. They were then so informed that the people who accepted this procedure were going to be given groceries, clothes, blankets and homes. Each year, they would also be granted educational scholarships for their children. For the aforementioned and because of the economical situation the indigenous communities are experiencing, 13 men accepted the aforementioned offers and the operations took place on April 16th and 17th, 1998. The individuals who refused the proposal were threatened by a nurse in the sense that their wives would not receive the help of the Education, Health and Alimentary Program (PROGRESA).

Later on, on July 11th, 2001, Mr. Pascual Eugenio Cruz was operated in the Community Basic Hospital of the City Council Municipality of Ayutla de Los Libres, State of Guerrero. The operation was a vasectomy without the use of a scalpel.

Afterwards Mr. Orlando Manzanares Lorenzo, in representation of the 14 persons who accepted to have vasectomies, between April 16th and 17th, 1998 and July 11th, 2001, presented to the local Human Rights Commission in the State of Guerrero, a complaint against elements of the Health Program No. 3 of the Health Jurisdiction 06, Costa Chica, demonstrating that the vasectomies were accepted by the men because of the offering of the aforementioned benefits and the threat of cancellation of the other benefits they had. On December 3rd, 2003, the local Commission started complaint VG/363/2003-III.

On August 16th, 2004, the local Human Rights Commission in the State of Guerrero, established the existence of violations to the sexual and reproductive human rights of the complainants for a forced contraception and issued Recommendation 35/2004 addressed to the Secretary of Health of the State of Guerrero who has not yet accepted. Thus on September 6th, 2004, the complainants presented the corresponding appeal to the local Human Rights Commission in the State of Guerrero.

This National Human Right Commission considered that the local Commission did prove violations to the sexual and reproductive human rights as well as violations to the legality and legal certainty committed by elements of the Health Program No. 3 of the Health Jurisdiction 06, of the Secretary of Health of the State of Guerrero in a forced sterility program against the indigenous complainants.

Because of the aforementioned, this National Commission ratified the content of Recommendation 35/2004, issued by the local Human Rights Commission in the State of Guerrero, and requested the Governor of the State of Guerrero give instructions to accomplish Recommendation 35/2004.

Recommendation 67/2007

December 17th, 2007

Case: Appeal of Mrs. Sara Guadalupe Olán Cabrera.

Addressee Authority: Board of Directors of the LXIII Legislation of the Honorable Congress of the State of Chiapas.

On August 1st, 2007, this National Commission started file 2007/260/4/RI, because of the presentation of the appeal of Mrs. Sara Guadalupe Olán Cabrera against the non acceptance of Recommendation CDH/002/2007/-R by the City Council of the Municipality of Ocosingo, Chiapas. This Recommendation was issued by the local Human Rights Commission in the State of Chiapas.

Since 1994, the Ranch Tres Arroyos located in the City Council Municipality of Ocosingo, property of Mrs. Sara Guadalupe Olán Cabrera, was invaded, stolen, damaged and eas object to illegal seizure of property by members of the Organization of Coffee Farmers of Ocosingo, (Orcao) and of the Ejército Zapatista de Liberación Nacional (EZLN). She then went on several different occasions to the municipal authority to find a solution and they did not help her.

Mrs. Sara Guadalupe Olán Cabrera had to negotiate directly with the people that had invaded her land and dismissed all charges against them in the criminal investigation that was being carried out by the General Attorney's Office in the State of Chiapas.

In 2002, the municipal authorities, although they knew about the illegal seizure of the land of Mrs. Sara Guadalupe Olán Cabrera, entered her property, without her permission, to conduct water testing and/or water surveys. The complainant, on June 21st, 2002, so informed the President, Sub-director of Public Works and a Community Representative of the City Council Municipality of Ocosingo, that there was not any inconvenience because of that, but she wanted to be paid for the damages caused by such tests, but they have not attended her request.

On April 14th, 2003, a newspaper published the aforementioned facts and the Human Rights Commission in the State of Chiapas started ex officio a file to investigate them and the complaint was ratified on May 13th, 2003, by Mrs. Sara Guadalupe Olán Cabrera who believed that her rights to the legality and legal certainty were violated.

The Human Rights Commission in the State of Chiapas, after the corresponding investigations, proved that the rights of the complainant to the legality and legal certainty were violated. On May 31st, 2007, it addressed Recommendation CDH/002/2007/-R to the Secretary of the Government in the State of Chiapas and to the President of the City Council Municipality of Ocosingo, Chiapas.

Assuming the respective responsibility, the Secretary of the Government in the State of Chiapas, accepted the Recommendation, as it is set in the official paper SG/0362/07, dated on June 18th, 2007. Thus this National Commission did not make a statement about his responsibility in this case or about the actions that he has committed.

Although their responsibility is well known, on June 26th, 2007, the head of the justice department of the City Council Municipality of Ocosingo, Chiapas, manifested to the Human Rights Commission in the State of Chiapas the non acceptance of Recommendation CDH/002/2007/-R. Mrs. Sara Guadalupe Olán Cabrera then presented an appeal before this National Commission where file 2007/260/4/RI began and in the following proceeding on September 7th, 2007, this National Commission requested the President of the City Council Municipality of Ocosingo, Chiapas, to expose the foundations that motivated or justified his determination for non acceptance of Recommendation CDH/002/2007/-R, or, to send the evidence that shows the accomplishment of it. Although, the authority received the request of this National Commission, as it was proven, and that personnel from this Institution called the public servants of that authority several times, they have not answered. Because of the aforementioned, the facts demonstrated by Mrs. Sara Guadalupe Olán Cabrera are considered to be true and the evidence has been proven.

From the logical-legal analysis done on the evidence that is in this file for appeal, this National Commission observed human rights violations committed by the City Council Municipality of Ocosingo, Chiapas. Because when they were working in the private property to extract water, they did not have the legal authorization of Mrs. Sara Guadalupe Olán Cabrera whether written or verbal permit. They then committed damages to her Ranch called Tres Arroyos. This conduct was irregular and excessive, as it was proven, did not have the requirements and motives that all municipal authorities' actions must have.

The abovementioned implies that until this moment the complainant has not been given back the rights she deserves because of the damages done to her property.

This National Commission also underlines the omission of the authorities of the City Council Municipality of Ocosingo, Chiapas, because of not sending any information about foundations or motives for the non acceptance of Recommendation CDH/002/2007/-R. They had received the information request sent by this National Commission and several phone calls from personnel from this Institution. This action could create administrative responsibilities for those public servants.

For the aforementioned, on December 17th, 2007, this National Commission issued Recommendation 67/2007 to the Board of Directors of the LXIII Legislation of the Honorable Congress of the State of Chiapas and to the President of the City Council Municipality of Ocosingo, Chiapas.

To the President of the Board of Directors of the LXIII Legislation of the Honorable Congress of the State of Chiapas:

Solely, to give instructions to whomever it may concern to determine the responsibility of the President and the other public servants of the City Council Municipality of Ocosingo, Chiapas, that omit answering the corresponding request of information formulated by this National Commission and in its case to determine what according to corresponding law.

To the members of the City Council Municipality of Ocosingo, Chiapas:

Solely, to give instructions to whomever it may concern to accomplish Recommendation CDH/002/2007-R, issued on May 31st, 2007, by the Human Rights Commission in the State of Chiapas, the part related to the City Council Municipality of Ocosingo, Chiapas.

Recommendation 68/2007

December 17th, 2007

Case: Mrs. Ausencia Hernández Blas

Addressee Authority: Government of the State of Oaxaca.

On December 6th, 2007, this National Commission received a writ of complaint from Mr. Mario Cervantes Alcantara in which he expressed supposed violations of human rights against his wife Mrs. Ausencia Hernández Blas. These were committed by the public servants of the ISSSTE. On October 2006, she had a baby in the Regional Hospital of Pochutla, Oaxaca, where she received inhumane treatment from the doctors and nurses of that facility in such a manner that her baby died. For that reason on October 25th, 2006, she denounced the facts to the General Public Prosecutor of the State of Oaxaca.

From the logical juridical analysis made by the evidence in this file, for this National Commission it has been proved violations to the rights for the health protection against the complainant and her son committed by the public servants of the aforementioned hospital. They did not establish the birth labor in a normal way and she was placed in the Emergency Service section. It was determined that she was in latent birth labor and they did not consider the fetus hypomobility because of having a test without stress. They decided to use inducto conduction of the birth labor, thus the medical personnel did not verify, nor did register, either the uterine contractions and the heart beat of the baby, before, during and after the uterine contraction at least every 30 minutes. They also failed to verify and register the variety of the position and the height of the product in the birth canal on a birth registration sheet. So there is no evidence whatsoever that the doctor noticed in time the difficult position that the baby had.

Also the medical attention given to the child was not the proper and accurate one for the health problem that he had. There was a severe neonatal asphyxiation because of the placenta falling and uterine breakage problem of the mother and that caused his death. This fact had complete relation with the lateness of the Cesarean procedure because of the non existence of an anesthesiologist. During the time the anesthesia was being applied, because of the time that had passed, the norm insert premature placenta happened as well as the uterine breakage problem. These two facts were completely predictable but the chief of the Service of Gynecology and Obstetrics did not consider them. He did not take care of the birth and did not interrupt the pregnancy with the appropriate cesarean procedure. The baby then could not be able to be under the care of a pediatrician, since there is not any pediatric specialist in the hospital.

Because of the aforementioned, on December 19th, 2007, this National Commission issued the Recommendation 68/2007, addressed to the Governor of the State of Oaxaca in order to undertake the corresponding measures to pay to the complainants, Mrs. Ausencia Hernández Blas and Mr. Mario Cervantes Alcantara, the corresponding payment to remedy the damages caused to them because of the institutional responsibility in the incorrect medical attention that was given to them according to the considerations exposed in the Observations Chapter of this Recommendation and to convey to this National Commission the documents that prove the corresponding accomplishment; to give instructions to whomever it may concern to give to the General Prosecutor's Office in the State of Oaxaca the necessary help and documents for him to integrate the criminal investigation 177(S.P.P.II) 2006, that is, with the agent of the Public Prosecution, Desk VI, Official, Medical and Technical Responsibilities of that Prosecutors Office; to send a copy of the present document to the Internal Organ of Control in order to start the corresponding administrative investigation procedure against the public servants working at the aforementioned hospital of the Secretary of Health in the State of Oaxaca, that gave the service to Mrs. Ausencia Hernández Blas on October 23rd, 2006; to give instructions to whomever it may concern to give training courses to the medical personnel working in that hospital, to avoid in the future conduct such as the ones described in the Observations Chapter of the present Recommendation and to implement the necessary administrative regulations to guarantee the presence of pediatric specialists in the different work shifts of that place and to have medical personnel with the necessary experience and knowledge to avoid another case such as the one that originated the present Recommendation.

Recommendation 69/2007

December 19th, 2007

Case: Of the journalist Misael Tamayo Hernández, General Director of the Newspaper "El Despertar de la Costa"

Addressee Authority: Government of the State of Guerrero.

On November 16th, 2006, Mrs. Ruth and Rebeca, both with last names Tamayo Hernández, presented a complaint before this National Commission against personnel of the General Prosecutors Office of the State of Guerrero, because of the improper integration of the preliminary investigation AZUE/SC/05/0501/2006 that was started because of the death of Misael Tamayo Hernández, journalist and

General Director of the Newspaper "El Despertar de la Costa". The complainants said that on November 9th, 2006, their brother left the newspaper offices to have breakfast with Mr. Reynaldo Ríos de los Santos who has been missing since that day.

They stated that on November 10th, 2006, they knew that in a motel located on the national highway Zihuatanejo-Lázaro Cárdenas, his brother was found dead and that the autopsy results established as a cause of death a heart attack. Although, he was healthy individual and neither drank nor smoked.

From the logical-judicial analysis of the facts and evidence contained in the file of complaint 2006/5083/5/Q, this National Commission determined that the human rights of the complainants corresponding to the legality and legal certainty were violated because of the dilution in the integration of the preliminary investigations related to the facts.

The preliminary investigation AZUE/SC/05/0501/2006 started because of the death of Mr. Misael Tamayo Hernández has not been properly integrated as the local Public Prosecutor has not carried out the corresponding actions to investigate the crime and the respective responsibility. The aforementioned, because the investigation does not have real actions to investigate the crime since there are no family, friends or employee depositions of Misael Tamayo Hernández, his medical file is missing, as well as the corresponding investigation of his cell phone calls made the day of his death nor any investigation has been made in the place where he and Mr. Reynaldo Ríos de los Santos had breakfast and the investigations that may correspond to them.

In the same manner, this National Commission has observed that the preliminary investigation AZUE/SC/04/0506/2006, started because of the disappearance of Mr. Reynaldo Ríos de los Santos only contains the denouncement of the sister of that person, a document confrontation and the deposition of Mr. Reynaldo Ríos de los Santos' secretary given on November 10th and 11th, 2006, without any other proceedings to find that person or the vehicle he was using.

Also, some family members of Mr. Misael Tamayo Hernández informed, to this National Commission, that since the last day that he was seen alive and during the next week someone made withdrawals and purchased items with his credit cards, and that they did not know if those actions were done with the documents that the General Public Prosecutor of the State of Guerrero had had or another ones, because the prosecutor has not determined yet to give back the personal belongings that Mr. Misael Tamayo Hernández had upon his person.

In this order of ideas, the public servants involved in the integration of the preliminary investigations AZUE/SC/05/0501/2006 and AZUE/SC/04/0506/2006 with their actions violated the human rights to the legality and the legal certainty.

And on March 27th, April 20th, and July 12th, 2007, this National Commission requested the General Public Prosecutors Office of the State of Guerrero to render an report to know the advancement of preliminary investigations AZUE/SC/05/0501/2006 and AZUE/SC/04/0506/2006, but the answers were received in a tardy manner on May 4th, 11th and 24th and October 15th, 2007. Because of the aforementioned, this National Commission requested to start the corresponding administrative procedure against the public servants responsible for those actions.

Thus, on December 19th, 2007, this National Commission issued Recommendation 69/2007 addressed to the Governor of the State of Guerrero and requested to:

Send the corresponding documents to the Internal Control Organism in the General Prosecutor's Office of the State of Guerrero, in order to start, according to law, an administrative procedure to determine the responsibility of the Agents of the General Prosecutor's Office of the State of Guerrero involved in the integration of the preliminary investigations AZUE/SC/05/0501/2006 and AZUE/SC/04/0506/2006, for their omissions in the investigation of crimes and, in its case, to start the corresponding preliminary investigation.

Convey the corresponding documents to the Internal Control Organ in the General Prosecutor's Office of the State of Guerrero, for them to include the considerations described in the Observations Chapter of this Recommendation, in the administrative procedure that they started when they received the pertinent documents sent on April 12th, 2007, to determine the respective responsibility of the public servants of that Prosecutor's Office that diluted the corresponding answers to this National Commission.

To give instructions to the Attorney General of the State of Guerrero to reactivate the investigations in the preliminary investigations AZUE/SC/05/0501/2006 and AZUE/SC/04/0506/2006, that since November 2006 do not have any actions to establish the existence of a crime and the responsible one(s), and to analyze the viability that the preliminary investigation AZUE/SC/05/0501/2006, started in the agency of the local Public Prosecutor in the Judicial District of Azueta in Zihuatanejo, Guerrero, be sent to the Specialized Prosecutors Office in Grave Crimes of that Authority for its perfection.

Recommendation 70/2007

December 21st, 2007

Case: Of Mr. Enrique Gómez Orozco and Mr. Arnoldo Cuéllar Ornelas, Directors of the Newspapers "A.M." and "Correo"

Addressee Authority: Government of the State of Guanajuato.

On May 14th, 2007, the Newspaper Reforma published a note in which Mr. Gerardo Mosqueda Martínez, Secretary of the Interior of the State of Guanajuato, in a meeting with local and federal public servants that took place on May 11th, 2007, expressed statements against Mr. Enrique Gómez Orozco, Director of the Newspaper "A.M." and Mr. Arnoldo Cuéllar Ornelas, Director of the Newspaper "Correo", that included adjectives that this National Commission considers not necessary to repeat in order to not effect the name and honor of the complainants.

Mr. Enrique Gómez Orozco and Mr. Arnoldo Cuéllar Ornelas filed a complaint, against the conduct of that public servant, mainly because they considered that those statements affected their public image, because on May 11th, 2007, that public servant gave a speech in which, he referred to them and the way they manage their newspapers in a disgraceful and false form. So those statements created a lack of prestige and damaged their honor, because they were disqualified, accused of committing false crimes and pointed out with other accusations. Because of the aforementioned, they requested the intervention of this National Commission.

From the analysis, alluded to the facts and evidence contained in the complaint file number 2007/2086/5/Q, for this National Commission it was proven that their conduct has shown irregularities in the public service committed by Mr. Gerardo Mosqueda Martínez, Secretary of the Interior of the State of Guanajuato, who violated the human rights of the complainants in their freedom of expression, honor and legality. The corresponding conciliation proposal was presented to the Governor of the State of Guanajuato, for him to establish a commission of an irregular conduct and to look for an immediate solution to the violations.

The answer for the conciliation proposal was signed by Mr. Gerardo Mosqueda Martínez, Secretary of the Interior of the State of Guanajuato, and it was not until October 22nd, 2007, that he sent various documents to prove that he had accomplished the respective proposal, but those do not constitute proof of the correspondent accomplishment of the aforementioned proposal and show a contradiction in the spirit of his disposition shown in his acceptance.

In consequence, this National Commission considered that the affectation to the human rights of Mr. Enrique Gómez Orozco and Mr. Arnoldo Cuéllar Ornelas to the legality, freedom of expression and the honor were not reinstated, because on July 21st, 2007, in a press conference in which it was supposed to accomplish the corresponding conciliation proposal, Mr. Gerardo Mosqueda Martínez, Secretary of the Interior of the State of Guanajuato, after expressing widely his points of view about the conciliation proposal, presented a context in which he was congratulated and filled with compliments. So this confirmed his attitude towards the public apologies he was going to give to the complainants, because he offered general apologies to the professionals of the media, public opinion, directors of "all the media", to the Governor of the State, members of the Government Cabinet, to the public servants that work for the Secretary of the Interior of the State of Guanajuato, to his five daughters and to his wife. This situation shows that he does not have the intention to assume a clear attitude to respect the human rights, but in a contrary sense, he shows that he will continue with discretionary criteria minimizing or give arguments to show that there is no reason for respecting the human rights of the journalist professionals.

From the press conference, it is possible to know that his intention was mainly oriented to give his ideas and to show the compliments he received, not to offer a public apology to the complainants, although this National Commission demonstrated that his statements affected their honor and violated the human rights of the directors of the newspapers. It is relevant to say that it was the same public servant who accepted the conciliation proposal, so he accepted the content and to accomplish it in the way it was set forth.

For the aforementioned, this National Commission determined to insist in requesting that the public servant should offer a public apology to the complainants and subscribed a private apology in the same sense.

For the abovementioned, on December 21st, 2007, this National Commission issued Recommendation 70/2007, addressed to the Governor of the State of Guanajuato, requesting to give instructions to the Secretary of the Interior of the State of Guanajuato, to offer an apology to Mr. Enrique Gómez Orozco and Mr. Arnoldo Cuéllar Ornelas, Directors of the newspapers "a.m." and "correo", respectively, because of the statements he expressed on May 11th, 2007, and to write a letter to each of them, expressing that circumstance and also to avoid in the future acts that affect the freedom of expression, as well as the honor, the image and the prestige of people, like the ones stated in this case.

NATIONAL AFFAIRS

Preoccupation because of the Constitutional Reform Proposal

Members of the Advisory Council of the National Commission for Human Rights demonstrated their preoccupation because of some proposals to reform the Constitution that may imply a backwards in the protection of the fundamental rights of all people in our country. Thus, on December 12th, 2007 they urged to the legislators to have an agreement according to the democratic law State and with the absolute respect to the human rights.

They expressed in favor of a criminal reform that equilibrates the legal desire of more efficiency in the crime prosecution with the full respect to the human rights. These guarantees and the public security are two objectives of the State that may and should coexist in forced with harmony.

The reform proposals pretend to modify the Political Constitution of the United States of Mexico to permit the official domicile arrest – which is against the Recommendations that the UN has sent to our country- and to put in danger the inviolability of the domicile, when the entering of policemen would be permitted without a warrant.

It will also permit to reduce the right of the inviolability of the private communications by giving them value as criminal proven when they are presented by any of the parties in a criminal procedure, and to give more faculties to the Federal Public Prosecutor to obtain bank, market, fiduciary and also electoral information in the investigations related to organized crime.

Members of the Advisory Council of the CNDH consider that the Mexican society has expressed in the last year a truthful claim to the authorities because of the public insecurity and that they share completely that preoccupation and pointed out that the first obligation that the State has is to protect the integrity of people, property and families that are in the Mexican territory.

And they reiterated that the accomplishment of that obligation cannot be done without protecting the human rights instead.

INTERNATIONAL AFFAIRS

Meeting of the International Committee for the Coordination of the National Institutions of Human Rights (CIC)

From December 12 to 14th, 2007 Dr. Javier Moctezuma Barragán Secretary Executive of this National Commission participated in the meeting of the Extended Bureau of the CIC of the National Institutions of Human Rights. That meeting was centered on the institutional future of the CIC, as well as in aspects of its governance. It was also determined that the next meeting of the Bureau would take place in Geneva, Switzerland, on March 2008, and the next International Conference of the INDH will be on September 2008 in Nairobi, Kenya.

In that meeting, Dr. Javier Moctezuma Barragán participated in the works of the Council of Human Rights of the UN where he attended the presentation of the report rendered by Dr. Rodolfo Stavenhagen, UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous Peoples.

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