

NEWS LETTER

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THE MEXICAN COMMISSION OF HUMAN RIGHTS PRESENTED A REQUEST BEFORE THE NATION'S SUPREME COURT OF JUSTICE, BASED ON THE GROUNDS OF UNCONSTITUTIONAL ACTIONS

On January 7th, the National Commission of Human Rights (Spanish initials CNDH) presented a request before the Nation's Supreme Court of Justice, based on the grounds of unconstitutional actions. The request is based on the fact that the Federal District Law for Persons with Disabilities – published in the Official Journal of the Nation on December 3rd, 2008 – which is exclusive for persons whose normal activities are affected by total or partial, but permanent, physical, intellectual or sensory disabilities. Nonetheless, persons afflicted by the same disabilities but only on a temporary basis are being excluded by the law in question, despite the fact that they are disabled as well.

The CNDH has pointed out that, should the pro homine principle not be applied, the norms established by this law would be in violation of Constitutional Article 133, since such norms would be a contradiction to international instruments of a higher hierarchy.

The norm being challenged by the CNDH is Article 2, Fraction I of the aforementioned law, which contravenes facts established by international instruments such as the Inter-American Convention for the Elimination of all Forms of Discrimination against Persons with Disabilities, as well as Article 4, paragraph 4, of the Convention on the Rights of Persons with Disabilities. The latter is a brief mandate of no-regression; a measure through which a right recognized by the law cannot be lessened. For this reason, the National Commission has come before the Court Supreme of the Nation and proposed that either the pro homine or pro personae principle is adopted, so that any legal conflicts created by the challenging of norms that rule human rights can be resolved.

The National Commission has presented its request of unconstitutional actions based on Article 105, Incise G, Fraction II, of the Political Constitution of the Mexican United States, which establishes that, for this case, the pro homine principle must be applied; a fact also established by Article I, Numeral I, of the Inter-American Convention for the Elimination of all Forms of Discrimination against Persons with Disabilities. In addition, Article 4, Paragraph 4, of the Convention on the Rights of Persons with Disabilities must be applied with regards to the contested Article, since the restriction of the human rights of persons with disabilities as established by International Conventions constitutes a violation of the Political Constitution of the Mexican United States. Therefore, the contested precept must be declared as unconstitutional.

By passing a resolution concerning this unconstitutional action, the Supreme Court shall determine if the institution will adopt the pro homine or pro personae principle when seeking to resolve any legal conflicts on human rights; especially when said rights are directly related to international instruments.

The request against unconstitutional action presented by the CNDH on January 2nd 2009 was formally admitted on January 5th. Minister Sergio Salvador Aguirre Anguiano was named to oversee the request.

According to the latter and for legal purposes, persons with disabilities are to be understood as, "Human beings who suffer the degradation of physical, intellectual, or sensory abilities either on a temporary or permanent basis, that produce limitations in normal activities". On the other hand, the existing text describes persons with disabilities as "Human beings who suffer from any permanent, partial or total disabilities in physical, intellectual or sensory abilities that produce limitations in normal activities and affect the person's social environment".

RECOMMENDATIONS

The following presents a synthesis of the recommendations emitted by the CNDH during the month of January. The complete version can be consulted on the website of this institution.

Recommendation 1/2009

January 20th 2009

Case: Of 65 Mexican immigrants hired to work on Bimini Island in the Bahamas

Addressee Authority: Secretary of Foreign Relations (Spanish initials SRE), Secretary of Work and Social Prevision (Spanish initials STyPS), National Immigration Institute (Spanish initials INM) and the Municipal Office of Pedro Escobedo, Querétaro

The National Commission has been able to establish that victims DAGC, DCHM, JGMS, MSDV, SMG, RCHH and RSMG were hired by LOT and her husband, RGM, both attached to the Rav Bahamas Corporation and/or Capo Group, to work at Bimini Island in the Bahamas, in the construction industry in exchange for a weekly wage of \$ 800.00 USD plus productivity bonuses. The victims were flown to the Bahamas on a private flight on May the 13th 2007, and required to sign a contract in English during the flight.

It has also been established that aerial vehicle N12945, the airplane in which the victims were flown on May the 13th 2007, made 5 additional trips during that year; all from Cancún, Quintana Roo and México to Bimini Island, Bahamas on January 31st, February 1st, March 23rd, July 20th, and October 29th. It is important to point out that the victims were hired to work in the field of construction for one year.

The National Commission has been able to verify that, up to October 1st 2007, jobs were still being offered to Mexican workers by the Rav Bahamas Corporation and Capo Group, through several different web sites. Engineers, mechanics, carpenters and masons were being offered similar opportunities to the ones the victims received.

It has been established that as soon as the victims arrived at the Bahamas, representatives of the Rav Bahamas Corporation and/or Capo Group, the company responsible for hiring them, retained their passports.

The representatives of the aforementioned company warned the victims that they would be turned over to the country's customs authorities and spend 3 months in detention, before finally being transferred to Nassau, where they would also be detained. Additionally, victims were told they would have to pay a fee worth \$3,000.00 USD should they want to return to México.

Salaries were covered on delayed monthly payments and in lower amounts than originally offered. For example, victim JGMS was paid only \$79.95 Bahaman Dollars for two and a half months of work in Bimini Island, in the Bahaman Commonwealth, whereas the victim had been originally offered \$500.00 USD per week. It should be noted that one Bahaman Dollar is the equivalent of one American Dollar.

When the Mexican workers were in the Bahamas, the exchange rate was \$10.79 (ten Mexican Pesos and seventy nine cents) per Bahaman Dollar. In other words, victim JGMS was paid \$862.66 (eight hundred and sixty two Mexican Pesos and sixty six cents) for the total amount of time spent working in Bimini Island.

From Monday to Friday, victims worked 9.5 hours per day, while on Saturdays, they worked for 8 hours and every two weeks, they worked until 12:00 PM on Fridays. Additionally, victims were never allowed outside working areas during breaks or lunchtime; a fact that contravenes dispositions established as effective working time in Article 64 of the Federal Law of Labor, in addition to Article 123, Section A, Fractions I and XI, of the Political Constitution of the Mexican United States, as well as Articles 61 and 66 of the Federal Law of Labor, which indicates that, "working hours per day will be eight at the most" and that extra working hours shall not exceed three per day.

All of the evidence mentioned above has led the National Commission to establish that the victims were subjected to illegal exploitation and slave trade which is consistent to the hypothesis established by Article 207 of the Federal Penal Law, current at the time that the facts took place. The Article in question establishes illegal exploitation as slave trade, "a crime committed whenever a person is guilty of the promoting, facilitating, providing, transporting, delivering or receiving another person that is to be subjected to any kind of exploitation; be it sexual in nature, professional or for the provision of any other service. The crime occurs whenever exploitation takes place in a coercive manner or in case any of the victim's organs, tissue or components are extracted, regardless on whether these actions occur in domestic or foreign soil".

In addition, the facts constitute a violation to Article 3, Section A) of the Palermo Protocol, which defines slave trade as: " the capture; transportation; transferal and acceptance, or reception, of persons, by resorting to threats, the use of force or other forms of coercion, such as: abduction; fraud; deception; abuse of power or whenever persons are put in vulnerable positions, in addition to concessions and reception of payments or benefits in order to force a person into granting permission of gaining any kind of authority over them, whenever it is sought to exploit said person. This kind of exploitation includes: offering prostitution services to third parties or any other kind of sexual exploitation; forced labor or services; practice of slavery, or any other practices that may be analogue to slavery; servitude, or organ extraction".

In this case, three main components that fall into the category of slave trade can be observed: potential employers conducting activities to lure Mexican workers that helped secured them; the means or ways used to convince the workers, which were deception, since they

were offered working conditions that differed greatly from the ones that they actually received and, as mentioned before, failure to pay the workers the salary that they had been originally offered. In addition, the victims' passports were retained, not to mention that they were subjected to excessive working schedules, and threatened by being told that, should they stop working, they would immediately be turned over to customs officials and detained. All of the above is related and constitutes a manner of subduing a person's will, since workers had neither their legal migratory papers at their disposal nor the economic means needed to leave Bimini Island, in the Bahaman Commonwealth.

In this regard, the National Commission believes that a violation to the rights of proper treatment, legality and legal safety of the 65 Mexican immigrants that worked at Bimini Island, in the Bahaman Commonwealth has been established.

As a consequence, the National Commission issued Recommendation 1/2009 on January 20, 2009, addressed to the holders of the SRE, STyPS, INM and the Constitutional Municipal Office of Pedro Escobedo, Querétaro. Said authorities have been addressed in the first place, so that they may regulate actions at such levels of government in order to supervise the procedure of Mexicans hired to work abroad.

To the Secretary of Foreign Relations:

The Internal Control Body of the Secretary of Public Functions, an internal department of the Secretary of Foreign Relations, must be properly instructed and, in accordance to the authority granted to the body, an administrative investigation procedure against public officials attached to the Querétaro Delegation of the Secretary of Foreign Relations, along with the Secretary's Unit in San Juan del Río, as well as in the Mexican Embassy in Jamaica, which represents México in the Bahaman Commonwealth must be initiated and determined. The procedure must be based on the grounds that said authorities did not properly fulfill their administrative and institutional functions, as they failed those Mexican citizens in the Bahamas at the time, with adequate and opportune assistance, as well as protection. Instructions must be issued to whom it may concern, so that circumstantiated Act A.C. PGR/SIEDO/UEITMIO/AC/35/2007, ratified before an agent of the Public Attorney's Office attached to the Federation of the Attorney General's Office of the Republic, may provide said agent with all of the available and necessary evidence related to this case, so that he/she may proceed as needed and in accordance to the law.

To the Secretary of Work and Social Prevision:

Instructions must be issued to whom it may concern, so that personnel attached to this Federal Secretary may carry out inspection and surveillance activities on companies and individuals dedicated to the headhunting activities for foreign working positions. In addition, corrective measures considered pertinent must be applied in order to prevent violations to the human rights of Mexican immigrants. Instructions must also be issued to whom it may concern so that circumstantiated Act A.C. PGR/SIEDO/UEITMIO/AC/35/2007, ratified before an agent of the Public Secretary attached to the Federation of the Attorney General's Office of the Republic, may provide said agent with all of the available and necessary evidence related to this case, so that he/she may proceed as needed and in accordance to the law. The Internal Control Body of the Secretary of Public Functions, an internal department of the Secretary of Work and Social Prevision, must be properly instructed so that an administrative investigation procedure against public servants in charge of inspection and surveillance may be initiated and determined. The procedure must be based on the grounds that said authorities did not properly fulfill their administrative and institutional functions, as they failed to verify the manner in which headhunting agencies or independent headhunters who offer work abroad to Mexican citizens, operate.

To the National Immigration Institute:

Instructions must be issued to the Internal Control Body of the Secretary of Public Functions (an attachment of the INM), so that an audit of the offices of the Local Delegation of the National Immigration Institute in the International Airport of Cancún, Quintana Roo may be granted and conducted in order to verify control of migratory forms that are requisitioned by Mexicans who travel abroad. Said forms must be kept adequately in accordance to the terms established by pertaining norms. In addition, the INM must issue instructions to whom it may concern, so that, through report AICQ/T2/549/08, issued on March 5th 2008, and motivated by the subtraction, robbery, loss or misplacement of the pertaining migratory forms, this Recommendation is added to the information obtained during the visit that the Internal Control Body paid the local operative delegation commissioner of the International Airport of Cancún, Quintana Roo. The INM must also issue instructions to whom it may concern, in order to provide public officials attached to the Institution with proper training, so that they are able to identify points of departure from the country, for any and all Mexican citizens hired to work abroad and that all papers presented by travelers are in order, as established by Article 79 of the General Population Law. In addition and as established by Article 80 of the aforementioned General Population Law, collective transferals must be kept under close watch. Finally, the agent attached to the Public Secretary of the Federation in charge of the case must be granted with the necessary authority, in order to conduct the pertaining initial investigation, against public officials attached to the INM who may be involved in the facts that have led to this case, on the grounds of possible omissions in deficient public services, as exposed in the Observations chapter included within this Recommendation.

To the Head of the Constitutional Municipal Office of Pedro Escobedo, Querétaro:

Instructions must be issued to whom it may concern, so that public officials attached to the Municipal Office may conduct adequate supervision of all of the procedures required by Mexicans hired to work abroad. In addition, the terms established by Article 123, Section A, Fraction XXVI, of the Political Constitution of the Mexican United States must be thoroughly fulfilled. Instructions must be issued to whom it may concern, so that in accordance to the law, the Treasury Inspector's Office of the Municipal Office of Pedro Escobedo, Querétaro may initiate and determine an administrative investigation procedure against public officials attached to the Municipal Office, as well as the head of the municipality, on the grounds of their alleged administrative and institutional omissions to make certain that Article 123, Section A, Fraction XXVI, of the Political Constitution of the Mexican United States was properly fulfilled.

Recommendation 2/2009

January 20th 2009

Case: Of Mr. and Mrs. A1 y A2

Addressee Authority: Attorney General's Office of the Republic

On July 11th 2007, the National Commission received a complaint filed on July 5th, before the Human Rights Commission of the State of Nuevo León, by Q1. The complaint stated that, on June 27th 2007, A1 left his home at approximately 22:00 hours and was not seen or heard of again, until June 30th, when Q1 received a telephone call notifying her that that A1 was being held at the "Topo Chico" Preventive Center for Social Rehabilitation. Q1 also stated that on July 1st 2007, she had come to the "Topo Chico" Preventive Center for Social Rehabilitation, where A1 informed her that on the night of June 27th 2007, he had been detained, blindfolded and taken to an unknown location, where he was stripped, handcuffed and beaten in the buttocks with a wooden board. In addition, A1 was told to touch some firearms. A1's buttocks were bruised from the beating he took, so Q1 asked for personnel attached to the State's Human Rights Commission to conduct an interview with the victim at the aforementioned "Topo Chico" detention center.

Therefore, on July 5th 2007, personnel attached to the Human Rights Commission of the State of Nuevo León went to the "Topo Chico" Preventive Social Rehabilitation Center, in order to interview A1. The victim said that, at approximately 23:15 hours on June 27th 2007, he had been detained at his home address, located on 8th Street in the Miguel Alemán neighborhood, located within the San Nicolás de los Garza area. The victim had called for a taxi, but since no one opened the door to the aforementioned address, he decided to wait alongside other people. However, approximately 20 agents attached to the Federal Agency of Investigation appeared shortly after and suddenly yelled "drop!". Agents, dressed in blue with badges that identified them as "Federal Police", wearing Kevlar jackets and masks that covered their faces completely, handcuffed and blindfolded all of the detainees and then asked for the "man"; the person in charge of hiring the taxis. But, since the detainees denied any knowledge, the aforementioned agents kicked them hard in the ribs. During the interview, A1 added that the blindfold and handcuffs were removed and that they tried to force him to "grab" the loading chamber of a handgun, to which he refused. In response, A1 was handcuffed and blindfolded yet again and beaten in the buttocks with a wooden board. Later, A1 and the rest of the detainees were transferred to the Ministerial State Police building, where he issued his ministerial statement, assisted by a legal advisor appointed by the Ministerial Police.

The victim asked for A2, another detainee, to be interviewed. As he spoke, A2's statement was consistent with each and every point made by A1. In addition, A2 pointed out that he was placed under the charge of the Fourth Penal Judge of the Third Judicial District of the State of Nuevo León, charged with committing a crime against community safety; an accusation that led both victims to petition for an investigation of the facts.

Both victims were interviewed on the same date and at approximately 16:50 hours. During the procedure, the personnel attached to the local human rights institution learned that A2 had sustained two reddish injuries in the buttocks area, According to the victim, both injuries were the result of beatings sustained at the hands of the federal agents responsible for his arrest. A2 also added that, at approximately 17:10 hours, A1 presented reddish bruises on both buttocks and purplish bruises in other parts. In addition, the victim also sustained a reddish scratch on one knee.

The legal-logical analysis conducted on all the evidence gathered by the National Commission, helped to establish violations to physical safety, in the form of cruel and/or degrading treatment, attributed to agents of the Federal Agency of Investigation attached to the Attorney General's Office of the Republic in the State of Nuevo León.

Based on the contents of statements included within the following paragraphs, the National Commission believes that the injuries sustained by A1 and A2 were not part of any proper detention or arrest maneuvers, but actual offenses committed against the victims' physical integrity. The injuries sustained by the victims are the result of excessive use of force; typical traits attributable to the cruel and/or degrading treatment that both victims were subjected to, in accordance to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, with regards to inflicting unnecessary punishment on detainees; a situation that allegedly happened in this case.

It must be pointed out that, in present times, the practice of cruel and/or degrading treatment is considered to be totally unacceptable, hence, it should be one of society's most pressing concerns. Since this act seriously compromises the physical integrity of the victims, cruel and/or degrading treatment is considered as a grave offense, not only domestically but abroad as well. Cruel and/or degrading treatment constitutes a serious violation of human rights and it is undoubtedly being practiced under the authorization or tolerance of public officials, thus affecting society at large for it constitutes abuse of power. Therefore, it becomes imperative for the State to make

certain that the pertaining investigations are conducted anytime charges are presented on the grounds of cruel and/or degrading treatment, so that any parties found responsible receive proper punishment.

In light of the above, the National Commission issued Recommendation 2/2009, addressed to the Attorney General of the Republic, recommending the following:

FIRST Instructions must be issued in order to repair all damages suffered by A1 and A2. Victims must receive all psychological support, medical treatment and rehabilitation needed to bring their physical and psychological condition to the state they were in before their human rights were violated. In addition, the National Commission must be kept properly informed of the results.

SECOND Instructions must be issued to whom it may concern so that the victims and material witnesses responsible for describing the facts included within the observations chapter included in this recommendation receive immediate help. In addition, any and all security measures deemed necessary must be taken in order to prevent any intimidation acts or retaliation against the victims and witnesses.

THIRD The agent attached to the Head of Special Agency Number One of the Public Attorney of the Federation, for Crimes Committed by Public Officials in Escobedo, Nuevo León, who is familiar with initial investigation PGR/NL/ESC-DCSP-I/2950/D/2007, must be properly informed of all the considerations included within the Observations chapter included in this Recommendation. Also, said considerations must be taken into consideration and included within the investigation initiated against public officials PR1, PR2, and PR3, all attached to the Federal Agency of Investigation, for crimes that include: abuse of power; injuries inflicted on A1 and A2, as well as the consequential results of said injuries. In addition, the National Commission must be kept properly informed at all times of the results yielded by the ministerial investigation, during its correction and until a final determination is reached.

FOURTH This recommendation must be presented before the General Manager's Office for Supervision and Internal Investigation of the Federal Agency of Investigation, so that investigation lines followed in the ongoing administrative investigation procedure that is to be conducted against PR1, PR2 and PR3, public officials attached to the Federal Agency of Investigation, are taken into consideration. In addition, the National Commission must be kept properly informed of the procedure.

FIFTH The Internal Control Body of the Attorney General's Office of the Republic must be properly informed about the considerations stated within the Observations chapter included in this recommendation, so that they may be taken into consideration during the administrative investigation procedure that is to be conducted against public officials PR1, PR2, PR3, all attached to the Federal Agency of Investigation. In addition, the National Commission must be informed of the results yielded by the investigation, whenever possible.

SIXTH Instructions must be issued to whom it may concern, so that any measures deemed necessary are implemented to provide the personnel attached to the Attorney General's Office of the Republic with proper training with regards to human rights, in order to avoid the use of excessive physical force. In addition, the National Commission must be kept properly informed of the progress and results obtained through the implementation of said measures.

SEVENTH Any and all preventive measures deemed necessary are to be taken, in order to avoid that in the future, public officials involved in crime investigation are present at the time that medical inspectors certify the physical condition of any alleged responsible parties.

Recommendation 3/2009

January 30th 2009

Case: Mrs. JGG and the product of conception

Addressee Authority: Mexican Institute of Social Security

On July 8th 2008, Mrs. JGG filed a complaint before the Attorney General's Office for Human Rights of the State of Guanajuato, which was in turn presented before the National Commission on the 15th on July, based on the grounds of alleged violations to the victim's human rights, attributable to personnel attached to the Mexican Institute of Social Security (Spanish initials IMSS). The complaint states that, on the 1st of July, Mrs. JGG and her spouse went to the IMSS's Number 2 Clinic for General Medicine in Irapuato, Guanajuato, due to the fact that she had given birth to a child after only 20 weeks of pregnancy. The moment the couple reached the clinic, the victim felt the child cry and stir as she was carrying him in her hands, due to the fact that her son was still attached to her placenta when she gave birth. The victim added that, as soon as the couple were inside the clinic, she turned the child over to the doctor in charge of the shift (although she does not know the name of said doctor) who looked at her in surprise, the moment he realized that the child was alive, and immediately reported it to Mrs. JGG. Immediately, the doctor began issuing orders for the baby to be placed in an incubator and had the mother admitted into the maternity surgical area, where she would remain to receive attention.

The victim pointed out that, on July 2nd 2008, at approximately 6:00 PM, a nurse informed her that her baby was dead and had been given to her spouse, who was taking care of funeral procedures. Immediately following the report of her child's passing, Mrs. JGG was released from the clinic and sometime later, her husband told her that he had not received the body of the child, because the drawer where it was kept was locked. Instead, he was told to come back to pick it up the next day, when the drawer would be open.

Nonetheless, when the couple returned to the clinic on July 3rd to retrieve the baby's body, they were told that it was missing. In addition, the head of the medical institution only reported that the body was missing to the victim's sister, stating that he could not just make it reappear or be watching all of his staff at all times. Therefore, the victim decided to press charges on July 4th 2008, before the agency of the Public Attorney's Office attached to the local jurisdiction.

On August 21st 2008, Mrs. JGG's attorney informed personnel attached to the National Commission that, on July 14th, Agent number 11 of the Public Secretary attached to the Attorney General's Office of the State in Irapuato, Guanajuato, had opened initial investigation A.P. 434/2008, based on the grounds of the missing body. At the same time, Mrs. JGG's attorney reported that, on June 28th 2008, her client had filed a complaint, via e-mail, before the IMSS's Internal Control Body. On August 21st 2008, the victim received a communiqué, where the head of the Area for Audits, Complaints and Attributions of the Institute asked her to present her statement in order to place it as part of file number QU/203/08/GTO.

As a consequence, the National Commission has observed that the actions and omissions committed by the personnel in charge of custody and delivery of the body of the product of Mrs. JGG's pregnancy and attached to the Number 2 Regional General Hospital of the Mexican Institute of Social Security located in Irapuato, Guanajuato, constitute a violation to the human rights of legality, legal safety, religious freedom and human dignity.

It is important to indicate that both, Mrs. JGG and a social worker attached to the Number 2 Regional General Hospital of the IMSS, did report the loss of the product of Mrs. JGG's pregnancy before Agent number 11 of the Public Attorney's Office attached to the Attorney General's Office of the State of Guanajuato, thus leading to the opening of initial investigation A.P. 434/2008. Yet, the investigation was postponed due to a contestation appeal presented on September 18th 2008 before an Agent of the Public Attorney's Office of the Federation attached to the Second Investigative Board of the Attorney General's Office in Irapuato, Guanajuato. The contestation appeal is currently being processed under number AP/PGR/GTO/IRPTO/II/8278/08.

Mrs. JGG filed a complaint before the Internal Control Body of the Mexican Institute of Social Security. For this reason, the head of the Area for Audits, Complaints and Attribution of the Institute is currently investigating the facts, through complaint file QU/203/08/GTO.

Consequently, the National Commission of Human Rights issued Recommendation 3/2009, addressed to the General Manager of the Mexican Institute of Social Security, recommending the following:

FIRST Orders must be issued to whom it may concern, so that the pertaining administrative procedures are conducted in order to repair the damage suffered by Mrs. JGG, in virtue of considerations proposed within the Observations chapter featured in this recommendation. In addition, the National Commission must receive proof that the procedure is being conducted and fulfilled.

SECOND Any and all instructions deemed necessary must be issued, so that Mrs. JGG and her spouse receive the proper psychological support that they may need until they are fully recovered.

THIRD Any and all instructions deemed necessary must be issued, so that all observations included within this recommendation are fulfilled. In addition, the Internal Control Body of the Mexican Institute of Social Security, which is already familiar with the facts established in complaint QU/203/08/GTO, must become thoroughly familiar with the case and the National Commission must be kept properly informed of all progress made, until a final resolution is reached.

FOURTH Instructions must be issued to whom it may concern, so that the Agent of the Public Attorney's Office of the Federation, attached the Attorney General's Office of the Republic, who is the person responsible for integrating initial investigation AP/PGR/GTO/IRPTO/II/8278/08 to the complaint filed by Mrs. JGG, receives all the necessary legal and documentary support in order to integrate the aforementioned investigation as soon as possible, so that a resolution can be reached in due time and in accordance to the law.

FIFTH Any and all preventive measures deemed necessary must be adopted in order to avoid actions such as the ones that led to this recommendation being repeated in the future, through the elaboration of rules which guarantee that products derived from miscarriages or early birth must be handled with the proper and full respect they deserve. In addition, the National Commission must be kept properly informed of any and all results obtained by this procedure.

INTERNATIONAL ISSUES

The CNDH has expressed its concern with regards to the decision reached by the State Department of the United States of America which prevents migrants facing deportation from having the right to an attorney provided to them by the court. The aforementioned decision was set in motion less than two weeks after the new Government of the United States was in place and will affect the rights of illegal immigrant workers and their families.

This decision by the U.S. State Department contravenes several international human rights instruments; more specifically: the American Declaration of Rights and Duties of Man; the American Convention on Human Rights; the International Convention on the

Protection of the Rights of all Migrant Workers and Members of their Families, and the Covenant on Civil and Political Rights. The latter is in direct relation to the United States. Any and all persons subjected to administrative, legal, or judicial procedure, must be provided with a minimum guarantee that they shall receive due process; this, according to the CNDH, as well as to international law.

On the other hand, Advised Opinion 18 (OC-18/03), conducted by the Inter-American Court of Human Rights, states that the migratory condition of a person is no justification for the privation of the full use and exercise of said person's fundamental rights. Said rights must be recognized and guaranteed, regardless of their migratory situation.

The fact that the United States of America is not providing Mexican immigrants that are expelled from the country with the free, legal support that they are entitled to, points to a discriminating position, since legal defense is a right granted to all other people who resided in the United States of America.

An increasing watch over the border in urban areas has pushed immigrants to try to get across in zones that are becoming increasingly more perilous and this situation has already led to the death of more than one thousand illegal immigrant workers over the last two years.

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