

NEWS LETTER

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CONTENTS

- Impugnation of the CNDH before the National Supreme Court of Justice
- Domestic Affairs. Human Rights in Mexico: A Diagnosis In Figures
- International Affairs. XIV General Assembly and Congress of the Latin American Federation of Ombudsmen.
- 62/2009 Case of Mr. José Humberto Aguilar Castillejos
- 63/2009 Case of Mr. Rubén Coxcahua Marín
- 64/2009 Case of the impugnation of Ángela Bernal Barrera
- 65/2009 Case of the riverbank fishermen of the State of Sonora
- 66/2009 Case of the minor JJLD
- 67/2009 Case of Mrs. Ramona López Jiménez
- 68/2009 Case of the inhabitants of the Municipality of Zimapán, Hidalgo
- 69/2009 Case of the inmates of the center for the execution of penal sanctions in Reynosa, Tamaulipas
- 70/2009 Case of Mr. FMN, JBC, AVE and PVE
- 71/2009 Case of Mr. Ramón Ortiz Ríos, Ramón Ortiz Miranda and René Canales Ortiz
- 72/2009 About the operative carried out in the State of Michoacán
- 73/2009 Regarding the case of Mr. Ricardo García Arroyo in Ciudad Juárez, Chihuahua
- 74/2009 Regarding the case of the minors.- RAHR, AGTG, RAG, CRMJ, JASR, VFGM and RAM
- 75/2009 Regarding the case of Mr. Cecilio Vásquez Miguel, Venancio Olivera Ávila and Aurelio Ortega Pacheco, in the community of Santiago Lachivia, San Carlos municipality, Yautepec district, State of Oaxaca
- 76/2009 Regarding the case of Mr. Ignacio Flores Montiel

IMPUGNATION OF THE CNDH BEFORE THE NATIONAL SUPREME COURT OF JUSTICE

The Mexican National Human Rights Commission impugned before the National Supreme Court of Justice the legal reforms that allow a judge in the Federal District to assume the tacit admission of those people who refuse to declare in a civil proceeding even if they are journalists, notaries, ministers of a religious cult, lawyers or other professionals who, according to this National Institution and due to professional and ethical reasons, in some cases have the right to excuse themselves and refrain from revealing the source of the information they possess.

This complaint focuses especially on the journalists' right to not reveal their sources, as a consequence of the ethical requirements of their profession. According to the impugned reform, a journalist who has been summoned to declare does not have the freedom of hiding his source, given that even though he refuses to reveal it, he will be considered as tacitly confessed.

The violation of journalists' rights does not only occur under penal law, it may also occur when referring to civil law, as was declared in Recommendation 57/2009, related to the judicial harassment of the freedom of speech, which is universal, and is the reason why a journalist's right to keep the origin of his information secret must be defended and protected within all areas of the administration of justice.

The CNDH proposes that this country's Highest Tribunal recognizes the existence of the prohibition of discrimination or inequality due to indifference in article 1° of the Constitution, which implies giving the same juridical treatment to two people regarding different realities or situations, which is what happens with the impugned reform given that, under the principle of equality, we find the right to be treated differently when the circumstances are different.

The norm impugned by the CNDH is Article 322 of the Federal District's Civil Procedures Code, which infringes articles 1°, 6° and 7° of the Constitution, which contemplate the rights to equality and no discrimination, to information and freedom of speech respectively, as well as what is established in international documents such as the Universal Human Rights Declaration, the American Declaration of Man's Rights and Duties, the International Pact on Civil and Political Rights and the Declarations of the Principles of Freedom of Speech.

In the CNDH's opinion, a case which attacks the freedom of speech or information, affects not only those involved in a trial, but also the unrestricted movement of ideas, together with society's access to information, which is an essential requirement for the proper operation of a representative democracy.

DOMESTIC AFFAIRS

Human Rights in Mexico: A Diagnosis in Figures

On the last 26th of October, the project called Human Rights in Mexico: A Diagnosis in Figures was presented in order to gauge public opinion. Accompanied by doctor María del Refugio González Domínguez, General Director of the National Human Rights Center (CENADEH), Francisco Illanes Solís, General Director of Automated Information and by Diego Garcia Ricci, researcher of the CENADEH and coordinator of this project, Dr. Soberanes Fernández explained that "Human Rights in Mexico: A Diagnosis in Figures", is a joint effort which is based on the most rational and systematic organization of the data gathered and generated by the public institutions dedicated to the protection of human rights. He said the CNDH collected and systematized that information and with the help of online technologies, will make it publicly available through an electronic platform which will be user-friendly, easy to access and available at all times on the internet.

He pointed out that the entities with the least number of incidents during those 19 years are Veracruz (838), Colima (2 thousand 547), Baja California Sur (3 thousand 045), Aguascalientes (3 thousand 303) and Zacatecas (4 thousand 714).

The CNDH and the public institutions dedicated to the defense and protection of the fundamental guarantees documented that from 1990 until 2008, a total of 710 thousand 542 incidents related to alleged human rights violations occurred throughout the country. Out of these, 94 thousand 229 are a matter of federal jurisdiction and 625 thousand 313 correspond to local jurisdiction, with the Federal District (93 thousand 051), Jalisco (80 thousand 794), Estado de México (69 thousand 921), Puebla (30 thousand 124) and Chiapas (29 thousand 729) being the entities with the highest number of reported incidents.

During the presentation of the Diagnosis the National Ombudsman, Dr. José Luis Soberanes Fernández, stated that the protection of human rights in Mexico is going through a critical stage and that just as there is an undeniable effort to resist and fight organized crime going on, there are also utopian ideas and strictly rhetorical proposals on the subject of human rights. He underlined the importance of pushing for the efforts to improve public safety to be carried out bearing in mind that those responsible for enforcing the law should be the first to comply with it.

He mentioned that the advances made in some fields of public safety and the backward steps taken in others generate confusion and uneasiness amongst a large part of the population. He pointed out that it is from this context of contradictory and complex realities that this research project emerges, with a measure of progress which is in accordance with its promising first steps and has the goal of helping to satisfy the demand for quantitative information on the subject.

After stating that this Diagnosis consists of an initial numerical approximation on how the main reported human rights violations are documented in our country, contemplating a period of time ranging from 1990 until 2008, he said that the Diagnosis presents a reference obtained from the number of cases registered by the CNDH and state commissions as events which resulted in the alleged violation of human rights. He mentioned that it is made up of statistical information which can be very useful as a starting point for the planning and implementation of public policies by the State or for actions for the promotion and defense of human rights carried out by civil society organizations.

He pointed out that generating human rights indicators is a complex task, as there are still numerous conceptual, inconsistency and methodological limitations to be faced in addition to the logistical difficulties. He mentioned that, because of this, the goal of this research is not to present a conclusive analysis or interpretation to determine how human rights in Mexico have advanced during the last eighteen years, but rather to provide solid data and considerations which are as objective as can be in order to help determine the recurring tendencies or actions which violate human rights, to which authorities, organizations and activists must pay special attention.

Dr. Soberanes Fernández stated that it is impossible for a registry of this nature to document all the human rights violations which occur in Mexico and that the Diagnosis must be interpreted considering this limitation, considering it to be an empirical initial reference point to measure the advances of the country on this matter.

He mentioned that this exercise of the CNDH may be followed by future quantitative measurements and thanked the institutions which make up the non jurisdictional system of human rights protection for their effort, whose registries, just like those of the CNDH, make up the basis of this research.

The Diagnosis's classification categories, which may be viewed on the web page www.cndh.org.mx and which were taken from the Manual for the classification of human rights violating events, published by the CNDH, are: 1) The Right to Legal Certainty; 2) The Right to legality; 3) The Right to equality; 4) The Right to personal integrity and safety; 5) The Right to privacy; 7) The Right to petition; 8) The Right to property or possession; 9) The Right to life; 10) The right to worthy treatment; 11) The Right to education; 12) The Right to health care; 13) The Right to work; 14) The Right to housing; 15) The Right to peace; 16) The Right to the heritage of humanity; 17) The Right to environmental conservation and 18) The Right to development. Subsequently, each category is divided into sub-categories.

A total of 345 thousand 317 incidents occurred in relation to the right to legal certainty from 1990 until 2008. Out of these, 46 thousand 330 are a matter of federal jurisdiction and 298 thousand 987 correspond to local jurisdiction, with the Federal District (61 thousand 994), Estado de México (39 thousand 934), Jalisco (33 thousand 497), Tabasco (14 thousand 836) and Chiapas (12 thousand 799) being the entities with the highest number of incidents.

Regarding the right to legality, a total of 152 thousand 202 incidents occurred during this period, out of which 12 thousand 738 are a matter of federal jurisdiction and 139 thousand 464 correspond to local jurisdiction, with Jalisco (20 thousand 937), Estado de México (13 thousand 348), Chiapas (11 thousand 890), Federal District (8 thousand 982) and Oaxaca (7 thousand 588) being the entities which reported the highest number.

INTERNATIONAL AFFAIRS

XIV General Assembly and Congress of the Latin American Federation of Ombudsmen

On the last 28th and 29th of October, the XIV General Assembly and Congress of the Latin American Federation of Ombudsmen (FIO) took place in the city of Madrid in Spain.

The main theme of the congress were the different aspects regarding the trafficking of women and girls with the intention of exploiting them both sexually as well as for work purposes, on which two magisterial conferences were presented: The universality and interdependence of human right in today's world; reality or fiction, lead by Dr. Gregorio Peces-Barba Martínez, professor of the Faculty of Law; and the second one The Inter-American system of Human Rights Guarantees: origins, situation and perspectives in times of crisis. Its relationship with the Ombudsmen, given by Dr. Segrio Garcia Ramírez, Judge and former President of the International Human Rights Court, as well as researcher for the Center of Juridical Investigations of the Autonomous National Mexican University (UNAM).

Also, on the 29th of October, the XIV General Assembly of the FIO took place in the Palace of the Senate in Madrid, Spain.

The reading and approval of the written record of the XIII Ordinary General Assembly which took place in Mérida, Yucatán, Mexico in 2008, was carried out during the event. Also, the Work Report from the Presidency of the FIO for 2009 was presented; together with the report and declaration from the Network of Women and the Com-FIO Network.

Finally, the election of the new President of the FIO and the Governing Council took place and it was agreed that the next Assembly and Congress would take place in the city of Cartagena de Indias, Colombia.

RECOMMENDATIONS

In the following pages, the synopsis of the recommendations emitted by the CNDH during the month of October is presented. The complete version may be consulted on the Institution's web page.

Recommendation 62/2009

6th of October 2009

Case: Of Mr. José Humberto Aguilar Castillejos

Responsible Authority: Secretariat of National Defense (SEDENA)

On the 27th of March 2009, the National Commission received the file of complaint of Mr. José Humberto Aguilar Castillejos, in which he declared events which allegedly violated his human rights, carried out by civil servants of the Secretariat of National Defense. In it, he stated that on the 3rd of March 2008, he was surgically operated on to cure an inguinal hernia on his left side in the Regional Military Hospital of Puebla; during which the procedure performed by the anesthesiologist severely injured his spinal column, provoking a very large hematoma which has left him without the ability to walk, in spite of the various therapies and operations he received afterwards in the Central Military Hospital in Mexico City. He added that as a consequence of those events, he filed an accusation of medical negligence before the Public Ministry Agency of the 25th Military Zone in Puebla.

From the logical-juridical analysis performed in conjunction with the means of conviction that make up the file of complaint number CNDH/2/2009/1410/Q, and based on all the evidence collected during its creation, the National Commission accredited violations to the human right to health care, to the detriment of Mr. José Humberto Aguilar Castillejos, as a result of events consisting in the inadequate medical attention he received from civil servants of the Secretariat of National Defense assigned to the Regional Military Hospital of Puebla.

With the gathering of all the evidence added to the file of complaint, it is confirmed that the surgical procedure of Mr. José Humberto Aguilar Castillejos was treated in the Regional Military Hospital of Puebla as a left inguinal hernioplastia reinforced with a mesh and presented an aesthetical complication with the occurrence of chemical aracnoiditis and neuronal infection. Due to this, it was decided that medical negligence did occur during the aesthetical procedure given that, from a medical law point of view, A1, an anesthesiologist

of the Mexican Army acted carelessly, given that he did not perform a meticulous disinfection of the area where he applied the anesthetic, additionally, he acted with lack of foresight because when he became aware that the affected person presented symptoms which were caused by a neurological problem, and in the end caused a chemical arachnoiditis, he should have suspended the procedure and applied the anesthetic in a different way, such as through inhalation, which would have avoided the disability that he currently has.

The recommendation was emitted regarding the violation of the human right to health care and the right to receive medical attention of Mr. José Humberto Aguilar Castillejos, by civil servants assigned to the Regional Military Hospital of Puebla, who provided him with an inadequate provision of the public healthcare service, violating through this behavior the fundamental right recognized in articles 4th , third paragraph, of the Political Constitution of the United Mexican States; 1st, 2nd, sections I, II and V; 3rd, 23rd, 24th, 27th, section III; 33rd, sections I and II; 34th, section II, 37th, 51st and 89th of the General Health Law; 6th, 7th, 8th, 9th, 10th, section I; 21st and 48th of the Regulations of the General Health Law Regarding the Provision of Medical Attention Services; 1st, 2nd, sections X and 16th, section XXI of the Law of the Social Security Institute for Mexican Armed Forces; articles 12.1 and 12.2, clause d), of the International Pact on Economic, Social and Cultural Rights and 10.1 and 10.2, clause d) of the Additional Protocol to the American Convention on Human Rights on the Subject of Economic, Social and Cultural Rights.

Because of this, it was suggested to the Secretary of National Defense that the damage to Mr. José Humberto Aguilar Castillejos be repaired by providing him with permanent medical assistance as well as rehabilitation, physiotherapy and psychotherapeutic support until he is fully recovered. He should also notify the General Inspection and Comptrollership Unit of the Mexican Army and Air Force in order to begin the corresponding administrative procedure of investigation against personnel assigned to the Regional Military Hospital of Puebla who intervened in the previously mentioned right violating events, also notifying the agent of the Military Public Ministry so he continues with the assembly of prior investigation 25ZM/30/2008 in compliance with the law.

Recommendation 63/2009

6th of October 2009

Case: Of Mr. Rubén Coxcahua Marín

Responsible Authority: Secretariat of National Defense (SEDENA)

On the 20th of May 2009, this commission received a document through which the secretary of agreements of the Sixth District Tribunal in the State of Chihuahua, located in Ciudad Juárez, mentioned the injuries presented by the defendant Rubén Coxcahua Marín, who said they were caused by personnel of SEDENA when he was detained.

As a result of the previously mentioned events, the National Commission initiated the file of complaint number CNDH/2/2009/2330/Q. From the logical-judicial analysis performed in conjunction with the evidence presented, it was determined that the rights to legality and legal certainty were violated, together with the right to integrity and to personal safety established in articles 14, second paragraph, 16, first and fifth paragraphs, 19, last paragraph, 21, ninth paragraph and 22, first paragraph, of the Political Constitution of the United Mexican States, to the detriment of Mr. Rubén Coxcahua Marín because of actions consisting in the excessive use of force during detention as well as harsh treatment, given to him by civil servants of SEDENA.

This Institution confirmed that the previously mentioned rights were violated by civil servants of SEDENA, given that the offended was detained on the 4th of May 2009 at approximately 20:20 hours, as there were 23 plastic packages containing marijuana found in his home. Subsequently, he was taken to the facilities of the command post of the "Chihuahua Joint Operation", where a declaration of events was presented, the drug was weighed and a medical evaluation was performed on the offended, at the time of which it was noted that he presented numerous injuries which were certified by both the agent of the Public Ministry of the Federation and the secretary of agreements of the Sixth District Tribunal in the State of Chihuahua.

The cruel treatment the offended was subject to was noted in his declarations as well as in the different ministerial and judicial testimonials of injuries and medical certificates issued by specialized personnel of the Attorney General's Office, with which it is possible for personnel of the Coordination of Appraisal Services of the National Commission to prove the alterations to his physical integrity. This resulted in the confirmed violation, to his detriment, of what is established in articles 1, 2.1, 6.1 and 6.2 of the Convention against Torture and other Inhumane, Degrading and Cruel Treatments and Punishments; 1, 2, 3, 6, second paragraph, 7, 8, 9, 10 and 12 of the Inter-American Convention for the Prevention and Sanction of Torture, as well as article 6 of the Collection of Principles for the Protection of All People Under any Form of Detainment or Imprisonment, 2, 3, and 5 of the Code of Conduct for Law Enforcement Officials.

It was also noted that SP 3, a military doctor, did not specify the size of the injuries, nor did he classify their nature.

As a result, the National Institution emitted recommendation 63/2009 on the 6th of October 2009, directed towards the Secretary of National Defense, suggesting that he repair the damage caused to the offended through psychological and medical support. It was also suggested that the Office of the General Attorney of Military Justice begin a prior investigation, together with the initiation of the administrative procedure of investigation by the General Inspection and Comptrollership Unit of the Mexican Army and Air Force, both of them against the military personnel who intervened in these events, because of the actions and omissions they incurred in. In

addition, it was recommended that military personnel of the 3rd Mechanized Regiment, including the medical division, which supports the Chihuahua Joint Operation of the Mexican Army, be trained so that all their actions are carried out abiding by the law and with respect to human rights, guaranteeing the respect of life, integrity and personal safety and do not incur in cruel treatment.

Recommendation 64/2009

6th of October 2009

Case: Impugnation of Ángela Bernal Barrera

Responsible Authority: Constitutional Government of the Free and Sovereign State of Guerrero

On the 5th of September 2009, the Commission for the Defense of Human Rights of the State of Guerrero settled file of complaint number CODDEHUM-CRA/124/2008-II, due to events which allegedly violated human rights and were attributed to the then head of the First Local Council on Settlement and Arbitration of Acapulco, Guerrero, consisting in administrative procrastination and negligence during labor trial 515/2004, given that on the 15th of November 2005 she emitted the corresponding judgment in compliance with the final sentence of trial of exemption 516/2006; however, since the 27th of September 2007 she failed to set a date and time for the auctioning hearing.

This was done arguing that a new specialist on the subject of real estate appraisal needed to be assigned. Due to this, Ángela Bernal Barrera extended her complaint, pointing out that the president of the previously mentioned First Local Council stated that there was no delay in the procedure given that the main objective of the accuser was the reinstallation, thus, once this had taken place, she would be in a position to set a date for the first auctioning hearing, having previously complied with the requirements established in the Federal Labor Law.

On the 21st of May 2009, the Commission for the Defense of Human Rights of the State of Guerrero emitted Recommendation 61/2009, directed towards the General Secretary of the State of Guerrero, in which it requested that the previously mentioned labor authority adjusted its actions to meet the regulations that govern it, in order to carry out the previously mentioned labor judgment. It also requested the initiation of the administrative procedures against the civil servants which kept the judgment from being carried out. This recommendation was not accepted and as a consequence, Ángela Bernal Barrera appealed for refutation against such action, registered with number CNDH/2/2009/326/RI.

From the evidence gathered by the National Commission, it is noted that the offences expressed by the plaintiff are based on solid evidence and do proceed, it is also noted that the local Commission properly created and issued Recommendation 61/2009, given that authorities from the First Local Council on Settlement and Arbitration, located in Acapulco de Juárez, Guerrero violated, to the detriment of the offended, the right to legal certainty, which in turn violated articles 14, second paragraph and 17, second and fifth paragraphs of the Political Constitution of the United Mexican States, considering that she was kept from enjoying those rights even when there was a resolution in her favor.

During the integration of the resource of merit, the General Secretary of the State of Guerrero ratified his determination to refuse the local recommendation to the National Commission.

As a result, the National Institution emitted Recommendation 64/2009 on the 6th of October 2009, directed toward the Constitutional Governor of the State of Guerrero, mainly stating that recommendation 61/2009, emitted on the 21st of May 2009 by the Commission for the Defense of Human Rights of the State of Guerrero, must be carried out.

Recommendation 65/2009

6th of October 2009

Case: Of the riverside fishermen of the State of Sonora

Responsible Authority: Secretariat of the Environment and Natural Resources

On the 30th of March 2009, the National Commission received a complaint filed by Mr. Guadalupe Lara Domínguez and others, in which they stated alleged human rights violations committed by personnel of the Federal Attorney's Office for Environmental Protection (PROFEPA), who on the 22nd of March 2007 executed the precautionary detention of the vessel "Isla de Pajaros". This vessel served as a mother ship for another nine vessels, which they also detained together with their fishing equipment and the entirety of the products found within them, transporting all the fishermen of these vessels to a place known as "THE BARREL" in the State of Baja California and then to Guerrero Negro, Baja California Sur, finally placing them at the disposal of the Federal Public Ministry Agent, leaving the vessels and their artifacts on the beaches of the first site they were taken to.

As a result of these events, the National Commission initiated the file of complaint 2007/1786/2/Q. From the logical-juridical analysis performed in conjunction with the evidence presented, it was determined that the civil servants of PROFEPA acted carelessly by not storing, guarding and taking care of the confiscated assets properly. This resulted in the infringement on the human rights of legality and legal certainty contemplated in articles 14, second paragraph and 16, second paragraph, of the Political Constitution of the United Mexican States.

Thus, with the evidence attached to the file, the National Institution proved the lack of diligence, professionalism and responsibility with which civil servants of the PROFEPA carried out their duties when considering that they disregarded what is established by articles 444, 451, 453, 454 and 455 of the Federal Code for Civil Procedures which compliment the General Law of Ecological Equilibrium and Environmental Protection. They did so by failing to choose a location in which to impound the assets confiscated in the previously mentioned inspection, and implement the necessary actions for their proper transportation and custody, considering that the fish found within the vessels was a perishable product. With this in mind, the Public Ministry Agent asked the delegate of PROFEPA in Baja California to take the necessary actions for their proper transportation and custody but he refrained from relaying this message on to the personnel of the Delegation of this Office in Sonora.

In addition, it was also proven that civil servants from the PROFEPA Delegation in Baja California were deliberately delayed in presenting the reports requested by the National Institution, given that it asked this office for information about this file since the 25th of July 2007, reiterating this request on numerous occasions through written correspondence, telephone calls, faxes and even personally, finally managing to obtain it on the 7th of May 2008.

For the National Commission, in this case, personnel of PROFEPA failed to observe articles 14, second paragraph and 16, first paragraph, of the Political Constitution of the United Mexican States by depriving the wronged party of their property, possessions and other rights they had and still have over the assets that were taken from them as a result of their alleged responsibility for infringing the General Law of Ecological Equilibrium and Environmental Protection. This was a result of personnel committing actions and omissions which affected the legality, decency, loyalty, impartiality and efficiency which must be observed when performing duties or occupying a position in the Federal Public Service, as contemplated in articles 109, section III, of the Political Constitution of the United Mexican States together with 7 and 8, sections I, V, VI and XXIV, of the Federal Law of the Administrative Responsibilities of Civil Servants. Additionally, they acted unlawfully by failing to select and point out who would be the depositary of the assets taken from the plaintiffs, by failing to protect them, therefore disregarding the legal status and interests of the offended in the proceeding handled by this authority, and by interfering with the National Institution's investigation because of the ostensible delay of more than nine months for the provision of the requested information.

In light of these events, the National Commission formulated a proposal of conciliation for the Federal Attorney for Environmental Protection on the 26th of November 2008, who accepted it under the terms stated in his missive received on the 11th of December of 2008, however, on the 13th of February, this Attorney informed the National Institution that he considers there to be imposibilidad de hecho y de derecho in order to comply with the proposed conciliation.

As a result, the National Institution emitted Recommendation 65/2009 on the 6th of October 2009, directed towards the Federal Attorney for Environmental Protection, in order to repair the damage or compensate the offended due to the impossibility of returning the two vessels and two tons of fish which were taken from them. In addition, the Internal Control Body of the Secretariat of the Environment and Natural Resources has been notified about this case, with the objective of beginning the corresponding administrative procedure of investigation against the civil servants involved, as well as issuing instructions to all the Delegations of the Office of the Federal Attorney for Environmental Protection throughout the country to update and train the civil servants assigned to them, in order to keep them from infringing on human rights when carrying out their duties.

Recommendation 66/2009

15th of October 2009

Case: Of the minor JJLD

Responsible Authority: Secretariat of National Defense (SEDENA)

On the 26th of June 2009, the National Commission received a complaint filed by Mrs. Silvia Delgado Chavira, in which she stated that at approximately 10:30 hours on the 18th of June 2009, personnel of the Mexican Army entered, without a proper warrant, the ranch known as "Las Tierritas", located in Navojoa, Sonora, where his youngest son, JJLD, worked. He was detained on site and was then taken before the Agent of the Federal Public Ministry of that city. This social representative, in turn, sent him to the Institute for the Treatment and Application of Measures for Teenagers. According to the plaintiff, once she was able to see her son, he told her he had been beaten and threatened by the soldiers who detained him.

As a result of the preciously stated facts, the National Commission initiated the file of complaint number CNDH/2/2009/2936/Q. From the logical-juridical analysis performed in conjunction with the evidence presented, it was determined that the rights to legality, legal certainty, personal integrity and personal safety were violated, as established in articles 14, second paragraph and 16, first and fifth paragraphs, of the Political Constitution of the United Mexican States. This was done to the detriment of the minor JJLD, through actions consisting in an illegal body search, arbitrary detention, illegal retention and torture, attributed to civil servants of SEDENA.

This Institution acknowledged that the fundamental rights mentioned were violated by civil servants of SEDENA, given that the minor's detention was not done in accordance with the law, as it was only based on an assumption. In the same fashion, they failed to immediately present the teenager JJLD before the Agent of the Federal Public Ministry, as the detention took place at 10:30 hours on the 18th of June 2009 but he was not presented before the ministerial authority until 00:30 hours on the 19th of June 2009, resulting in an illegal retention. During the time he spent at the disposal of personnel of the Army, the minor was subject to acts torture which were

confirmed through the comparison of his declarations with the physical integrity certificates. These certificates were issued by forensic medicine personnel of the District Attorney's Office of the State of Sonora, as well as by personnel from the Attorney General's Office and were also compared with the exams carried out by personnel from the Coordination of Appraisal Services of this National Institution. All of these served as proof of the alterations his physical integrity suffered and the wounds inflicted by the civil servants who detained, interrogated and threatened him with hopes of obtaining information about events he wasn't aware of. As a result, there was a violation, to the detriment of the minor, of what is established in articles 14, second paragraph, 16, first and eleventh paragraphs, 19, last paragraph, 21, ninth paragraph and 22, first paragraph, of the Political Constitution of the United Mexican States; 16.1 and 37, clauses a), b) and c), of the Convention on the Rights of the Child; 1, 2, 3, 6, second paragraph, 7, 8, 9, 10 and 12 of the Inter-American Convention for the Prevention and Sanction of Torture; 1, 2.1, 6.1 and 6.2 of the Convention against Torture and other Inhumane, Degrading and Cruel Treatment and Punishment as well as article 6 of the Collection of Principles for the Protection of All People Under any Form of Detainment or Imprisonment, 2, 3, and 5 of the Code of Conduct for Law Enforcement Officials.

Subsequently, the National Institution emitted Recommendation 66/2009 on the 6th of October 2009, directed towards the Secretary of National Defense, in which it suggests that he repair the damage caused to the offended minor, through medical and psychological support; it also advised the Office of the General Attorney of Military Justice to analyze what is mentioned in the observations chapter of the recommendation in the rulings of prior investigation 4ZM/18/2009 which was initiated against military personnel due to the probable execution of illicit actions at the time of the offended minor's detention. Additionally, it suggested the General Inspection and Comptrollership Unit of the Mexican Army and Air Force starts the corresponding administrative procedure of investigation against the military personnel who intervened in these events, because of the actions and omissions they incurred in; as well as suggesting that military personnel from the 4th Military Zone of the Mexican Army be trained so that all their actions are carried out abiding by the law and with respect to human rights, guaranteeing the respect of life, integrity and personal safety and do not incur in acts of torture.

Recommendation 67/2009
20th of October 2009
Case: Of Mrs. Ramona López Jiménez
Responsible Authority: Secretariat of National Defense

On the 6th of May 2009, the National Commission received the file of complaint of Mr. José Andrés Castro Lastires, secondary archiving sergeant of the Mexican Army, in which he declared events which allegedly violated human rights to the detriment of his wife, Ramona López Jiménez.

In it he mentioned that on the 30th of March 2009, personnel from the Military Infirmary of Santa Lucia, Estado de México, surgically operated on her to cure an umbilical hernia; that a complication arose during the operation due to an inadequate application of anesthesia, provoking a cardiopulmonary seizure affecting her physical wellbeing. On that same day, she was taken to the Central Military Hospital, where she is currently hospitalized, having diagnosed her condition as serious upon arrival, without any signs of improvement.

From the logical-juridical analysis performed in conjunction with the means of conviction that make up the file of complaint number CNDH/2/2009/2005/Q, and based on all the evidence collected during its creation, the National Commission acknowledged violations to the human right to health care, to the detriment of Mrs. Ramona López Jiménez, as a result of events consisting in the inadequate medical attention she received from civil servants of the Secretariat of National Defense assigned to the Military Infirmary of Santa Lucia.

It was proven that the civil servants from the Military Infirmary of Santa Lucia provided her with an inadequate provision of the public healthcare service, violating through this behavior the fundamental right recognized in articles 4th, third paragraph, of the Political Constitution of the United Mexican States; 1st, 2nd, sections I, II and V; 3rd, 23rd, 24th, 27th, section III; 33rd, sections I and II; 34th, section II, 37th, 51st and 89th of the General Health Law; 6th, 7th, 8th, 9th, 10th, section I; 21st and 48th of the Regulations of the General Health Law Regarding the Provision of Medical Attention Services; 1st, 2nd, sections X and 16th, section XXI of the Law of the Social Security Institute for Mexican Armed Forces; articles 12.1 and 12.2, clause d), of the International Pact on Economic, Social and Cultural Rights and 10.1 and 10.2, clause d) of the Additional Protocol to the American Convention on Human Rights on the Subject of Economic, Social and Cultural Rights.

Because of this, it was suggested to the Secretary of National Defense that the damage to Mrs. Ramona López Jiménez and her relatives be repaired; continuing to provide her with linguistic, psychological, psychiatric, and physical (concentrating on superior and inferior limbs) therapies, as well as neurological and clinical medical rehabilitation and general nursing care until she is fully recovered, all of which shall be carried out by specialized personnel, with the aim of avoiding serious sequels and/or complications. It was also recommended that the General Inspection and Comptrollership Unit of the Mexican Army and Air Force initiates the administrative procedure of investigation against the military personnel who intervened in the events which are the subject of this recommendation. Also, it advised that the agent of the Military Public Ministry must be made aware of this document which is part of prior investigation 37ZM/52/2009-II, initiated against the military personnel who intervened in the events which are the subject of this recommendation, so that the evidence and observations mentioned in the recommendation are taken into account when the corresponding decision is made.

Recommendation 68/2009

20th of October 2009

Case: Of the inhabitants of the Municipality of Zimapán, Hidalgo

Responsible Authority: Secretariat of the Environment and Natural Resources

On the 7th of December 2007, the National Commission received the complaint filed by Mr. José María Lozano, in which he stated that on the 2nd of December 2007, whilst inhabitants of the Municipality of Zimapán, Hidalgo, were gathered in the community of Kajha discussing issues related to the installation of an enclosure for dangerous residues, they were intercepted by a group of people who attacked them, damaging several of the vehicles they were traveling in: Municipal Police arrived at the scene, defending them from their assailants, managing to apprehend two of them who were then taken to the Agency of the Public Ministry of Zimapán. Whilst the injured party presented their declaration of events before the cited social representation, the Undersecretary of the State of Guerrero arrived and then left with the detained assailants, arguing that he would take them to a hospital where they would receive medical attention, under the custody of public safety personnel. Afterwards, a group of over 200 people congregated around the hospital to keep the assailants from escaping them, at approximately 22:30 hours, by request of the Town Hall who was concerned about the possibility of another confrontation, more than 800 members of the public safety force of the state arrived and repelled the people gathered around the clinic, resulting in an operation which resulted in 44 people being detained and placed at the disposal of the agent of the local Public Ministry.

Also, the enclosure for dangerous residues in the municipality of Zimapán, to which the PROFEPA made four inspection visits from the 17th of April 2007 until the 19th of November 2008 related to the company "Sistemas de Desarrollo Sustentable S.A. de C.V." with the goal of verifying the following, amongst other things: a) the fulfillment of the obligations established by the Resolution on the Subject of Environmental Impact number S.G.P.A.DGIRA.DDT.646.04 from the 11th of November 2004; b) the application of the corrective measures dictated by placement agreement number 010/08, from the 2nd of April 2008, and c) the fulfillment of the obligations contained in the official Mexican norm (NOM) NOM-058-SEMARNAT-1993, "Which establishes the operational requirements of a controlled enclosure for dangerous residues", as a result of which the administrative file number PFFPA/HGO/47/0151/08 was opened. In the same fashion, the cited Federal Attorney's Office clarified that it had not made a single visit of inspection which contemplated the obligations established in the official Mexican norm NOM-055-SEMARNAT-2003, "Which established the requirements that must be met by areas destined to the controlled confinement of dangerous residues, except those which are radioactive".

As a consequence of the cited facts, the National Commission initiated file 2007/5043/2/Q. From the logical-juridical analysis performed in conjunction with the evidence which makes up the file, it was decided that when the Secretariat of the Environment and Natural Resources (SEMARNAT) granted, through a resolution on the Subject of Environmental Residue and Impact from the 11th of November 2004, the authorization for the company "Sistemas de Desarrollo Sustentable, S.A. de C.V." to install an enclosure for dangerous residues located within that municipality, civil servants from the SEMARNAT and the PROFEPA violated the rights to legality and legal certainty, established by articles 14, second paragraph and 16, first paragraph, of the Political Constitution of the United Mexican States, as well as articles 164, first paragraph, of the General Law of Ecological Equilibrium and Environmental Protection; 40 and 97 of the General Law for the Prevention and Comprehensive Management of Residues; 7 and 8, sections I and XXIV, of the Civil Servants' Administrative Responsibilities Federal Law, which establishes the way in which every civil servant must act in order to safe keep the legality, loyalty, impartiality and efficiency whilst doing his job, fulfilling his duties and/or assignment. This is relevant when referring to article 4 of the constitution which in its first paragraph recognizes the right to an adequate environment for development and wellbeing, because, the previously mentioned authorities also failed to comply with the enforcement of the law for the protection of the people's right to an adequate environment for development and wellbeing, as well as the right to use and exploit natural resources, and to the preservation and restoration of the environmental equilibrium and sustainable development.

Moreover, it proved that the SEMARNAT, the PROFEPA, the Government of the State of Hidalgo and the Town Hall of Zimapán, Hidalgo, infringed on the right to information of the inhabitants of that community, by not informing them clearly and truthfully about the measures for the safety and operation of the enclosure, as well as its emergency programs in the event of an accident.

It was also demonstrated that even though during the violent events of the 2nd of December 2007 some people exceeded the limits of their right to expression, the officials or civil servants in charge of local public safety were also excessive in their use of police power, as a result of which several of the protesters, as well as people who had nothing to do with the event were subdued. This, in turn, caused the transgression of their rights to physical integrity, to legality and to legal certainty, recognized in articles 14, second paragraph, 16, first paragraph, 19, last paragraph, 21, first and fifth paragraphs and 22, first paragraph, of the Political Constitution of the United Mexican States, having done so not only by having arbitrarily detained these people, but also because of the irregular integration of the corresponding prior investigations.

It was also noted that members of the police incurred in the unlawful exercise of civil service, by not complying with what is established by article 47 of the Civil Servants' Responsibilities Law of the State of Hidalgo. They did so by failing to safe keep the legality, decency, loyalty, impartiality and efficiency in the fulfillment of their duties, by not carrying out the task assigned to them with maximum diligence and abstaining from incurring in any action or omission which causes a deficiency in the service. The agent of the corresponding Public Ministry was also at fault by not complying with what is established by articles 6th and 8th of the Organic Law of the Public Ministry of the State of Hidalgo, regarding the integration and rulings of prior investigations.

As a result, the National Institution emitted Recommendation 68/09 on the 20th of October 2009 in order for the following actions to be instrumented:

To the Secretary of the Environment and Natural Resources: so the Internal Control Body is notified, with the goal of investigating the possible administrative anomalies incurred on by the civil servants involved in the reported events related to the environment; to follow up on the training activities which will be given to the future staff of the cited enclosure, so they know how to work properly and also so they may safe keep their physical integrity and their lives, especially focusing on the use of the safety equipment which may prevent the endangerment of people's lives and physical integrity in the event of an emergency.

To the Federal Attorney for Environmental Protection: so the Internal Control Body of the SEMARNAT is notified with the goal of investigating the possible administrative anomalies incurred on by the civil servants involved; so there are visits made to the enclosure for dangerous residues located in the common land of Cuauhtémoc, Municipality of Zimapán, Hidalgo, with the intention of verifying and following up on the fulfillment of the conditions established by the Secretariat of the Environment and Natural Resources through the resolution of a Declaration of Environmental Impact and the Unique Environmental License issued in favor of the company "Sistemas de Desarrollo Sustentable, S.A. de C.V."; so there are periodic inspection visits made, together with the constant communication and publication of the monitoring of the water quality analysis of the sources located near the enclosure, aiming to keep the surrounding communities permanently informed about the quality of the cited liquid; so the population is aware of the operation of such enclosure together with the emergency response programs in the event of an accident occurring in the cited plant.

To the Constitutional Governor of the State of Hidalgo: so he instructs the District Attorney of the State to command the Internal Control Body of his Office to investigate the possible administrative anomalies incurred on by the agent of the Public Ministry assigned to Zimapán; so he instructs the Secretary of Public Safety to command the Internal Control Body of the same agency to investigate the possible administrative anomalies incurred on by the civil servants who participated in the operative deployed on the 2nd of December 2007; so he instructs the Secretary of Public Safety and the District Attorney of this entity so they make use of their capabilities to establish actions so that their staff is trained to carryout every action or diligence abiding by the law and with respect to human rights; so that, through the area of Civilian Protection of the government of the State of Hidalgo, a system is implemented to achieve permanent communication with the workers in the enclosure and the population of the Municipality of Zimapán in order to coordinate the necessary tasks to respond to incidents or emergencies derived from its operation and reduce the risks to the integrity of the people; so he issues instructions to the head of the Secretariat in charge of public works, communications, transportation and settlements so that construction projects which increase the safety of the routes which get to the plant are carried out; so he instructs the head of the area of Civilian Protection to implement a program, in conjunction with those responsible for the enclosure, for the prevention and proper response to accidents which involve the transportation of such residues toward the enclosure; so he instructs the head of the Secretariat of Agriculture and Rural Development of the State so that during the next sessions of the State Forestry Council, where changes to land zoning are granted, authorities of the Municipalities involved are notified about the changes made, in compliance with what is established by article 5, section VIII of the Law for the Sustainable Development of Forests of the State of Hidalgo, allowing them to argument what is best for their interests; and so the branches of Civilian Protection in this federative entity establish routes, times and days for the transportation of residues to the mentioned enclosure, with the aim of minimizing the risks to the population and so that in the event of an accident, the immediate response of the specialized rescue teams is guaranteed.

To the General Coordinator of the IX Legislature of the Free and Sovereign State of Hidalgo: so he starts an administrative procedure of investigation against the municipal authorities of Zimapán, to determine the responsibility in which they incurred by not informing the population about the works to modify and expand the infrastructure of the cited enclosure; and so a thorough administrative procedure of investigation is initiated against the municipal authorities of Zimapán who failed to provide the information requested by the National Institution.

To the Municipal President of Zimapán: so he issues instructions for keeping the population informed about the operation of the enclosure as well as the advances made regarding the actions to correct, mitigate, restore and achieve the proper operation of the plant; so that the area of the Unit of Civilian Protection of the Municipality implements a program on the subject, in conjunction with those responsible for the enclosure for residues and with local and federal authorities. This program should foresee and respond to high risk situations and to disasters or accidents resulting from the operation of the enclosure, basing itself on the laws on the subject. Also, the design and execution of a long term training program must be instrumented, under the command of the Unit of Civilian Protection of that Municipality, destined for the civil servants of this Unit as well as inhabitants of the region, aiming to identify the life threatening hazards and perform the necessary preventive or corrective actions to avoid accidents within the enclosure or the surrounding areas.

Recommendation 69/2009
27th of October 2009

Case: Of inmates of the Center for the Execution of Penal Sanctions in Reynosa, Tamaulipas
Responsible Authority: Constitutional Government of the State of Tamaulipas

On the 20th of October 2008, a clash between inmates of the Center for the Execution of Penal Sanctions in Reynosa, Tamaulipas took place as they were trying to gain control of the facility, using a variety of objects to attack one another, including firearms, sharp objects and screwdrivers, as well as setting their quarters on fire and subsequently piling the bodies of the deceased and setting them alight. In response, with the intention of alerting the personnel of the penitentiary, the guards who were in the watchtowers fired their weapons aiming at the sky, as they did not have radio communication equipment, and with the aim of reestablishing order, penitentiary personnel immediately requested the support of various corporations, such as the Secretariat of National Defense, the Federal Police Force of the Secretary of Federal Public Safety, the Secretary of Public Safety of this federative entity and the Municipal Police of Reynosa. Thus, violence diminished with the arrival of the Special Police Force of the State Secretary accompanied by Security and Custody personnel and when the Federal Police Force entered, order was restored, having noted the death of 21 inmates, whose remains presented burns in 80% to 100% percent of the body in the majority of cases, in addition to several injured inmates.

In light of these events, in the Delegation of the District Attorney's Office for the State of Tamaulipas located in Reynosa, prior investigation 918/2008 was initiated, within which penal action was taken, under the jurisdiction of the Second Tribunal of the First Instance in Penal Matters of the Fifth Judicial District located in Reynosa, who settled trial 2/2009 and on the 27th of January 2009 granted the arrest warrants requested against numerous inmates who are most likely responsible for committing the crimes of aggravated tumultuous homicide, aggravated tumultuous injuries, bearing of prohibited weapons and delinquent association. Additionally, it issued the arrest warrants requested against the civil servants of this facility who are most likely responsible for committing the illegal actions of abuse of authority, bribery as well as crimes committed whilst performing their judicial or administrative duties, subsequently issuing the corresponding orders of incarceration.

At the same time, prior investigation AP/PGR/TAMPS/REY-II/2940/2008 was initiated in the Delegation of the Attorney General's Office located in the State of Tamaulipas, within which penal action was taken before the seventh judge of the district in the state of Tamaulipas, who in turn settled trial 43/2009 and issued an arrest warrant against an inmate probably responsible for committing the crime of bearing firearms which are only for the use of the National Army, Navy and Air Force.

As a result, on the 27th of October 2009, the National Commission directed Recommendation 69/2009 towards the Constitutional Governor of the State of Tamaulipas, who was suggested to: issue instructions to whomever it may concern in order to make the corresponding payment as compensation; notify the appropriate internal control body in order to initiate and decide on, in accordance with the law, a prior investigation to establish the administrative responsibilities in which personnel from the Secretary of Public Safety of the cited federative entity might have incurred, as it incurred in omissions which lead to the occurrence of a clash between inmates on the 20th of October of 2008; implement the necessary measures to avoid the overpopulation currently present in the Center for the Execution of Penal Sanctions of Reynosa, as well as instructing whomever is responsible to assign an adequate number of Security and Custody personnel to fulfill the requirements of such establishment. Readaptacion Social los servidores publicos que participaron en los operativos en cuestion ;promptly publish a manual of procedures for the adequate response to contingencies or riots within detention centers in order to guarantee the unrestricted respect to human rights by personnel of those institutions as well as providing them with the necessary training.

Recommendation 70/2009

27th of October 2009

Case: Of Mr. FMN, JBC, AVE and PVE

Responsible Authority; Secretariat of National Defense

On the 22nd of October 2008, the National Commission received the complaint filed by the Federal Public Defendant Rubén Chávez González, sent by the Human Rights Commission of the State of Chihuahua, in which he declared alleged human rights violations derived from the detention of Mr. FMN, JBC, AVE and PVE by personnel of the Mexican Army.

In light of these events, the National Commission initiated the file of complaint number CNDH/2/2008/5234/Q. From the logical-judicial analysis performed in conjunction with the evidence which makes up the file, it was decided that the rights to legality, legal certainty, freedom, integrity and personal safety were violated in this case, due to events consisting in arbitrary detention, illegal retention, lack of communication and torture to the detriment of Mr. AVE and PVE, with the addition of rape to the detriment of Mr. FMN and JBC, attributable to civil servants from the 3rd Independent Infantry Regiment of the Secretariat of National Defense (SEDENA).

With the evidence added to the file, the National Commission confirmed that through the actions of the military personnel who participated in the detention of the offended on the 12th of October 2008, there was a lack of compliance with what is established by article 16, first and fifth paragraphs, of the Political Constitution of the United Mexican States and transgression of the 7th and 8th precepts of the Civil Servants' Administrative Responsibilities Federal Law, in correlation with articles 2nd and 3rd of the Law of Discipline of the Mexican Army and Air Force, given that by unlawfully detaining them and not presenting them before the agent of the Public Ministry of the Federation immediately, thus depriving them of their freedom, they did not act in compliance with the principles of legality, efficiency and professionalism required by the position they occupy.

The excess incurred on by civil servants was also noted as they detained the offended for almost 58 hours in the facilities of the 5th Military Zone in Ojinaga and then in the facilities of the city of Chihuahua where they were taken to, generating conducts that, apart

from being sanctioned by the Civil Servants' Administrative Responsibilities Federal Law, were generated outside the legal framework that regulates the actions of the Mexican Army personnel involved. This violated their individual rights to legality and legal certainty, given that they were considered as probable participants in a crime, meaning they should have been immediately placed at the disposal of the Public Ministry and not after 58 hours of detention, being held in military facilities, which resulted in illegal retention proven by both the witnesses' declaration of events and by the escrito de puesta a disposición signed by the soldiers themselves. The offended were held in these facilities until 22:30 hours on the 14th of October 2008, which is when they were placed at the disposal of the Social Representation of the Federation.

Additionally, Mr. FMN, JBC, PVE and AVE were subject to acts of torture; and the first two also presented internal injuries in rectum and colon, as well as wood splinters in their buttocks, as during their detention they were placed face down, blindfolded and tied with ropes, had a broom stick introduced in their anus and were tied to a tree, all with the aim of obtaining their confession for their participation in several crimes, situation which must be investigated by the corresponding ministerial authority in order to prevent their impunity. These events were proven by the medical inspections carried out by personnel from the National Institution, by the certification of injuries and the medical certificates issued by forensic medicine personnel from the Attorney General's Office.

For this National Commission, the members of the Mexican Army who participated in the detention and retention of the offended, as well as in the torture they were subject to, transgressed articles 14, second paragraph, 16, first and fifth paragraphs, 19, fourth paragraph, 20, paragraph A, section II, 21, ninth paragraph and 22, first paragraph, of the Political Constitution of the United Mexican States; 1, 2, 6, second paragraph, 8, 9, 10 and 12 of the Inter-American Convention for the Prevention and Sanction of Torture; 2, 3, and 5 of the Code of Conduct for Law Enforcement Officials. Furthermore, in their capacity of civil servants in charge of enforcing the law, they transgressed the rights contemplated in international treaties, such as those mentioned in articles 7, 9.1, 9.3, 9.5, and 10.1 of the International Pact on Civil and Political Rights; 5, 5.1, 5.2, 7.1, 7.2, 7.5, and 8.2 of the American Convention on Human Rights, which in broad terms state that all people have the right to safety and personal integrity.

As a result, the National Institution emitted recommendation 70/2009 on the 27th of October 2009, directed towards the Secretary of National Defense so that: the necessary procedures are carried out to repair the damages through psychological and medical support, as well as rehabilitation which allow for the recovery of the initial physical condition of the offended, as well as paying a compensatory fee in accordance with the law; prior investigation GN/OJ/34/2009 is integrated and decided upon, with the addition of this recommendation to the cited investigation so it can be taken into account when issuing its resolution and so that the corresponding administrative procedure of investigation is initiated against the military personnel who intervened in these events. And finally, so that instructions are issued so that the military personnel are trained to carry out all diligences and actions in accordance with the law and with respect to human rights.

Recommendation 71/2009

27th of October 2009

Case: Of Mr. Ramón Ortiz Ríos, Ramón Ortiz Miranda and René Canales Ortiz

Responsible Authority: Secretariat of National Defense and the Attorney General's Office

On the 6th of February 2008, the National Commission received the complaint files by Mrs. Sandra Ortiz Miranda, in which she declared the alleged violation of human rights derived from the detention of Mr. Ramón Ortiz Ríos, Ramón Ortiz Miranda and René Canales Ortiz, by Mexican Army personnel.

In light of these events, the National Commission initiated the file of complaint number CNDH/2/2008/510/Q. From the logical-judicial analysis performed in conjunction with the evidence which makes up the file, it was decided that the rights to legality, legal certainty, freedom, integrity and personal safety were violated in this case, due to events consisting in entering a residence without judicial authorization, arbitrary detention, illegal retention, lack of communication and torture, attributable to civil servants from the "Miguel Alemán" Mixed Operations Base of the Secretariat of National Defense (SEDENA).

With the evidence added to the file, the National Commission confirmed that through the actions of the military personnel who participated in the detention of the offended on the 6th of February 2008, there was a lack of compliance with what is established by article 16, first and fifth paragraphs, of the Political Constitution of the United Mexican States and transgression of the 7th and 8th precepts of the Civil Servants' Administrative Responsibilities Federal Law, in correlation with articles 2nd and 3rd of the Law of Discipline of the Mexican Army and Air Force, given that by unlawfully detaining them and not presenting them before the agent of the Public Ministry of the Federation immediately, thus depriving them of their freedom, they did not act in compliance with the principles of legality, efficiency and professionalism required by the position they occupy.

The excess incurred on by civil servants was also noted as they detained the offended for a period ranging between 20 and 23 hours in the facilities of Miguel Alemán, generating conducts that, apart from being sanctioned by the Civil Servants' Administrative Responsibilities Federal Law, were generated outside the legal framework that regulates the actions of the Mexican Army personnel involved. This violated their individual rights to legality and legal certainty, given that they were considered as probable participants in a crime, meaning they should have been immediately placed at the disposal of the Public Ministry and not after 20 to 23 hours of detention, being held in military facilities, which resulted in illegal retention proven by both the witnesses' declaration of events and by

the escrito de puesta a disposición signed by the soldiers themselves. The offended were held in this facility until 15:00 hours on the 7th of February 2008, which is when they were placed at the disposal of the Social Representation of the Federation.

Additionally, Mr. Ramón Ortiz Ríos, Ramón Ortiz Miranda and René Canales Ortiz were subject to acts of torture; which was proven by the medical inspections carried out by personnel from the National Institution, by the certification of injuries and the medical certificates issued by forensic medicine personnel from the Attorney General's Office.

For this National Commission, the members of the Mexican Army who participated in the detention and retention of the offended, as well as in the torture they were subject to, transgressed articles 14, second paragraph, 16, first and fifth paragraphs, 19, fourth paragraph, 20, paragraph A, section II, 21, ninth paragraph and 22, first paragraph, of the Political Constitution of the United Mexican States; 1, 2, 6, second paragraph, 8, 9, 10 and 12 of the Inter-American Convention for the Prevention and Sanction of Torture; 2, 3, and 5 of the Code of Conduct for Law Enforcement Officials. Furthermore, in their capacity of civil servants in charge of enforcing the law, they transgressed the rights contemplated in international treaties, such as those mentioned in articles 7, 9.1, 9.3, 9.5, and 10.1 of the International Pact on Civil and Political Rights; 5, 5.1, 5.2, 7.1, 7.2, 7.5, and 8.2 of the American Convention on Human Rights, which in broad terms state that all people have the right to safety and personal integrity.

Equally, from the means of conviction that were added to the file, the National Institution deduced that the agent of the Public Ministry of the Federation who assembled prior investigation AP/PGR/SIEDO/UEIDCS/43/08, was presented with physical integrity report number 7513 from the 7th of February 2008, signed by the official medical expert of the Forensic Medicine Department of the Attorney General's Office (PGR). This meant he was aware of the fact that the offended were injured when they were presented before him; however, he failed to notify his military counterpart so he could investigate such injuries to the best of his ability, resulting in an inadequate provision of civil service.

As a result, the National Institution emitted recommendation 71/2009 on the 27th of October 2009, directed towards the Secretary of National Defense so that: the necessary procedures are carried out to repair the damages through psychological and medical support, as well as rehabilitation which allow for the recovery of the initial physical condition of Ramón Ortiz Miranda and René Canales Ortiz; that a prior investigation and an administrative procedure against military personnel are initiated, including the military doctor who was involved in these events; so instructions are issued in order for the people who are detained not to be transferred to military facilities but instead are immediately brought before the corresponding authority; and so the impartiality and objectivity of the military medical personnel is guaranteed when issuing medical certificates.

To the Attorney General's Office so that it initiates the corresponding administrative procedure against the personnel who intervened in the facts which are the subject of this recommendation, due to the cited actions and omissions.

Recommendation 72/2009

30th of October 2009

Case: Operative carried out in the State of Michoacán

Responsible Authority: Attorney General's Office, Secretariat of Federal Public Safety

From the 26th to the 29th of May 2009 the complaints filed by Mr. David Medina Mora and others; by Juan Ricardo Rubí Álvarez, Nayelli Edith Torres Tercero and others and by Miguel Escamilla Ruiz, Jaime Liera Álvarez and Gabriel Mariano Gaona were received in the National Institution, originating from the Human Rights Commission of the State of Michoacán. In them, they denounced that on the 26th of that month and year, Mr. Noé Medina Martínez, José Cortez Ramos, Ricardo Rubí Bustamante, Genaro Guizar Valencia, Osbaldo Esquivel Lucatero, Jaime Liera Álvarez and Juan Gaona Gómez were detained by members of the Mexican Army and the then known as Federal Preventive Police, in compliance with a "summons" issued by the Agent of the Public Ministry of the Federation assigned to the Deputy Attorney's Office Specialized in Investigating Organized Crime in the Federal District of Mexico, placing them at the disposal of the cited ministerial authority.

In light of these events, the National Commission initiated several files of complaint. Likewise, for events similar to those previously mentioned, on the 29th of May and on the 8th of June 2009, the National Institution received the letters of complaint filed by Mr. Emmanuel Cervantes Herrera, Grace Magali García Arroyo and Juan Rivero Legarreta, in which they denounced alleged human rights violations committed to the detriment of Mr. Citlalli Fernández González, Miguel García Hurtado and Juan Antonio Ixtláhuac Orihuela, leading to the initiation of the files of complaint CNDH/1/2009/2504/Q, CNDH/1/2009/2599/Q and CNDH/1/2009/2748/Q.

From the logical juridical analysis performed in conjunction with the means of conviction that make up the numerous files of complaint, and based on the variety of evidence gathered during their integration, the National Commission confirmed violations to the rights to legality, legal certainty, presumption of innocence, adequate defense and due process, derived from the searches carried out without a warrant issued by a competent authority and the delay in presenting them before the corresponding ministerial authority, to the detriment of the offended.

In light of these events, the National Commission considers the exercise of procedural rights must be enforced and that the criminalization of those people against which there is not enough evidence to prove their involvement must be avoided.

Finally, in accordance with the Non Jurisdictional System for the Protection of Human Rights, it is foreseen that in the event of a violation to such rights which is imputable to a public servant of the State, the recommendation that is directed towards the public office must include the necessary measures to be carried out in order to achieve the effective restitution of the offended regarding their fundamental rights together with those regarding the reparation of the damages that may have been caused. It is because of this that in this case, the reparation of the damages to the offended does proceed, in accordance with what is established by articles 113, second paragraph, of the Political Constitution of the United Mexican States; 44 of the Mexican National Human Rights Commission Law; 1915, 1917 and 1918 of the Federal Civil Code, as well as 1st, 2nd and 9th of the Federal Law of the Patrimonial Responsibility of the State.

Due to this, the National Commission emitted its Recommendation No. 72/2009, directed towards the Attorney General's Office and the Secretary of Federal Public Safety.

To the General Attorney:

So that instructions are issued in order to repair the damage caused to the offended, through the necessary psychological, medical and rehabilitation aid, which allow for the recovery of the physical and psychological condition they possessed before their human rights were violated, notifying the National Commission about the results of these.

So he issues instructions to whomever it may concern to achieve the immediate provision of assistance to the victims and witnesses of the events narrated in the observations chapter of the present document, and so the corresponding security measures are taken to avoid the occurrence of any humiliating or retaliatory against them, notifying in a timely fashion about the actions which may be carried out for this purpose.

So that the social representation of the Federation is instructed to initiate a prior investigation against the civil servants assigned to the Deputy Attorney's Office Specialized in Investigating Organized Crime which were involved in the events which led to the creation of the current issue, notifying the National Commission about the way this ministerial investigation is handled, since its integration and fulfillment of all the legal requirements for its validity and until it has been resolved.

So the Internal Control Body of the Attorney General's Office is notified for it to start the corresponding administrative procedure of investigation against the civil servants assigned to the Deputy Attorney's Office Specialized in Investigating Organized Crime in the Federal District of Mexico, as a result of the considerations brought forth in the observations chapter of this document, keeping the National Commission posted since the beginning of the investigation until the conclusion of the corresponding procedure and the issuance of the resolution.

So he issues instructions to whomever it may concern so that the civil servant whose duty it is to assemble prior investigations are encouraged to act according to the Public Ministry's imperious need to perform its actions in strict compliance with the requirements established by the penal legislation which regulates Mexico's juridical order; achieving this through training and updating courses which allow them to carry out their duties with the legality, decency, loyalty, impartiality and efficiency required by such service.

So the appropriate measures are taken to guarantee that the right to presumption of innocence is granted to all the people in similar situations to that of the offended mentioned in this recommendation, with the aim of keeping people from being deprived of their freedom without being able to exercise their right to defend themselves in accordance with the essential formalities of the procedure.

So he issues instructions which facilitate the execution of diligences and guarantee the right to presumption of innocence of the suspects, as well as avoiding the collection of evidence or performing diligences in accordance with the law.

So he issues instructions for people who are detained to be informed about the reasons for their detention as well as about their right to remain silent, all other rights which benefit them and so they are provided with all the data they request for their defense and this is recorded in the process.

So he issues instructions for all individuals to be granted the right to a proper defense through an attorney, which he is free to choose even since the moment of his detention, as is stipulated by the constitution.

To the Secretary of Federal Public Safety

So instructions are issued in order to repair the damages caused as a result of the illegal searches carried out by public servants of the then called Federal Preventive Police, in the homes of Mr. Citlalli Fernández González, Gabriel Mariano Gaona and Lorenzo Rosales Mendoza, having to notify the National Institution about the result of these reparations.

So the General Attorney is informed about the considerations expressed in the observations chapter of this document in order to initiate the prior investigation against the members of the then called Federal Police Force who participated in the actions committed to the detriment of the offended, keeping the National Institution posted since its initiation and until its resolution.

So the head of the Internal Control Body of the Secretary of Public Safety is notified in order to initiate the corresponding administrative procedure of investigation against the civil servants of the then called Federal Police Force who participated in the events that lead to this situation, as a result of the considerations brought forth in the observations chapter of this document, keeping the National Commission posted since the beginning of the investigation until the conclusion of the corresponding procedure and the issuance of the resolution.

So that training and evaluation courses are established for members of the Federal Police who are related to the implementation of operatives derived from the enforcement of the General Law of the National System of Public Safety, which guarantee respect for life, physical integrity, dignity, freedom, people's patrimony and favor the use of non violent tactics, all of which respect human rights and have the aim of preventing the events that led to the creation of this document from repeating themselves.

So he issues instructions to whomever it may concern so that the necessary measures are taken to guarantee that the people who are detained in operatives involving members of the Federal Police are immediately put at the disposal of the competent authority, issuing a timely notification about the actions taken to serve this purpose.

Recommendation 73/2009

30th of October 2009

Case: Of Mr. Ricardo García Arroyo in Ciudad Juárez, Chihuahua

Responsible Authority: Secretary of National Defense, Attorney General's Office

On the 4th of December 2008 the National Commission received the complaint filed by Verónica Flores Enriquez, in which she declared alleged human rights violations derived from the detention of Mr. Ricardo García Arroyo, by personnel of the Mexican Army.

In light of these events, the National Commission initiated the file of complaint number CNDH/2/2008/5860/Q. From the logical-judicial analysis performed in conjunction with the evidence which makes up the file, it was decided that the rights to legality, legal certainty, freedom, integrity and personal safety were violated in this case, due to events consisting in entering a residence without judicial authorization, arbitrary detention, illegal retention, lack of communication and torture, attributable to civil servants from the 10th Military Police Battalion of the Secretariat of National Defense (SEDENA).

With the evidence added to the file, the National Commission confirmed that through the actions of the military personnel who participated in the detention of the offended on the 4th of December 2008, there was a lack of compliance with what is established by article 16, first and fifth paragraphs, of the Political Constitution of the United Mexican States and transgression of the 7th and 8th precepts of the Civil Servants' Administrative Responsibilities Federal Law, in correlation with articles 2nd and 3rd of the Law of Discipline of the Mexican Army and Air Force, given that by unlawfully detaining them and not presenting them before the agent of the Public Ministry of the Federation immediately, thus depriving them of their freedom, they did not act in compliance with the principles of legality, efficiency and professionalism required by the position they occupy.

The excess incurred on by civil servants was also noted as they detained the offended for a period of 64 hours in Military Field number 5-C, in the plaza of Ciudad Juárez generating conducts that, apart from being sanctioned by the Civil Servants' Administrative Responsibilities Federal Law, were generated outside the legal framework that regulates the actions of the Mexican Army personnel involved. This violated Mr. Ricardo García Arroyo's individual rights to legality and legal certainty, given that they were considered as probable participants in a crime, meaning they should have been immediately placed at the disposal of the Public Ministry and not after 64 hours of detention, being held in military facilities, which resulted in illegal retention proven by both the witnesses' declaration of events and by the escrito de puesta a disposición signed by the soldiers themselves. The offended were held in this facility until 23:00 hours on the 5th of December 2008, which is when he was placed at the disposal of the Social Representation of the Federation.

Additionally, Mr. Ricardo García Arroyo was subject to acts of torture, given that after being detained the soldiers took him to the Barracks of Ciudad Juárez, where they undressed him, beat him, passed electrical discharges through his body, squeezed his tongue and nose with a pair of pliers and asked him about the location of weapons and drugs. He added that his subjection to this kind of treatment continued until the 5th of December 2008, day on which he was placed at the disposal of the agent of the Public Ministry of the Federation of that city, which was proven by the medical inspections carried out by personnel from the National Institution, by the certification of injuries and the medical certificates issued by forensic medicine personnel from the Attorney General's Office.

For this National Commission, the members of the Mexican Army who participated in the detention and retention of the offended, as well as in the torture he was subject to, transgressed articles 14, second paragraph, 16, first and fifth paragraphs, 19, fourth paragraph, 20, paragraph A, section II, 21, ninth paragraph and 22, first paragraph, of the Political Constitution of the United Mexican States; 1, 2, 6, second paragraph, 8, 9, 10 and 12 of the Inter-American Convention for the Prevention and Sanction of Torture; 2, 3, and 5 of the Code of Conduct for Law Enforcement Officials. Furthermore, in their capacity of civil servants in charge of enforcing the law, they transgressed the rights contemplated in international treaties, such as those mentioned in articles 7, 9.1, 9.3, 9.5, and 10.1 of the International Pact on Civil and Political Rights; 5, 5.1, 5.2, 7.1, 7.2, 7.5, and 8.2 of the American Convention on Human Rights, which in broad terms state that all people have the right to safety and personal integrity.

Equally, from the means of conviction that were added to the file, the National Institution deduced that the agent of the Public Ministry of the Federation who assembled prior investigation AP/PGR/CHIH/JUA-VII/1723/2008, was presented with a physical integrity report from the 6th of December 2008, signed by the official medical expert of the Forensic Medicine Department of the Attorney General's Office (PGR). This meant he was aware of the fact that the offended was injured when he was presented before him; however, he failed to notify his military counterpart so he could investigate such injuries to the best of his ability, resulting in an inadequate provision of civil service.

As a result, the National Institution emitted recommendation 73/2009 on the 27th of October 2009, directed towards the Secretary of National Defense so that: the necessary procedures are carried out to repair the damages through psychological and medical support, as well as rehabilitation which allow for the recovery of the initial physical condition of Mr. Ricardo García Arroyo; that a prior investigation and an administrative procedure against military personnel are initiated, including the military doctor who was involved in these events; so instructions are issued in order for the people who are detained not to be transferred to military facilities but instead are immediately brought before the corresponding authority; and so the impartiality and objectivity of the military medical personnel is guaranteed when issuing medical certificates.

To the Attorney General's Office so that it initiates the corresponding administrative procedure against the personnel who intervened in the facts which are the subject of this recommendation, due to the cited actions and omissions.

Recommendation 74/2009

30th of October 2009

Case: Of the minors.- RAHR, AGTG, RAG, CRMJ, JASR, VFGM and RAM

Responsible Authority: Constitutional Presidency of the Municipality of Juárez, Chihuahua

The Mexican National Human Rights Commission emitted its Recommendation 74/2009, directed towards the Municipal President of Juárez, Chihuahua, José Reyes Ferriz, in response to the case of seven minors who were repatriated from the United States of America who were subject to an alleged "Aid Program for Repatriated Minors" and were inadequately interned in the "School for the Social Improvement of Minors, México" by officials of the Integral Family Development (DIF), even though this is a place for lodging minors who have committed a crime.

Between the 6th of January 2007 and the 21st of May 2008, seven minors between the ages of 15 and 17 were repatriated to our country by the government of the United States and handed over to National Migratory Institute, which in turn placed the children at the disposal of the Auxiliary Attorney's Office for the Defense of Minors and Families of Juárez, with the aim of providing them with the shelter they needed whilst they were reunited with their families.

The CNDH determined this case's attraction and confirmed that this Office, which is a dependence of the municipal DIF, enrolled the minors on different dates without following the legal procedures established for the preventive separation of minors from their homes, in that school which actually houses children and teenagers who are at the disposal of the Tribunal for Minors, where some of the repatriated children were interned for up to six months.

On the 4th of June 2008, the Human Rights Commission of Chihuahua initiated the complaint due to these events and asked the municipal president of Juárez for precautionary measures in order to immediately reunite the minors with their families.

The initiative was accepted on the 12th of June 2008 and the minors were handed over to their parents and/or guardians, except for a 17 year old boy, whose relatives did not arrive to request his custody and was then sent to the orphanage called Betel, A.C., where he remained under public custody.

From the logical juridical analysis of the reports included in this case's file, the National Commission had sufficient evidence to confirm violations to the rights of the child, the right to freedom, fair treatment, legality and legal certainty, committed to the detriment of the seven minors by the civil servants of the Integral Family Development in the municipality of Juárez, Chihuahua.

The CNDH confirmed that the application of the Program for Repatriated Minors was initiated before authorities were equipped with the necessary infrastructure to carry it out, given that the children were sent to an internment center which houses children who are subject to numerous proceedings before the Tribunal for Criminal Minors, as recognized by the head of the DIF when presenting his report before the National Institution. Even though the offended were never at the disposal of such Tribunal, the place where they were detained is a confinement center, in which they interacted directly with teenagers who were subject to a proceeding because of an offence or had already been sanctioned.

During these events, the authorities involved executed a series of actions which resulted in illegal deprivation of freedom, making the decision to retain them without justifying it before a competent authority, as is established by the corresponding juridical framework.

Whilst presenting its report, the municipal DIF admitted that it does have centers for the assistance of minors and families, but that these were not dealing with cases of teenagers, which is why it decided to use the facilities of the previously mentioned school. It stated that it intended to divide the facility in order to properly enforce the "Rescue Program for Circuit Minors", and requested the support of the CNDH in order to avoid the termination of the project which, in its opinion, has a positive reason for being. However, the truth of the matter is that the juridical foundations for the application of the program were not laid and there was no action carried out to make this division a reality.

Because of all this, in its Recommendation 74/2009, the CNDH requests that the municipal president of Juárez repairs the damage caused to the minors and their families through psychological support; that he notifies the municipal comptrollership of Juárez so that it investigates the civil servants of the Auxiliary Attorney's Office for the Defense of Minors and Families, the School for the Social Improvement of Minors and the DIF of this municipality, who were involved in these events.

He is also asked to notify the agent of the Public Ministry so that he investigates the actions carried out by the civil servants of the DIF of such municipality in order to determine if their conduct resulted in a crime committed to the detriment of the offended minor. Additionally, he is asked to instruct the personnel assigned to the municipal DIF in order for their actions to comply with the current legal framework to guarantee the legal certainty of their acts together with the utmost respect for human rights, providing them with training programs to keep those civil servants from incurring in this type of conducts in the future.

Recommendation 75/2009

30th of October 2009

Case: Of Mr. Cecilio Vásquez Miguel, Venancio Olivera Ávila and Aurelio Ortega Pacheco in the community of Santiago Lachivia, San Carlos municipality, Yautepec district, State of Oaxaca.

Responsible Authority: Secretariat of National Defense

On the 6th of August 2008, the complaint presented telephonically to the Human Rights Defense Commission of the Free and Sovereign State of Oaxaca by Mr. Leobardo Vázquez Hernández was received due to its complexity. In it he certifies that on the 5th of August 2008, at approximately 12:00 hours, 100 inhabitants of the community of Santiago Lachivia, San Carlos municipality, Yautepec district, Oaxaca, were cleaning a communal farmland within the plot known as Tanilova; when a group of approximately 20 members of the Mexican Army arrived at the scene and fired their weapons without any justification whatsoever, causing several of the frightened farmers to run off in different directions. This led the military personnel to open fire against them, injuring Cecilio Vásquez Miguel, Venancio Olivera Ávila and Aurelio Ortega Pacheco with their firearms' projectiles, resulting in the death of the first two and the infliction of life threatening injuries on the latter.

The military personnel fled the scene immediately, causing a witness who was also offended by these events to present a declaration before the agent of the Public Ministry of general jurisdiction in the municipality of San Carlos, Yautepec, Oaxaca, leading to the initiation of prior investigation 64/2008 which is currently being assembled.

On the 7th of August 2008, the Agent of the Public Ministry of the Federation assigned to the District Office of the Attorney General in Oaxaca, started prior investigation PGR/OAX/OAX/III/365/2008, lodged in the Subdelegación of Penal Procedures "A" of this district office, as a result of the declaration filed by the military personnel involved in these events. This declaration was passed on to the agency of the Public Ministry of the Federation based in Huatulco due to its complexity, where it was given investigation number AP/PGR/OAX/HUA/I/211/2008 and se acordó su reserva on the 25 of September 2008.

On the 7th of August 2009, the agent of the Military Public Ministry of the 44th Military Zone, within the municipality of Miahuatlán de Porfirio Díaz, Oaxaca, initiated prior investigation 44ZM/08/2008 which is currently being assembled, in response to the various declarations formulated by military personnel of the 6th Infantry Battalion, relating to the events discussed in this recommendation.

From the logical-juridical analysis performed in conjunction with the evidence that makes up the file of complaint number CNDH/4/2008/3604/Q, it was proven that in this case the human rights to life, integrity, personal safety, legality and legal certainty as well as the right to a proper execution of justice, were violated. They are established in articles 1, first paragraph, 14, second paragraph, 16, first paragraph, 20, paragraph B, section III and 21, ninth paragraph of the Political Constitution of the United Mexican States. These violations are attributable to members of the Mexican Army, committed to the detriment of Cecilio Vásquez Miguel and Venancio Olivera Ávila who perished as a result of the events discussed in this recommendation; and of Mr. Aurelio Ortega Pacheco who was injured, as well as T01, T02, T03, T04, T05, T06, T08, T09, T10 and T11, all of whom were present at the scene and were exposed to a life threatening risk.

As a result, the CNDH emitted Recommendation 75/2009, directed toward the Secretary of National Defense, in which the following recommendations were made:

Issue instructions to whomever it may concern so that the necessary actions are taken to repair the damages caused to the relatives of the men who, when alive, bore the names of Cecilio Vásquez Miguel and Venancio Olivera Ávila, acknowledging their right; doing so by paying the corresponding compensation as well as providing them with all the medical and psychological aid they require for as long as

is needed, aiming to minimize any ailments they may suffer from, in accordance with the conditions stated in the final section of the observations chapter of this recommendation, notifying the National Commission if and when these events take place.

Issue instructions so that the necessary actions are taken to repair the damage caused to Mr. Aurelio Ortega Pacheco, compensating him for the injuries he suffered during the events discussed in this recommendation and providing him with the medical, psychological and rehabilitation aid he requires to allow him to return to the physical and psychological state he was in before his human rights were violated, having to keep the National Commission informed on the subject.

Notify the General Inspection and Comptrollership Unit of the Mexican Army and Air Force so that it starts the corresponding administrative procedure of investigation against the military personnel who intervened in the events discussed in this recommendation (detailed in an attached document), because of their actions and omissions, particularly because of the abandonment they incurred in by failing to provide urgent medical assistance to the people who were wounded by firearm projectiles at the scene. An investigation must also be made against the agent of the Military Public Ministry who assembled prior investigation 44ZM/08/2008, due to the actions and omissions contained in the observations chapter of this document; along these same lines, it must go against the personnel of that Secretariat who has failed to comply with the requirements of the agent of the Investigative Public Ministry of the District Attorney's Office of the State of Oaxaca, contained in investigation 64/2008. Having done this, the National Commission must be informed since the beginning of the investigations and until they are resolved.

Notify the Attorney General for Military Justice through the contents of this recommendation, in order for the procedure of prior investigation 44ZM/08/2008 to continue, perfecting its integration and investigating the conducts displayed by the military personnel involved who participated in the events discussed in this recommendation (detailed in an attached document), which took place on the 5th of August 2008 within the community of Santiago Lachivia, San Carlos municipality, Yautepec district, Oaxaca; additionally, the corresponding prior investigation must be initiated against the agent of the Military Public Ministry responsible for the assembly of the mentioned investigation, because of the acts and omissions contained in the observations chapter of this document, keeping the National Commission informed until its resolution.

Issue instructions to whomever it may concern so that Mexican Army officials are instructed and trained on how they must behave, with the aim of respecting the human rights of individuals during the fulfillment of the duties assigned to them. In addition, procedures and actions must be established to govern their faculties in order to keep conducts such as the ones previously mentioned from reoccurring, achievable through training military personnel on the use of force and firearms, aiming to avoid actions and omissions such as the ones which led to the creation of this recommendation.

Recommendation 76/2009

30th of October 2009

Case: Of Mr. Ignacio Flores Montiel

Responsible Authority: Constitutional Government of the State of Chiapas

On the 10th of January 2009, Mrs. Patricia Flores Bedolla filed a complaint before the National Commission in which she stated that, at approximately 07:00 hours on the 20th of April 2007, a group of people who claimed to be judicial agents of the then known as General Government Attorney's Office of the State of Chiapas and judicial agents assigned to the District Attorney's Office of the Federal District, forcefully detained Mr. Ignacio Flores Montiel at their home in Mexico City. This was justified by a warrant issued against him, because of which he was then taken to the airport in Toluca, State of Mexico and from there he was taken onboard a private airplane to Tuxtla Gutiérrez, Chiapas.

She added that once in this city, he was kept in a hotel due to his alleged involvement in a homicide; situation which was later supported by various events which served as a basis to justify his detention under the assumption that he was probably responsible for committing other crimes.

She mentioned that whilst he was imprisoned, the Government Attorney's Office Specialized in Homicides, Illegal Deprivation of Freedom and other Related Crimes Committed Against Journalists in the Nineties, prepared another two rulings against him, because of which he was deprived of his freedom during approximately 22 months, until he finally managed to prove his innocence.

It is because of this that she requested the acceptance of her file of complaint about the violations committed to the detriment of her progenitor by the General Government Attorney's Office of Justice of the State of Chiapas and the District Attorney's Office of the Federal District.

Before performing the analysis of the human rights violations committed to the detriment of Mr. Ignacio Flores Montiel, it is important to point out that the federal jurisdiction of the National Commission was a key element in the case at hand given that authorities from two federative entities were involved in these events; however, there was no evidence found to prove that civil servants from the District Attorney's Office of the Federal District were responsible for the events that led to the creation of this document, relating to the detention of the offended which took place on the 20th of April 2007.

From the logical-juridical analysis performed on the declarations which make up the file of complaint, the National Commission was able to prove violations to the human rights to legality and legal certainty, established by articles 14, second paragraph and 16, first paragraph, of the Political Constitution of the United Mexican States, to the detriment of Mr. Ignacio Flores Montiel. These violations were committed by members of the General Government Attorney's Office of Justice of the State of Chiapas, given that in the case at hand it is inferred that the Government Attorney's Office Specialized in Homicides, Illegal Deprivation of Freedom and other Related Crimes Committed Against Journalists in the Nineties, as well as the Government Attorney's Office Specialized in Crimes Related to Civil Servants, unlawfully continued the procedures of three prior investigations of several homicides against Mr. Ignacio Flores Montiel.

As a result of this, Recommendation 76/2009 directed toward the Constitutional Governor of the State of Chiapas, was emitted containing the following considerations:

Issue instructions in order to repair the damage caused to the offended, which allows him to return to the physical and psychological state he was in before his human rights were violated, having to keep the National Commission informed on the subject.

Notify the Secretariat of Audit and Control of the State of Chiapas so that the corresponding administrative procedure is assembled and resolved in accordance with the law, against the agents of the Public ministry assigned to the Government Attorney's Office Specialized in Homicides, Illegal Deprivation of Freedom and other Related Crimes Committed Against Journalists in the Nineties and to the Government Attorney's Office Specialized in Crimes Related to Civil Servants of the then known as General Government Attorney's Office of the state of Chiapas, as a result of the considerations noted in the observations chapter of this document.

So he issues instructions to whomever it may concern so that immediate actions are taken to instruct and train the staff of such Office regarding the faculties they possess when investigating crimes, in order for them to respect human rights when fulfilling their duties, aiming to avoid the future repetition of similar situations, sending the certificates which validate this to the National Commission.

So he issues instructions in order to implement the actions required to restore the public image and credibility of Mr. Ignacio Flores Montiel, as well as to guarantee the right to rectification which helps the offended as a result of the considerations mentioned in this document.

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