

NEWS LETTER

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CNDH CLOSER TO SOCIETY

Now that the first 100 days of the Mexican National Human Rights Commission's new administration, lead by Raúl Plascencia Villanueva, have gone by, the National Institution is being fine tuned, moving constantly closer to society through the sponsoring and propagation of the culture of legality and the State of Law.

Due to the urgent need of creating ways of helping and assisting the offended in a humane and respectful way, the Special Unit for Aid to Victims of Kidnapping was created.

The National Commission encourages the implementation of a nationwide Comprehensive Aid Network for Victims of Kidnapping through collaboration agreements with the authorities of the federative entities and through support from civil society organizations. This network makes it easier for the offended to access the systems that may assist and help them and it also improves the current institutional abandonment they suffer from.

There is work being done to reach a National Agreement for the Culture of Legality and the State of Law, whose content will be based on the results and proposals obtained from the numerous National Seminars which will be held throughout the country and will call upon legislators, authorities, academics and civil society members to lay the groundwork for such agreement.

The obligations established in our juridical order are also being systematized and will be reflected in the Charter of Duties of the People, in order to strengthen everyone's commitment to comply with the law.

During the first 100 days, strategies and techniques for the realization of a Permanent Diagnosis of the Human Rights Situation in the Country were designed which will allow for the evaluation of the transcendence of the human rights defense and encouragement programs so they can be improved and fine tuned to better fulfill their objectives.

This will derive in a National Alert System which will be on the CNDH's web page in order to provide information about the current human rights situation in each of the federative entities.

Also, the subjects of efficient spending, austerity, transparency and accountability have been reinforced in order to turn the CNDH into a reference point on the subject.

An 11% decrease in salary for the higher ranks is one of the key actions taken.

The Mexican National Human Rights Commission is one of the State's most audited and monitored institutions and it is committed to inform society about the exercise of the resources used during each period.

IMPUNITY, A CAUSE OF VIOLENCE IN THE COUNTRY

The national Ombudsman, Raúl Plascencia Villanueva, stated that the violence being witnessed in the country is the result of the unrestrained growth of drug sales, the never ending corruption, the lack of effective public policies on the subject of public safety, the weak or inexistent coordination between the institutions in charge of safety and procurement of justice at all three levels of the government, and of impunity.

"We consider it important to make the most out of the federal government's faculties on the subject of intelligence, with the aim of attacking the financial sources as well as the assets of the organized crime gangs, as well as using technological advancements and scientific research as essential tools in this struggle".

Plascencia Villanueva qualified the subject of public safety in a nationwide context as disheartening, given that more than 95% of the crimes committed are left unpunished which "makes us one of the countries with the highest rate of impunity and crime per capita".

After pointing out that numerous economic, social and cultural elements have turned thousands of people into victims of a crime, he highlighted that the increased brutality of violence throughout the country has caused a considerable number of deaths.

When he met with members of the Human Rights Commission of the Chamber of Deputies, he also referred to the subject of the armed forces.

He underlined that it is time to work on proposals and mechanisms which are needed so that the public safety tasks that are now being performed by the armed forces are carried out with due diligence, efficacy and timing, all without infringing society's rights.

Because of this, he suggested to the members of the Congress of the Union that they should decide on the procedures, protocols or general principles of coordination between the armed forces and civilian authorities for fighting crime. This will allow for the creation of more efficient mechanisms for accessing justice and will also reduce human rights violations.

"The ever present violence in the country does not make us question our responsibility as an institution in charge of protecting human rights; on the contrary, it obliges us to double our efforts to collaborate with the other institutions of the Mexican State, with the aim of contributing to the creation of better public policies to resolve the serious problem of insecurity we are currently enduring".

During this work meeting, held to present the Annual Activity Report 2009 of the Mexican National Human Rights Commission, Raúl Plascencia Villanueva talked about violence in Ciudad Juarez, Chihuahua, and said that it is a threat against the lives, dignity and safety of the people and of Mexican society as a whole.

He mentioned that the studies about the protection and eradication of violence against women carried out by the CNDH, as well as by other public and private institutions have not been taken into account, causing the government's efforts to be insufficient thus failing to reach the expected results.

"At the CNDH, we are committed to keep working in favor of victims' rights, the rights of the women of Ciudad Juarez and of all the other people that due to this unfortunate behavior of the authorities are more exposed to crime and abuse of power".

More protection for journalists

Raúl Plascencia Villanueva emphasized the need to safeguard the human rights of journalists, communicators and civilian human rights defenders, who have become the target of attacks from delinquency, criminality and even some authorities.

"It is urgent that we enforce the commitment to respect freedom of speech, because it is the most effective method of promoting human rights. It represents the cornerstone for existence of democracy itself. An effective freedom of speech reinforces the democratic principles of a State of Law, encouraging pluralism and tolerance within a society and also eliminating authoritarian systems".

He said that during the past year, the CNDH settled 79 files of complaint due to actions committed to the detriment of journalists and 26 to the detriment of civilian defenders.

Actions during 2009

The national Ombudsman pointed out that during 2009, the CNDH offered in excess of 45 thousand services, attended 7,703 files of complaint and emitted 78 specific recommendations directed toward more than 100 authorities and federal and local bodies.

He announced that during that year, 978 training activities were carried out with the participation of 43 thousand people; 182 activities with social organizations were carried out with the participation of 6,600 people and 110 collaboration agreements on the subject of human rights were signed with universities, public institutions, non-governmental organizations and authorities.

He pointed out that 674 anticipated release certificates for indigenous people were obtained; 214 field projects were carried out and 14,007 requests for information relating to the disappearances of people in which the involvement of a State official was assumed or confirmed were submitted before numerous authorities, in addition, 70 cases of missing persons were resolved.

Also, 1,555 visits to migratory stations were performed in which 30,515 people were attended and 197 files of complaint were initiated together with nine more made by the CNDH; 219 complaints relating to alleged violations to the right to equality between men and women were received and 5,815 people were trained on the subject.

In response to some authorities' ongoing tendency of not accepting the CNDH's recommendations or of accepting them and not carrying them out, Raúl Plascencia mentioned these authorities' need to present the juridical basis for their refusal before the legislative power, hoping that this will make them change their attitude.

First 100 days

Amongst the actions taken by the new administration of the CNDH during its first 100 days, one which stood out is the effective protection of victims of kidnapping, who often times are doubly victimized and the compensation or reparation of damages is practically inexistent.

Plascencia Villanueva highlighted the celebration a National Agreement for the Culture of Legality and the State of Law, so that all of the public and private and collective and individual plaintiffs assume the role that has been assigned to them responsibly and with democratic foresight.

He stated that the civil servants' obligation to respect the law and the State of Law is complimented by the strengthening of the people's commitment to dutifully abide by the law, act according to high ethical standards and respect social values.

He announced that the systematization of the obligations of our juridical order will be reflected in the Charter of Duties of the People, given that the principle which states that all rights are for all requires our ethical and social commitment to comply with our duties and responsibilities.

Plascencia Villanueva announced the design of strategies and techniques for the realization of a Permanent Diagnosis of the Human Rights Situation in the Country which will provide timely and up to date information about the programs and actions which must be reinforced in order to make them more effective for the benefit of the people.

He pointed out that this diagnosis will allow for the establishment of a National Alert System for Human Rights Violations, in order to positively identify the situations where there exists the possibility of essential rights being violated, allowing for preemptive action and being capable of responding promptly.

"At the CNDH we have begun a renewed and dynamic vision regarding the subject of human rights protection and respect in Mexico. The Mexican National Human Rights Commission is and will continue to be an institution which is open to discussion in order to reach the agreements which allow us to resolve the major nationwide demands for peace and wellbeing of Mexicans, based on the unavoidable principle of respecting the dignity of an individual".

THE CNDH PRESSES FOR THE PROTECTION OF ECONOMIC AND SOCIAL RIGHTS

The national Ombudsman, Raúl Plascencia Villanueva, pressed for a comprehensive legislative revision in order to adapt and correct the gaps, duplicities and ambiguities of our juridical system,

so that authorities may dutifully protect Mexicans' economic, social, cultural and environmental rights.

Even though their compliance is mandatory, the juridical gaps which hinder the effective protection of those third generation rights do stand out.

Whilst talking during the activity report of the State Human Rights Commission of Jalisco, Plascencia Villanueva pointed out that such regulations must strengthen the operational instruments of the human rights commissions.

He mentioned that a high percentage of the Recommendations emitted are not fulfilled within the legal timeframe whilst others are not accepted by civil servants.

This results in the main objective of the Recommendations, which is to avoid the repetition of human rights violations, not being fulfilled.

Raúl Plascencia Villanueva assured that authorities must be obliged to render accounts in order to put an end to the idea that not accepting or carrying out Recommendations does not have any consequences.

"The legal framework must be modified and the official who refuses to respect human rights must be able to explain his reasons for doing so before the Congress of the state or the Union".

He pointed out that the safekeeping of human rights has many drawbacks and unresolved issues; it is everybody's responsibility and it "requires governments with humanistic principles and social values whose main objective is the respect and protection of these guarantees".

In addition, he underlined the importance of reaffirming and strengthening the culture of legality as a basic element for the unrestricted fulfillment of the State of Law required by society.

Before the District Attorney of the state, Tomas Coronado Olmos and the president of the State Human Rights Commission, Felipe Álvarez Cibrián, he mentioned that encouraging the establishment of a National Agreement for the Culture of Legality and the State of Law is a priority for the CNDH.

He explained that this agreement's reason for being will be to obtain the commitment and participation of all the social and political plaintiffs in the country and he invited the people of Jalisco to participate in the National Seminars for the Culture of Legality and the State of Law, which are organized by the CNDH, in order to lay the groundwork and decide on its content together.

CNDH SIGNS AN AGREEMENT TO ATTEND VICTIMS OF KIDNAPPING

The president of the Mexican National Human Rights Commission, Raúl Plascencia Villanueva, called upon civil society, public institutions and all of the human rights commissions in the country to join efforts in order to protect the victims of kidnapping.

Whilst implementing the Comprehensive Aid Network for Victims of Kidnapping in this entity, he warned about the injustice and impunity which trouble our society and have led to the loss of

credibility of the institutions in charge of public safety and the procurement of justice whilst also accentuating the abandonment currently faced by victims of this crime.

During the signing of the collaboration agreement between the CNDH, the government of Durango, the local Congress and the State Human Rights Commission, the national Ombudsman denounced that those victims suffer, in addition to the direct pounding of delinquency, a lack of assistance from institutions.

He pointed out that the majority of cases do not receive any kind of judicial, medical or psychological assistance whatsoever, they are uninformed about the status of their proceedings and rarely obtain compensation for the damages caused.

Because of this, he underlined the importance of encouraging the legislative bodies of the states to allow for reforms which permit victims to directly intervene in penal proceedings, receive judicial assistance and establish the mechanisms which truly and effectively guarantee their demand for justice.

Plascencia Villanueva explained that the agreement contemplates actions for the sponsoring and spreading of victims' rights, juridical assistance, medical and psychological attention, as well as institutional tools in order to guarantee the protection of their human rights. It will also facilitate the wronged parties' access to all of the aid and help systems possessed by the signing parties.

He vowed to press for the signing of a major National Agreement for the Culture of Legality and the State of Law, organizing National Seminars in the country for this reason, based on everybody's commitment and involvement.

The agreement was also signed by the president of the Stop Kidnapping Association, Citizens' Association (A.C.), Isabel Miranda de Wallace, as an honorary witness.

CNDH ASKS THAT SOCIETY'S SAFETY RELATED COMPLAINTS ARE ADDRESSED

The national Ombudsman, Raúl Plascencia Villanueva, stated that Ciudad Juarez requires a public safety policy which is highly focused on society's needs and demands.

"There must be a clear and adequate certainty, which goes hand in hand with society, where public policies will be focused on solving the problems currently faced by each member of Juarez's society".

Raúl Plascencia was interviewed during a work visit through the State of Mexico's capital, where he witnessed the commemoration of the XVII Anniversary of the Human Rights Commission of the State of Mexico as well as the signing of a collaboration agreement between the State Commission and the Federation of Law Schools, Firms and Associations of the State of Mexico, in which he was an honorary witness.

When asked about the visit made by President Felipe Calderón to Ciudad Juarez on that day, the national Ombudsman underlined the importance of taking advantage of the opportunity to evaluate the public policies on crime prevention.

“Violence in Ciudad Juarez, Chihuahua, has been increasing during the last few years, making this a good time for the federal government to evaluate if crimes are being prevented and if the operatives carried out to suppress delinquency are working.

Plascencia Villanueva stressed that the public policies on the subject of public safety which are enforced in Ciudad Juarez require a very objective evaluation regarding what has been achieved during the last seven years on the subjects of fighting delinquency, preventing crime and reconstructing society’s structure.

After pointing out that the problem has worsened in Ciudad Juarez, he said that it is necessary for authorities to inform society on what has been and will be done in a clear and objective manner.

During the signing of the collaboration agreement, the president of the CNDH noted that the commemoration of the 200 years since the beginning of Independence and the 100 years since the beginning of the Revolution are a reason to renew and seriously encourage the culture of legality and the State of Law.

In order to achieve this, he called for the celebration of a national agreement on the subject, in which all of the social and political plaintiffs should participate, acting according to high standards of ethics and tolerance.

After congratulating the State of Mexico’s Human Rights commissioner, Marco Antonio Morales Gómez, together with the staff of this institution for the professional work they carry out, he reiterated that the CNDH will continue working on the noble duty of protecting and defending the human rights of all Mexicans in a professional and transparent way.

CNDH PROPOSES A JOINT EFFORT TO PROTECT JOURNALISTS

The national Ombudsman, Raúl Plascencia Villanueva, stated that the Mexican State’s responsibility regarding the human rights of defenders and journalists will only be fulfilled through legislative, political and social actions which are coordinated so that they are effectively respected.

He announced that given the situation of violence faced by human rights defenders and journalists in our country, the CNDH, state commissions, authorities and the office of the High Commissioner for Human Rights will be able to jointly design guidelines for prevention and protection.

Plascencia Villanueva participated in the execution of the dialogue “Towards a mechanism for the protection of journalists and people who defend human rights”, held in the Great Hall of the Tlatelolco University Cultural Center.

He pointed out that the implementation of a protection mechanism in Mexico requires the training of all the people involved as well as following risk assessment guidelines.

“The effective exercise of freedom of opinion and speech is an important indicator of the level of human rights protection, considering their traits of universality, indivisibility and interdependence”.

Raúl Plascencia emphasized that amongst the debts incurred upon by the Mexican State on the subject of human rights, there is one with defenders and journalists, who face critical situations of violence, threats, kidnapping, torture, arbitrary detentions and even death.

"The mass media journalists and communicators have paid a very high price for keeping the values of democracy in the people's eye and it is because of this that I express my concern about the attacks against their rights which range from intimidation and arbitrary detention to loss of life".

The president of the CNDH underlined the national Institution's commitment led by the protection of people who defend human rights as well as journalists.

He proposed working to be a step ahead on the subject of prevention and so that federal, state and municipal authorities respect and turn the true exercising of journalists' and defenders' human rights into a reality.

He announced that from the year 2000 until 2010, the CNDH has received complaints relating to the death of 60 journalists and the disappearance of 8 communicators, as well as 6 in relation to attacks against newspapers' offices. 185 files are related to human rights defenders.

He added that from 2005 to the present, the CNDH has requested 54 precautionary measures for journalists and 16 for defenders.

"The State's duty to act with due diligence in the prevention, investigation, formal processing and execution of sanctions in the cases of attacks against defenders and journalists, constitutes a commitment to avoid the impunity resulting from not detaining those physically and intellectually responsible for the crimes and applying the corresponding penal sanction".

CRIME AND IMPUNITY HINDER THE PROGRESS OF HUMAN RIGHTS

In light of the commemoration of the XCIII anniversary of the Mexican Constitution's promulgation, the Mexican National Human Rights commission considers that crime and impunity which prevail in the country are obstacles which do not allow for the advancement and consolidation of human rights.

The commemoration of the Constitution is the awaited moment to reflect on the political and social fields. The democratic advancements cannot be denied, but those who are aware of them may not be entirely satisfied whilst human rights violations persist.

In the National Commission's opinion, today more than ever, society and institutions must encourage the culture of legality and the State of Law.

The subject of human rights is still a pending task. It is the responsibility of both the government and society. The respect and consolidation of human rights is a duty of us all.

Now that a State reform is being proposed, the CNDH takes advantage of the occasion to demand the unrestricted commitment of all the political and social sectors with the human rights cause, so that we can move on from declarations to actions.

The progressive nature of human rights includes civil servants' juridical duty to act and make the rights and guarantees consecrated in our Constitution and international regulations ratified by our country a reality.

For the National Commission, a country's State of Law is based, above all, on the presence of the culture of legality amongst society.

Respecting the law is a value that must be embedded in the conscience of individuals, starting from the most basic level of social interaction and strengthened throughout the different stages of life.

For Mexicans, the culture of legality represents the strict compliance with the obligations imposed by the law in order to guarantee social coexistence and so that the exercising of their rights is done in accordance with the legal dispositions.

It is necessary to press for a Charter of duties of the people, which promotes a new generation of regulations which specify the duties of the people, helping to strengthen the law on the basis of its fulfillment.

On this anniversary of the Mexican Constitution, the CNDH underlines that if the authorities and society do not take on their commitment with the protection and defense of human rights, there can hardly be any transformation and progress made on the subject.

THE CNDH PARTICIPATES IN THE FIFTH MIGRANT DEMONSTRATION

The Mexican National Human Rights Commission considers that the lack of a migratory reform has led to the creation of state legislative initiatives and local regulations of an anti-immigrant nature.

It has also resulted in an increased number of hate groups and the strengthening of surveillance along the border with more agents and cutting edge technology for the detection and detention of migrants.

Whilst participating in the Fifth Migrant Demonstration, organized by Angels of the Border, the National Institution underlines that the scenario faced by migrants on a daily basis is a more difficult one because their access to many aid, health and adaptation services has been limited and raids are still happening.

The CNDH proposes that legal options for the immigration of workers must be made available as a solution to the migratory phenomenon in order for it not to be a cause of conflict between Mexico and the United States, but rather an engine which boosts the development of both countries.

The Fifth Migrant Demonstration, in which the Fifth General Visitor of the CNDH, Fernando Batista Jiménez participated alongside Enrique Morones, president of Angels of the Border, left from El Sásabe, Sonora and will go through Tucson, Phoenix, Coach, Coachella Valley, Yuma, Calexico, Imperial Valley and Holtville, Arizona, where it will arrive tomorrow, Friday the 5th of February.

The demonstration's purpose is to remember and honor the migrants who have died during their attempt to achieve a better quality of life, as well as striving to dignify the treatment given to migrants without identification papers during and after their border crossing.

There will be meetings held with officials and associations who work in favor of migrants in each of the cities visited by the demonstration, where the subject discussed will be the urgent need of a migratory reform.

Just like every other year, during the demonstration, dozens of migrant organizations hit the streets and join it to demand an end to the raids; they highlight their contribution to the economy of the neighboring country to the north and they denounce anti-immigrant policies.

CNDH ATTENDS THE VICTIMS' RELATIVES IN CIUDAD JUAREZ

The Mexican National Human Rights Commission states that Mexican society demands a thorough explanation of the massacre against youngsters which took place in Ciudad Juarez, Chihuahua and announces that it has sent staff to the scene of the crime in order to provide psychological assistance and juridical aid to the victims' relatives.

Additionally, it will gather information and testimonials from the relatives.

The CNDH's intervention is carried out in accordance with its faculties, fully respecting the state government's authority and the actions of the Human Rights Commission of Chihuahua.

The CNDH staff – accompanying visitors and psychologists- are equipped with a mobile unit (Ombudsmovil), which will allow them to reach the areas of the capital of Chihuahua where their presence is required. They will remain in Ciudad Juarez for as long as they are needed.

Such vehicle is equipped to provide the attention required in these cases.

The psychologists will be able to attend the post traumatic stress faced by those affected and the accompanying visitors will record their testimonials in accordance with the confidentiality protocols established by article 4 of the CNDH Law.

For the National Commission, the grave situation of abandonment currently faced by the victim of a crime and abuse of power requires immediate attention, as well as a thorough adaptation of the Mexican juridical system to make the rights granted to him by the Constitution a reality.

Currently, the Mexican legal procedure treats the victim of a crime as if he were a third party without any connection to the problem. He is denied updates and is not allowed to intervene in the resolution of the proceedings, resulting in a double victimization.

The CNDH reiterates its rejection of violent acts, it will continue aiding victims of crime and will follow up on the development of the facts in order to later emit the appropriate resolution in accordance with the law.

CNDH SUPERVISES THE MEDICAL ATTENTION GIVEN TO CARRIERS OF HIV/AIDS

The Mexican National Human Rights Commission makes sure that the public health institutions deliver medicines and provide medical attention to the people entitled to their services who suffer from HIV/AIDS.

In the event of prescriptions not being delivered, medical attention being denied or treatments being interrupted, the CNDH will coordinate the immediate reestablishment of the services, especially between the Mexican Social Security institute (IMSS) and the Institute of Social Security and Services of the Workers of the State (ISSSTE).

The National Commission will attend cases of rejection, marginalization, exclusion and stigma which affect the carriers of the virus, so that their rights to receive a proper and dignified treatment and to be provided with the medical attention required by their seropositividad condition are respected.

The main human rights violating event denounced regarding this subject is the negation or inadequate provision of the public healthcare service, consisting in the arbitrary suspensions of retroviral treatment and the refusal to provide medical attention.

There are also complaints about offensive or discriminatory treatment and the performance of unauthorized HIV detection tests.

As part of its effort to fight discrimination, male chauvinism, racism and homophobia against people who live with HIV/AIDS, during the last year the CNDH trained 1,990 civil servants pertaining to the health care, education and equality between men and women sectors, together with civil servants from the human rights institutions of the states.

The National Institution considers that false precepts about the transmission and characteristics of the infection have been published since the beginning of the epidemic, contributing to the stigmatization and discrimination of the people who make up this vulnerable group.

In light of these events, during 2009 the CNDH carried out 73 training activities made up of courses, workshops and conferences and it trained 1,453 people who live with HIV or AIDS together with activists from non-governmental organizations.

It also divulged educational and prevention material through 132,018 audiovisual kits in addition to banners, books, leaflets and brochures which promote the rights of the people who live with HIV/AIDS.

In order to receive complaints, the CNDH requests the offended to include their personal details including their social security number and copies of the prescriptions to be delivered; information which will be handled with strict confidentiality, as established by article 4 of the Law of the Mexican National Human Rights Commission.

The complaints must be sent to Periferico Sur 3469, San Jeronimo Lidice colony, Magdalena Contreras district, Mexico 10220 D.F. They may also be submitted by calling the following toll free number: 01800 715 2000, or by sending them to the e-mail address correo@cndh.org.mx

URGENT ACTIONS REQUIRED TO PROTECT JOURNALISTS

With the homicide of Jorge Ochoa Martinez, director of El Sol de la Costa and editor of El Oportuno, in Chilpancingo, Guerrero, the number of murdered journalists went up to 60 according to the Mexican National Human Rights Commission's records.

The National Commission expresses its most vehement condemnation of the assassination of this communicator; it demands the clarification of the crimes, of the disappearances of another eight journalists and of the attacks with explosives against the facilities of seven medias of communication which have taken place from the year 2000 until today.

The CNDH initiated a self-created file of complaint in order to follow up on the ministerial investigations relating to the homicide of Ochoa Martinez, it will interview the authorities of the District Attorney's Office of this entity, executives of the newspaper and relatives of the offended.

The National institution demands from authorities that justice is done and so the crimes and offences against journalists are not left unpunished.

It asks that the three levels of government adopt urgent measures which guarantee the journalistic exercise and allow us to find those responsible for the attacks against journalists, bringing them to justice.

The CNDH considers that in Mexico, there is a growing number of journalists who are subject to threats, intimidations, persecutions, attacks and forced disappearances whilst carrying out their profession.

There is no justification whatsoever for attempting to hinder the work of journalists. The National Commission sustains its invitation to work with journalists' organizations in the search for mechanisms which reinforce the protection of their work. The Mexican National Human Rights Commission, presided by Raúl Plascencia Villanueva, is also following up recent cases such as the homicide of Alberto Velázquez, from the newspaper Expresiones de Tulum, in Quintana Roo and the alleged violation of freedom of speech through the summoning of the general director of the newspaper El Sur, Juan Angulo Osorio to the Office of District Attorney for the State of Guerrero.

For the CNDH, it is essential that federal and local authorities fulfill their duty to safeguard the rights to life, integrity and safety and that the rights to access to the procurement of justice together with the right to freedom of speech consecrated in our Constitution are guaranteed.

RECOMMENDATIONS

In the following pages, the synopsis of the recommendations emitted by the CNDH during the month of February, 2010 is presented. The complete version may be consulted on this institution's web page: <http://www.cndh.org.mx/recomen/2010/001.html>

Recommendation 05/2010

Mexico, D. F., 16th of February 2010

Case: Legal recourse of impugnation presented by Mr. Margarito Rolando Caporal Neri.

Responsible Authorities:

Govt. Delegate Celestino Cesáreo Guzmán

President of the board of directors of the lix Legislature of the Congress of the State of Guerrero

Members of the H. City Hall of Chilpancingo de los Bravo, Guerrero.

The National Commission emitted its recommendation 05/2010, about the complaint interposed by Mr. Margarito Rolando Caporal Neri before the Commission for the Defense of Human Rights of the State of Guerrero, seeking permission to install a metallic booth for the sale of miscellaneous items on a vacant lot located on the street of Juan Jiménez Sánchez (no street number), on the corner with the René Juárez Cisneros Boulevard, Balcones de Tepango colony in Chilpancingo de los Bravo. The plaintiff points out that once he complied with the corresponding procedures that were required of him, he began the construction of the booth which was dismantled without a warrant from a competent authority. It is because of this that he presented his accusation before the State Commission, who in turn formulated Recommendation 67/2008, which has not yet been attended to by the competent authority. As a result, he reiterates his complaint and interposes the legal recourse of impugnation.

The National Commission considers that the legal recourse of impugnation due to the unacceptance of the recommendation by the municipal president of Chilpancingo de los Bravo, Guerrero does proceed and is well grounded given that from the logical-juridical assessment performed, it was proven that the human rights to legality, legal certainty and property were transgressed, to the detriment of Mr. Caporal Neri.

The National Commission recommended to the president of the LIX Legislature of the Congress of the State of Guerrero that he do the following: Notify the competent body so that it begins and determines, in accordance with the law, an investigation to establish the administrative responsibility resulting from not fulfilling the cited recommendation, as well as because of the omission incurred on by authorities from the municipality of Chilpancingo de los Bravo during the processing of the inconformity currently being discussed.

It recommended that the members of the H. constitutional City Hall of Chilpancingo de los Bravo, Guerrero, instruct whomever it may concern to achieve the fulfillment of all conditions of recommendation 87/2008 emitted by the Commission for the Defense of Human Rights of the State of Guerrero on the 23rd of December 2008, informing the Mexican National Human Rights Commission about this situation.

Recommendation 06/2010

Mexico, D. F., 18th of February 2010

Case: Inadequate Medical Attention to the detriment of V1

Responsible Authority:

General Director of the Juárez Hospital of Mexico.

The National Commission emitted its recommendation 06/2010, relating to the complaint received from Q1 on the 24th of October 2008, through which he announced alleged violations to the detriment of V1, a male of 52 years of age, who entered the emergency room of the Juárez Hospital of Mexico in the Federal District on the 6th of October 2008 because he was having a cardiac arrest, according to Q1, and was released that same day after having been treated by the doctors of this hospital.

He added that on the next day, V1 reentered the Juarez Hospital of Mexico due to other health complications and this time doctors diagnosed kidney damage, ordering his internment in this hospital's nephrology ward.

He stated that on the 24th of October 2008, the doctors who were attending V1 informed him that he would be released because his overall health was stable, instructing V2, son of V1, to take him to another hospital in order for him to receive dialysis treatment; along these lines, Q1 mentioned that at the time of V1's release from the Juarez Hospital of Mexico, he was not in control of his body, he could not speak and he was basically very weak, leading him to request the Mexican National Human Rights Commission's intervention to keep this patient from being released until his overall health allowed it.

As a result of the visits performed by staff of the CNDH to V1, of information requested from the Juarez Hospital of Mexico and based on the logical-juridical analysis, the National Commission considers there are elements which prove violations to the rights to the protection of health, and as a result, of life, to the detriment of V1, by the doctors who attended him in the Juarez Hospital of Mexico.

The National Commission recommended instructing whomever it may concern in order to proceed with the reparation of the damage caused to the relatives of V1 as a result of the institutional responsibility the hospital's doctors are liable to. This reparation must be carried out in accordance with the terms established by article 20, paragraph B of the Political Constitution of the United Mexican States as well as by the precepts recognized in the Declaration about the Fundamental Principles of Justice for the Victims of Crime and Abuse of Power.

It recommended designing and implementing a comprehensive training program on the subject of human rights in the Juarez Hospital of Mexico, giving special importance to the content, handling and observance of the Official Mexican Norms regarding Healthcare, aiming to make the public service provided by both the medical and nursing staff adjust to the legal framework. It must also focus on the same administrative habits they must adhere to whilst fulfilling their duties, guaranteeing the execution of the exact intervention protocols.

Issue instructions to whomever it may concern in order to fully collaborate with the Mexican National Human Rights Commission in the initiation and processing of the complaint that this public institution brings before the Internal Control Body of this hospital against the doctors who intervened in V1's treatment.

Instruct whomever it may concern in order to properly collaborate with the investigations derived from the accusation presented before the Attorney General's Office by the Mexican National Human Rights Commission as a result of these events, given that those involved are federal public servants. The documents which certify that this term has been complied with must be sent to the National Commission.

Recommendation 07/2010
Mexico, D. F., 19th of February 2010

Case: Medical Negligence resulting in loss of life to the detriment of V1 and V2.

Responsible authority:
General Director of the Mexican Social Security Institute.

The National Commission emitted Recommendation 07/2010, relating to the complaint received by the Human Rights Commission of the State of Mexico on the 23rd of February 2009 regarding the complaint submitted by V1, in which she declared that on the 15th of October 2008 she was eight months pregnant; given that she started releasing vaginal fluids, she went to the General Hospital of the District number 68 of the Mexican Social Security Institute (IMSS), located in the municipality of Ecatepec in the State of Mexico. Once at the hospital, an ultrasound was performed on her, followed by a caesarean, without being told about the overall health of V2 (baby); she added that she was released three days afterward even though the incision from the caesarean was infected, adding that V2 perished five days after her birth, without being given information regarding her true cause of death. She also pointed out that she was not given a birth certificate because there was no paper in stock at the hospital, even though such document was a requirement for the burial of V2. As a result, V1 requested the intervention of the Mexican National Human Rights Commission in order to investigate these events as well as V2's cause of death.

From the logical-juridical analysis performed in conjunction with the evidence that makes up the file, the National Commission possesses elements which prove violations to the right to the protection of health, and as a result, of life, to the detriment of V1 with the death of V2, by civil servants of the Mexican Social Security Institute.

The National Commission recommended instructing whomever it may concern, in order to proceed with the indemnification of the relatives of V2 or whoever is more rightfully entitled in accordance with the applicable laws and the precepts recognized in the Declaration about the Fundamental Principles of Justice for the Victims of Crime and Abuse of Power, as a result of the institutional responsibility which the doctors of the Mexican Social Security Institute who intervened in this case are liable to.

Issue instructions to whomever it may concern so that in that General Hospital of the District No 68 of the Mexican Social Security Institute, a comprehensive training program on the subject of human rights is designed and implemented, giving special importance to the content, handling and observance of the Official Mexican Norms regarding Healthcare, aiming to make the public service provided by both the medical and nursing staff adjust to the legal framework. It must also focus on the same administrative habits they must adhere to whilst fulfilling their duties, guaranteeing the execution of the exact intervention protocols, having to send the documents which certify that these conditions have been fulfilled to the National Commission.

Collaborate fully with the Mexican National Human Rights Commission in the initiation and processing of the complaint that this public institution brings before the Internal Control Body of this institute, against the doctors who intervened in the treatment of V1 and V2, sending whichever documents are required to the National Institution.

It also recommended a proper collaboration with the investigations derived from the accusation presented before the Attorney General's Office by the Mexican National Human Rights Commission as a result of these events, given that those involved are federal public servants. The documents which certify that this term has been complied with must be sent to the National Commission.

Recommendation 08/2010
Mexico, D. F., 22nd of February 2010

Case: Inmates of the state Social Reinsertion Center of Ciudad Juarez, Chihuahua.

Responsible Authority:
Constitutional Government of the State of Chihuahua

The Mexican National Human Rights Commission emitted Recommendation 08/2010, relating to the complaint received by the National Commission on the 4th of March 2009 in favor of the inmates of the state Social Reinsertion Center of Ciudad Juarez, due to the fact that an uprising took place there on that day, causing the intervention of different police forces which resulted in the death of several inmates and the wounding of others.

From the logical-juridical analysis performed on the certificates which make up the file, the National Commission came to the conclusion that the rights to personal safety, life, legality and legal certainty, worthy treatment and social reinsertion were infringed to the detriment of the inmates of the state Social Reinsertion Center of Ciudad Juarez. This was caused because the authorities in charge of this facility, who were involved in the events currently being discussed, did not effectively carry out their obligation to guarantee the respect of the physical and mental integrity of the inmates nor did they comply with their obligation to provide adequate conditions for their social reinsertion.

The National Commission recommended proceeding with the reparation of the damage caused to the relatives of the inmates who died in the state Social Reinsertion Center of Ciudad Juarez,

Chihuahua, as a result of the institutional responsibility which personnel of the Secretary of Public Safety of the mentioned federative entity are liable to.

The order is given to notify the corresponding internal control body, with the goal of initiating and resolving, in accordance with the law, an investigation to establish the administrative responsibilities that personnel from the Secretary of Public Safety of the State of Chihuahua may be liable to, due to the omissions which gave way to the clash between inmates on the 4th of March 2009.

The corresponding agent of the Public Ministry is notified so that, in accordance with his faculties and attributions, he investigates the behavior of the civil servants of the mentioned penitentiary facilities in order to determine if their actions constituted a crime to the detriment of the offended.

Ordering whomever it may concern to assign enough trained Security and Custody personnel to cover the needs of the state Social Reinsertion Center in question, with the main objective of guaranteeing the human rights of inmates.

Instructing whomever it may concern so that a guidebook of adequate procedures for the intervention by personnel of the Secretary of Public Safety of the State of Chihuahua during emergencies or uprisings within detention centers is issued as soon as possible, aiming to guarantee the unrestricted respect of human rights.

Ordering whomever it may concern so that continuous training is provided to personnel of the Secretary of Public Safety of the State of Chihuahua on how to respond to emergencies or uprisings within detention centers with the goal of guaranteeing the unrestricted respect of human rights.

Recommendation 09/2010

Mexico, D. F., 24th of February 2010

Case: Medical Negligence resulting in loss of life to the detriment of V1.

Responsible Authority:

General Director of the Mexican Social Security Institute.

The Mexican National Human Rights Commission emitted its Recommendation 0972010 relating to the complaint of Q1, presented at the State Human Rights Commission of Sinaloa, in which he stated that at 12:46 hours on the 7th of April 2009, V1 who was his son, entered the emergency room of Regional General Hospital No. 1 of the IMSS in Culiacan, Sinaloa, due to firearm injuries in his left arm and thorax. He added that they took an x-ray of him and his son was then admitted into the Emergency Ward without him being able to see his son; he also stated that his son was not taken to an operating room because there was no surgeon available - he arrived at 14:00 hours when his son was only given an IV with serum and oxygen, without offering first aid assistance; V1 died at 15:46 hours of that same day.

From the logical-juridical analysis and the evidence that make up the file, the National Commission proved violations to the rights to the protection of health, and as a result, of life, to the detriment of V1, due to the inadequate provision of medical attention incurred on by civil servants assigned to the Regional General Hospital No. 1 of the IMSS in Culiacan, Sinaloa

The National Commission recommended that in the previously mentioned Regional General Hospital, a comprehensive training program on the subject of human rights is designed and implemented, giving special importance to the content, handling and observance of the Official Mexican Norms regarding Healthcare, aiming to make the public service provided by both the medical and nursing staff adjust to the legal framework. It must also focus on the sane

administrative habits they must adhere to whilst fulfilling their duties, guaranteeing the execution of the exact intervention protocols, having to send the documents which certify that these conditions have been fulfilled to the National Commission.

Collaborate fully with the Mexican National Human Rights Commission in the initiation and processing of the complaint that this public institution brings before the Internal Control Body of this institute, against the doctors who intervened in the treatment of V1, sending whichever documents are required to the National Institution.

Properly collaborate with the investigations derived from the accusation presented before the Attorney General's Office by the Mexican National Human Rights Commission as a result of these events, given that those involved are federal public servants. The documents which certify that this term has been complied with must be sent to the National Commission.

Instruct whomever it may concern so that the necessary measures are taken for there to be sufficient and properly trained personnel in all of the hospitals run by the Mexican Social Security Institute so that the medical emergencies which may occur at any time, are handled in a timely and efficient manner. This will safeguard the main interests of the medical service users, thus avoiding irregularities such as the ones which led to this pronouncement, having to send the documents which certify the fulfillment of this condition to the National Commission.

Recommendation 10/2010

Mexico, D. F., 24th of February 2010

Case: Impugnation of "V1", because of an inconformity with the non-compliance of a recommendation by members of the Municipal Council.

Responsible authority:

Municipal Presidency of Ciudad Benito Juarez, Nuevo León.

The Mexican National Human Rights Commission emitted its Recommendation 10/2010, through which it considers that the legal recourse of impugnation brought forth by "V1", does proceed and is well grounded, due to the un acceptance of recommendation 08/08 of the State Human Rights Commission of Nuevo Leon by members of the City Hall of Ciudad Benito Juarez, Nuevo Leon.

From the assessment performed in conjunction with the evidence, it is possible to see the transgression of the human rights of V1, who in 2006 submitted a complaint to the State Human Rights Commission of Nuevo Leon against the behavior of an officer of the Auxiliary Police Force of the Secretary of Public Safety of the Municipality of Ciudad Benito Juarez of this federative entity. In it, he basically declares that on the 23rd of September 2006, when V1 crossed the hill which divides the colonies of San Miguelito and Portal de Juarez whilst on his way to return a movie he had rented, a police car pulled up beside him and the auxiliary police officer who was behind the wheel ordered him to get in it because he was a suspect in the robbery of a television. He adds that "V2" was later detained and both of them were taken to the entrance of the hill which divides the two previously mentioned colonies, once there they were handcuffed and handed over to municipal police officers after the previously mentioned auxiliary police officer affirmed that they were responsible for robbing a television. Subsequently, they were taken to the agency of the Public Ministry in Ciudad Benito Juarez, Nuevo Leon.

The CNDH recommended instructing whomever it may concern so that recommendation 08/08, emitted by the State Human Rights Commission of Nuevo Leon and directed towards the then Secretary of Public Safety of that Municipality, is carried out.

Furthermore, it recommended that the members of the H. Congress of the State of Nuevo Leon notify the appropriate body so that it initiates and resolves an investigation to establish the administrative responsibility of both former and current civil servants of the Constitutional City Hall of Ciudad Benito Juarez, Nuevo Leon, because of their failure to provide the National Commission with the information and documentation that was required of them. Having done this, the necessary measures must be taken to inform about the results.

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