

NEWSLETTER

Mexican National Human Rights Commission (CNDH)

NUMBER 210· NEW EPOCH

August 2010

CONTENTS

**43 THOUSAND 161 WRITTEN DOCUMENTS ON HUMAN RIGHTS AVAILABLE TO ALL
CNDH, FOSTERING THE DEFENSE AND PROTECTION OF MIGRANTS IN THE UNITED STATES
CNDH AND UN AGREE ON WORKING TOGETHER
93.8% OF ALL COMPLAINANTS ARE PLEASED WITH THE ASSISTANCE PROVIDED BY THE CNDH
A SPECIAL RAPPORTEUR OF THE UN MEETS WITH THE NATIONAL OMBUDSMAN
CNDH INVESTIGATES THE CASE OF MIGRANTS IN TAMAULIPAS
CNDH REQUESTS PRECAUTIONARY MEASURES FOR THE TAMAULIPAS CASE
ADDITIONAL EFFORTS FOR THE PROTECTION OF REFUGEES**

RECOMMENDATION 44/2010, **CASE OF INADEQUATE MEDICAL ATTENTION TO THE DETRIMENT OF V1**
RECOMMENDATION 45/2010, **ABOUT THE CASE OF THE DEATHS OF JAVIER FRANCISCO ARREDONDO VERDUGO
AND JORGE ANTONIO MERCADO ALONSO, STUDENTS AT THE INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES
DE MONTERREY, MONTERREY CAMPUS**
RECOMMENDATION 46/2010, **ABOUT THE RECOURSE OF IMPUGNATION OF V1 AND V2**
RECOMMENDATION 47/2010, **ABOUT THE RECOURSE OF IMPUGNATION PRESENTED BY Q1**

CGCP/209/2010

43 THOUSAND 161 WRITTEN DOCUMENTS ON HUMAN RIGHTS AVAILABLE TO ALL

As part of its everyday efforts to foster the culture and knowledge of fundamental human rights both domestically and internationally, the CNDH has made 43 thousand 161 publications akin to and specializing on human rights available to all so they can be consulted and taken advantage of specialized books, essays, reports, thesis, research projects carried out in different national and international schools and universities, dictionaries, encyclopedias and magazines edited by human rights defense institutions make up the collection offered by the National Human Rights Center (CENADEH). In addition to the book and magazine collection, audiotapes, videotapes, compact discs, films, documents, leaflets and brochures on human rights are available for consultation by students, teachers, researchers and the general public.

The National Human Rights Center is located on Eje 10 Sur Rio Magdalena Avenue 108, Tizapán quarter, within the Álvaro Obregón District and is open to the public Monday through Friday from 9:00 until 18:00 hours.

CGCP/210/2010

CNDH, FOSTERING THE DEFENSE AND PROTECTION OF MIGRANTS IN THE UNITED STATES

The president of the Mexican National Human Rights Commission, Raúl Plascencia Villanueva, emphasized on the serious problems faced by indigenous Mexican and Central American people and their communities in the United States of America. Given the increasing influx of indigenous migrants in that country, he pressed for finding efficient legal resources to defend and protect them, as well as revising the internal legislation of the Mexican states and harmonizing it with the international documents on the subject. During the inauguration of a series of conferences on "The Defense of Mexican and Central American Indigenous People in the United States of

America”, he pointed out the need to strengthen the commitment to protect and observe the human rights of all people, regardless of their nationality or ethnic origin.

The National Ombudsman criticized the fact that some countries have ignored the bilateral or multilateral nature of migratory displacements and are not giving it the attention it deserves.

CgCP/211/2010

CNDH AND UN AGREE ON WORKING TOGETHER

The Mexican National Human Rights Commission and the UN Deputy High Commissioner for Human Rights will work jointly with the aim of improving the respect, encouragement and protection of fundamental guarantees in our country.

The national Ombudsman Raúl Plascencia Villanueva and UN official Kyung-wha Kang will be in constant communication and will incessantly support the initiatives of the Office of the High Commissioner in order to make progress on the national human rights agenda.

Ms. Kang offered the UN's support to the CNDH and considered the approval of constitutional reforms by means of which the national Commission is given more power, thus benefitting society, to be a positive thing.

During the meeting, the need to step up the efforts of institutions which defend human rights as well as to foster the implementation of information and experience exchange programs was made clear.

Raúl Plascencia Villanueva recalled some of the exemplary cases handled by the CNDH, such as those of the otomí indigenous individuals Jacinta, Alberta and Teresa from the state of Queretaro and the case of the Almanza Salazar family in Tamaulipas.

The president of the CNDH underlined that public safety, institutional efficiency and legal effectiveness are issues which must be addressed in order to achieve a State of Law.

He also announced that he presented the idea of establishing a Continental Network to address the problems faced by illegal immigrants before the Ibero-American Federation of Ombudsmen. These problems include human trafficking, discrimination, abuse, maltreatment and the enforcement of law SB1070 in the state of Arizona.

CgCP/212/2010

93.8% OF ALL COMPLAINANTS ARE PLEASED WITH THE ASSISTANCE PROVIDED BY THE CNDH

According to the Quality Control Poll carried out by the CNDH during the first half of 2010, 93.8% of those who arrive to report alleged violations to their fundamental rights and receive guidance graded the assistance provided anywhere from good to excellent. 1.8% felt the service was mediocre, 0.3% said the service was bad and 5.9% refused to give an opinion.

The poll has been carried out regularly for over seven years, gauging the complainants' opinion about the quality of the assistance they receive regardless of the way their complaints are resolved.

Out of a group of 4 thousand 875 people interviewed, 93.1% declared that they would come to the CNDH again when facing a problem. 1.4% replied that they would not return to the CNDH and 5.5% refused to give an answer.

This poll is part of the national Commission's permanent staff updating program, focused on increasing staff training and improving the services offered to the public. The National Commission offers assistance 24 hours a day, 365 days a year, striving to insure that it is always adequate, efficient, polite and clear for people who show up at its offices or ask for advice over the telephone.

CgCP/219/2010

A SPECIAL RAPPORTEUR OF THE UN MEETS WITH THE NATIONAL OMBUDSMAN

The president of the Mexican National Human Rights Commission, Raúl Plascencia Villanueva, met with Frank La Rue, Special Rapporteur on Freedom of Speech for the United Nations (UN). During their reunion which took place on Monday the 23rd of August, they exchanged information about the situation faced when exercising of freedom of speech and the offences which journalists and media are subject to in Mexico.

They emphasized on the importance of taking additional steps to help guarantee the safety of communicators. Frank La Rue said that the CNDH is the Mexican institution which possesses the problem's figures given that it has followed the various cases related with this trade. Plascencia Villanueva talked about the measures implemented in favor of the journalistic trade and pointed out that there are specific programs within the Commission to receive complaints and assist journalists and their relatives. He mentioned that legal guidance and psychological aid are offered and that authorities are requested to apply precautionary measures which protect the communicators when necessary.

As and from the year 2000, the CNDH has logged 64 deaths of journalists and 11 disappearances. There have been 14 attacks against media facilities in the last four years. The meeting between La Rue and Raúl Plascencia Villanueva is part of the activities carried out by this UN official in our country. Before this, on the 11th of August, both the UN representative and Catalina Botero, special rapporteur on Freedom of Speech for the Organization of American States (OAS) had an initial meeting with officials from the National Commission.

CGCP/220/2010

CNDH INVESTIGATES THE CASE OF MIGRANTS IN TAMAULIPAS

The Mexican National Human Rights Commission (CNDH) began investigating the case of 72 Central American migrants who were found in a mass grave in the municipality of San Fernando within the state of Tamaulipas. Since the start, it has been sending expert appraisers and visitors with the aim of making sure that the authorities take the necessary steps to shed light on the matter and sanction those responsible.

The National Commission has made sure that adequate medical aid is being provided to the migrant who survived the attack and is ensuring that he receives psychological assistance during his recovery given that he was the victim of a crime. Additionally, expert appraisers of the CNDH are helping to identify the bodies. Since last year, the Mexican National Human Rights Commission warned about the growing risks for those who are looking to cross Mexico in order to enter and work in the United States based on its Special Report on Cases of Kidnapped Migrants. This report contains the results of a study carried out between September 2008 and February 2009, a period in which 9,758 migrants were deprived of their freedom, resulting in more than 1,600 kidnappings per month.

CGCP/222/2010

CNDH REQUESTS PRECAUTIONARY MEASURES FOR THE TAMAULIPAS CASE

The Mexican National Human Rights Commission has requested the application of precautionary measures in the case of migrants in Tamaulipas, in which 72 lost their lives and one is currently hospitalized.

The Federal Secretariat of Public Safety has been asked to guarantee the integrity and respect of the human rights of the Ecuadorian citizen who witnessed the events during which migrants of various nationalities lost their lives in the municipality of San Fernando. The survivor, who may testify about these events in due course, has been admitted into a hospital of that municipality and is receiving the necessary medical attention.

The CNDH asked this federal body to "issue the necessary instructions so that all of the necessary steps are taken to avoid the occurrence of violent acts which would be difficult or

impossible to repair.” On the other hand, the national commission requested of the District Attorney’s Office of the state of Tamaulipas that it apply precautionary measures in order to preserve evidence and data which will allow for the victims to be identified. It should also take steps to preserve any kind of clue found at the crime scene.

The petition to apply precautionary measures is made based on what is established within the 2nd, 3rd 6th, section II, and 40th articles of the Mexican National Human Rights Commission Law, as well as the 1st, 116th, 117th and 118th articles of its Internal Regulations. The authorities have a maximum period of three calendar days after this date to notify the National Commission of their acceptance.

CgCP/224/2010

ADDITIONAL EFFORTS FOR THE PROTECTION OF REFUGEES

The president of the Mexican National Human Rights Commission, Raúl Plascencia Villanueva, called for additional efforts to protect the vulnerable group of people who are refugees or are requesting asylum in our country.

The head of the CNDH believes that the Mexican State is obliged to back all initiatives which allow us to guarantee compelling support for those who are in need of seeking asylum.

Whilst heading the signing of the Collaborative Agreement between the CNDH and the Office of the United Nations High Commissioner for Refugees (UNHCR), Plascencia Villanueva pointed out that the agreement will help renew the Mexican State’s dedication to comprehensively protect the rights of these people.

The national Ombudsman recognized that the Law requires the member States of the international community to establish public policies which address the needs of this group and foster their social and financial integration.

He acknowledged that Mexico has the noble tradition of offering shelter or asylum to all people who are unjustly persecuted in their home countries.

Below is a summary of the Recommendations issued by CNDH during August 2010. The complete version can be found on the institution's website: <http://www.cndh.org.mx/cartnews/cartnws.htm>

RECOMMENDATION 44/2010
Mexico City, August 6th, 2010

SUBJECT: CASE OF INADEQUATE MEDICAL ATTENTION TO THE DETRIMENT OF V1

AUTHORITY RESPONSIBLE:

HEAD OF GENERAL MANAGEMENT OF THE INSTITUTE OF SOCIAL SECURITY AND SERVICES FOR STATE EMPLOYEES

The events took place on November 26th 2008, when V1, a 49 year old male patient diagnosed with chronic cholecystitis presenting gallstones in the gallbladder (cholelithiasis), was operated on at the Doctor Fernández Fierro General Hospital (HG) of the Institute of Social Security and Services for State Employees (ISSSTE). It was there that AR1, a doctor of the General Surgery Ward of the HG performed a cholecystectomy (surgical removal of the gallbladder) without carrying out a comprehensive analysis prior to the operation, in addition to the fact that he failed to perform a percutaneous transhepatic cholangiography or a proper physical examination in order to verify the existence of residual stones in his adjacent organs, as did eventually occur.

Days after the surgery, V1 suffered complications, causing him to be operated on again on the 3rd of December of that same year. This time, an exploratory laparotomy was performed and lead to the discovery of gastric fluids within the gastric cavity, a duodenal ulcer and perforations and polyps in the first section of the duodenum. As a result, he was surgically intervened 8 more times at the HG and was then transferred to the ISSSTE's 20th of November National Medical Center (CMN) on January 3rd 2009, as per his request. At the aforementioned CMN, V1 was operated on 5 times due to various health complications including a hospital-acquired pneumonia. V1 died on the 15th of March 2009 due to septic shock, metabolic acidosis and pneumonia, all of which derived from the cholecystectomy.

Thanks to the logical juridical analysis performed on the entirety of the evidence which is part of the file initiated in response to the complaint presented by Q1, the National Commission was able to obtain sufficient proof to confirm violations to the right to health protection and life to the detriment of V1, attributable to medical personnel of the HG.

Taking all of this into consideration and based on article 102, clause B, of the Political Constitution of the United Mexican States; article 6, section III, 71, second paragraph and 72, second paragraph of the Mexican National Human Rights Commission Law, there are sufficient convictive elements to allow the Mexican National Human Rights Commission, in accordance with its duties, to present an official complaint before the Internal Control Body of the Institute of Social Security and Services for State Employees with the aim of initiating the appropriate administrative procedure of investigation. The CNDH is also ready to present a declaration of events before the agent of the Federal Public Prosecutor's Office against the doctors who intervened in the events discussed in this case.

Consequently, the Mexican National Human Rights Commission respectfully presents you, the head of General Management of the Institute of Social Security and Services for State Employees, with the following:

RECOMMENDATIONS

FIRST. Instruct whomever it may concern so that the necessary steps are taken to pay compensation to the relatives of V1, or whoever is better entitled to receive it, due to the institutional responsibility incurred upon by the doctors of the ISSSTE who treated him, in light of

the considerations set forth in the body of the current recommendation. Proof of compliance must be sent to the National Commission.

SECOND. Issue instructions to whomever is responsible so that in the hospitals pertaining to the Institute which you preside over, and specially at the Doctor Darío Fernández Fierro General Hospital, comprehensive training programs on the contents, handling and observance of the Official Mexican Norms (NOM) regarding health are developed and carried out. The goal of this to ensure that the public service which is provided by doctors as well as nursing staff is adjusted to suit the legal framework and administrative best practices that should be observed in performing their functions, guaranteeing that intervention protocols are applied precisely and thereby avoiding actions such as those that led to the present declaration. Proof of compliance should be sent to the National Commission.

THIRD. Cooperate fully with the Mexican National Human Rights Commission in the presentation and processing of the complaint presented before the Institute's Internal Control Body against the doctors involved in the treatment of V1, sending proof of compliance to the Commission as required. 10

FOURTH. Duly cooperate in investigations arising from the complaint, which the Mexican National Human Rights Commission will present before the Attorney General's Office in light of these events, as the case involves federal public servants. Submit to the Commission proof of compliance as required.

RECOMMENDATION 45/2010

Mexico City, August 12th, 2010

SUBJECT: ABOUT THE CASE OF THE DEATHS OF JAVIER FRANCISCO ARREDONDO VERDUGO AND JORGE ANTONIO MERCADO ALONSO, STUDENTS AT THE INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY, CAMPUS MONTERREY

AUTHORITY RESPONSIBLE:

SECRETARIAT OF NATIONAL DEFENSE

ATTORNEY GENERAL'S OFFICE

GOVERNOR OF THE STATE OF NUEVO LEÓN

On the 21st and 22nd of March 2010, articles were published in different informational media both nationally and in the state of Nuevo León. They spread the news of Javier Francisco Arredondo Verdugo and Jorge Antonio Mercado Alonso's death on the 19th of March 2010 within the facilities of the Instituto Tecnológico y de Estudios Superiores de Monterrey, Monterrey Campus, during a clash between Mexican Army personnel and alleged organized crime members.

As a result, this human rights protecting Body auto-initiated file of complaint CNDH/2/2010/1508/Q based on article 6, section II, clause a) of the Mexican National Human Rights Commission Law and article 89 of its Internal Regulations. It did so with the aim of investigating alleged human rights violations in accordance with what is stipulated by article 39 of the Law which governs it and it performed an investigation to gather information and documents. Moreover, it asked for reports from the Secretariat of National Defense; the Attorney General's Office, the District Attorney's Office of the state of Nuevo León, the Public Safety Secretary of Nuevo León, the municipal president of Monterrey and the dean of the Instituto Tecnológico y de Estudios Superiores de Monterrey.

As per articles 70 and 72 of the Mexican National Human Rights Commission Law, the national commission has noticed that the lack of cooperation between the civil servants of the

District Attorney's Office of the state of Nuevo León, the Attorney General's Office and the Office of the General Attorney of Military Justice during the integration of the case at hand demonstrates a lack of interest and collaboration in the noble duty of investigating human rights violations. Such attitude must not be tolerated within the framework of a State of Law such as the one which must prevail in our country.

Because of the obstacles mentioned in preceding paragraphs, it is necessary to clarify that the National Commission does not have sufficient proof to determine who is responsible for the deaths of students Javier Francisco Arredondo Verdugo y Jorge Antonio Mercado Alonso; however, the evidence gathered does prove that the arbitrary use of public force by the Unit "Nectar Urbano 4", under the command of the Secretariat of National Defense, failed to protect the physical integrity of the people who were present during the clash, provoking their death either directly or indirectly.

From the logical juridical analysis performed on the entirety of the evidence which is a part of file CNDH/2/2010/1508/Q, it is possible to determine the occurrence of violations to the human rights to legality and legal certainty, to integrity and personal safety, to dignified treatment, to information, access to justice and to honor. These violations were caused by acts consisting in the arbitrary use of public force, as well as the improper exercise of civil service to the detriment of Javier Francisco Arredondo Verdugo, Jorge Antonio Mercado Alonso and their relatives, the community of the Instituto Tecnológico y de Estudios Superiores de Monterrey and Mexican society in general.

In light of these events, the Mexican National Human Rights Commission respectfully presents you, Mr. Secretary of National Defense, Mr. Attorney General and the governor of the state of Nuevo León with the following:

RECOMMENDATIONS

To you, Mr. Secretary of National Defense

FIRST. Instruct whomever it may concern so that the necessary steps are taken to pay compensation to the relatives of Javier Francisco Arredondo Verdugo and Jorge Antonio Mercado Alonso, or whoever is better entitled to receive it, due to the institutional responsibility incurred upon by the civil servants of the Secretariat of National Defense, in light of the considerations set forth in the body of the current recommendation. If necessary, appropriate physical and psychological aid must also be provided for as long as needed and proof of compliance must be sent to the National Commission.

SECOND. Issue instructions to whoever is responsible in order for the civil servants of the Secretariat of National Defense refrain from manipulating or giving orders to alter the crime scenes and/or distort their historical and legal truth; also training them on the preservation of criminal evidence and, once this has been done, proof of compliance must be sent to the national commission.

THIRD. Instruct whomever it may concern so that the implementation of the "Human Rights Program S.D.N. 2008-2010" and the "Program for the Promotion and Strengthening of Human Rights and International Humanitarian Law S.D.N. 2010" is intensified and so they are aimed at the middle ranks such as general troops. Evaluation methods must also be put in place in order to gauge the positive impact of training regarding the respect of human rights and proof of compliance must be sent to the national commission.

FOURTH. Collaborate generously with the National Commission in the processing of the complaint it presents before the General Inspection and Comptrollership Unit of the Secretariat of National Defense against the soldiers who participated in the events condemned in this case, supplying all evidence requested by the Commission as well as proof of compliance.

FIFTH. Collaborate amply in the presentation and follow-up of the declaration of events which the national commission files before the Attorney General's Office and the Office of the General Attorney of Military Justice, respectively, in order for them to begin a preliminary

investigation in accordance with the law and with their jurisdiction, supplying the national commission with all proof of compliance requested.

SIXTH. Instruct whomever it may concern so that the necessary measures are implemented to fight against the execution of actions such as the ones described in the observations chapter of the recommendation at hand by Army personnel, as well as taking the necessary action to guarantee that they do not happen again. Proof of compliance must be provided once this has been done

To you, Mr. Attorney General

FIRST. Consider this recommendation's observations to ensure the proper integration of prior investigation AP/PGR/DGCAP/DF/027/201 and do what is needed to elucidate the events which led to the current recommendation in order to give the relatives of the offended complete access to justice.

SECOND. Recognize the relatives of Javier Francisco Arredondo Verdugo y Jorge Antonio Mercado Alonso as criminal victims in order for them to have access to all of the rights granted by the Political Constitution of the United Mexican States, international treaties and national legislation, sending proof of compliance to the National Commission.

To you, the Governor of the State of Nuevo León:

FIRST. Instruct the district attorney of the state in order for the agents of the Public Prosecutor's Office of such state to assemble their reports and prior investigations caused by events such as the ones described here thoroughly, objectively and impartially; so that they adequately preserve the crime scene with the aim of finding out the historic and lawful truth of the facts. All evidence requested must be submitted to the National Commission together with proof of compliance.

SECOND. Collaborate amply with the Mexican National Human Rights Commission in the administrative procedure of investigation initiated before the internal affairs department of the District Attorney's Office against the civil servants assigned to such Office who were involved in the events which led to this recommendation. All evidence requested must be submitted to the National Commission together with proof of compliance.

RECOMMENDATION 46/2010

Mexico City, August 26th, 2010

SUBJECT: ABOUT THE RECOURSE OF IMPUGNATION OF V1 AND V2

AUTHORITY RESPONSIBLE:

**PRESIDENT OF THE BOARD OF DIRECTORS OF THE HONORABLE CONGRESS OF THE STATE OF OAXACA'S LX LEGISLATURE
CITIZEN MEMBERS OF THE HONORABLE CITY HALL OF OAXACA DE JUÁREZ, OAXACA**

On the 25th of March 2010, the National Commission received the recourse of impugnation filed by V1 and V2 against the City Hall of Oaxaca de Juárez, Oaxaca, because of its incomppliance with Recommendation 29/2009, issued on November 12th 2009 by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca.

On March 24th 2009, V2's complaint was received at the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca. It was filed due to alleged human rights violations to the detriment of the victims, attributed to civil servants from Oaxaca de Juárez, Oaxaca, resulting in the initiation of file of complaint CDDH/394/(01)/OAX/2009.

In relation to the facts, V2 declared that at approximately ten hundred hours on March 24th 2009, AR1 and several other individuals, including members of the auxiliary police force of this

municipal agency, arrived at the dwelling inhabited by V1, V2, V3 and V4 to inform him that their drinking water supply would be cut off, arguing that they were wasting this vital liquid. This led AR1 to give orders to drill a hole and cut off the victim's aforementioned service.

After assembling the file of complaint, the state Human Rights Commission issued Recommendation 29/2009 aimed at the Municipal President of Oaxaca de Juárez, Oaxaca in the following terms:

FIRST: Instruct AR1 to immediately reestablish the drinking water supply of V2 and V3 after the dues for the years 2007, 2008 and from January to March 24th 2009, the date on which their supply was interrupted, have been paid together with fines resulting from water wastage.

SECOND: Begin and conclude the administrative procedure of responsibilities against AR1, imposing upon him all applicable sanctions due to his unlawful exercising of civil service and his in compliance with the precautionary measures dictated by the Commission, considering that through such omission the lack of any desire whatsoever to attend the matters which are his responsibility has become clearly visible.

THIRD: If the existence of events which may constitute a crime is revealed during the elaboration of the aforementioned administrative investigation or thanks to its outcome, the Public Prosecutor's Office must be notified so that it begins and assembles the corresponding investigation if necessary, deciding whether or not to use penal action within the timeframe permitted by law.

FOURTH: Issue written instructions to whomever it may concern so that all personnel working within this Agency is subjected to compulsory education on human rights, reminding you that the Commission is happy to provide you with specialized personnel for such task. This is with the aim of avoiding the repetition of actions which violate human rights, such as the ones analyzed here, by the municipal authorities of Trinidad de Viguera, Oaxaca.

Thanks to the logical juridical analysis performed on the entirety of the evidence which is part of this recourse of impugnation, it is possible to determine the occurrence of violations to the human rights to legality, legal certainty and to health to the detriment of V1, V2, V3 and V4, committed by municipal authorities of Oaxaca de Juárez, Oaxaca, as well as by authorities pertaining to the municipal agency of Trinidad de Viguera, Oaxaca.

As a matter of fact, the National Commission noticed that by cutting the drinking water supply without applying any prior procedure and conditioning its reestablishment to the payment of a sum of money deriving from a discretionary measure which did not attain to the appropriate proportion of public spending contributions, the victims' human rights to health, legality and legal certainty contained within articles 2, clause A, sections I and II; 4, third paragraph; 14, third paragraph and 16, first paragraph, of the Political Constitution of the United Mexican States, were violated.

Therefore, as Recommendation 29/2009 was lawfully grounded and motivated, it should have been fulfilled by the authorities of the Municipality of Oaxaca de Juárez, Oaxaca, through the municipal agency of Trinidad de Viguera. The National Commission feels that the failure to do so may be interpreted as a disdainful attitude towards the culture of legality, as well as a lack of collaboration on the duty of the non-jurisdictional protection of human rights carried out by the country's public human rights protection bodies, specifically the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca. In addition, civil servants must abide by the law and ensure its enforcement in order not to incur in actions which violate human rights such as those which led to this Recommendation. The recommendations issued by public institutions

require good will, political will and more support on behalf of the authorities which receive them in order to be accepted and complied with.

As a result, and based on what is stipulated in articles 65 and 66, clause d) of the Mexican National Human Rights Commission Law, as well as article 168 of its internal regulations, the incomplete fulfillment of the Recommendation issued by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca was reconfirmed and lead to the issuance of the following:

RECOMMENDATIONS

To you, the government delegate who presides over the Board of Directors of the LX the Congress of the Honorable state of Oaxaca's LX Legislature:

FIRST. Issue the necessary instructions to whomever it may concern in order for an investigation to be initiated in accordance with the law to determine the responsibilities in which civil servants from the municipality of Oaxaca de Juárez, Oaxaca may have incurred. This is because of the incomppliance of Recommendation 29/2009 issued by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca as well as because of their lack of response to the request for information. Proof of compliance must be sent to the National Commission.

SECOND. Urge the City Hall of Oaxaca de Juárez, Oaxaca to submit the reports requested by the Mexican National Human Rights Commission in order to comply with what is stipulated in the Commission's governing law.

To you, the members of the Honorable City Hall of Oaxaca de Juárez, Oaxaca:

FIRST AND LAST. Instruct whomever it may concern to proceed with the fulfillment of Recommendation 29/2009, issued on the 12th of November 2009 by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca; sending proof of its total compliance and observance to the National Commission.

RECOMMENDATION 47/2010

Mexico City, August 30th, 2010

SUBJECT: ABOUT THE RECOURSE OF IMPUGNATION PRESENTED BY Q1

AUTHORITY RESPONSIBLE:

**PRESIDENT OF THE BOARD OF DIRECTORS OF THE CONGRESS OF THE STATE OF GUERRERO'S LIX LEGISLATURE
CITIZEN MEMBERS OF THE HONORABLE TOWN HALL OF TETIPAC, GUERRERO**

On November 6th 2009, the Mexican National Human Rights Commission (CNDH) received the recourse of impugnation presented by Q1 before the State Human Rights Defense Commission of Guerrero (CDDHEG), against the unacceptance of Recommendation 86/2009 which this local government body issued to the members of the town hall of Tetipac, Guerrero on the 21st of August 2009.

The events which led to the aforementioned Recommendation occurred on the 9th of April 2009, between 17.30 and 18:00 hours, time at which V1 and V2 (offspring of Q1) and two friends were travelling by car through the streets of the municipality of Tetipac, Guerrero. When they passed by the municipal offices of the PRI political party they were shot at by AR1, a member of the municipality's preventive police force, causing them to get out of the vehicle and attempt to escape. However, they were also shot at by two other police officers, AR2 and AR3, resulting in the death of V1 and the injury of V2 due to three bullet wounds. V2 was admitted at the Adolfo Prieto General Hospital in Taxco de Alarcón, Guerrero.

In light of these events, Q1 filed a complaint at the CDDHEG's Northern Regional Human Rights Office against the police officers who attacked V1 and V2 which was lodged within the

corresponding file. V2 then submitted an additional complaint on the 16th of April of that same year in order to expand the file and include AR4, as he considered that he assisted in the escape of the civil servants responsible by giving them the keys of a government vehicle in which they fled, according to the statements of several eye witnesses.

Once the CDDHEG performed the necessary investigations, it acknowledged that the civil servants of this municipality, who were accused by the victims of being the authority to blame for this attack, violated their rights to life, personal integrity and legal certainty. This instigated the issuance of Recommendation 86/2009 on August 21st 2009, aimed at the town syndic and the leaders of the town hall of Tetipac, Guerrero, in the following terms:

FIRST. You, the Citizen members of the H. Town Hall of Tetipac, Guerrero are respectfully advised to acknowledge this Recommendation in your next meeting and instruct whomever it may concern in order for an administrative procedure of investigation to be initiated against AR4, as established by the State Civil Servants' Responsibilities Law, given that he violated Q1 and V2's right to legal certainty by assisting the police officers who participated in the events which resulted in the loss of V1's life and the injury of V2. This must be done regardless of any penal responsibility in which he may have incurred, The State Commission must be informed since its initiation and until the final resolution on the matter is issued.

SECOND. Additionally, you are advised to emphatically instruct whomever it may concern so that a copy of this resolution is added to the personal files of AR1, AR2 and AR3, because of their infringements on the human rights of V1 and V2 to life (extrajudicial or summary execution) and to personal integrity; this must be done in order to establish a precedent of their conduct and the State Commission must receive proof of compliance. The aforementioned police officers are currently no longer members of the Municipal Preventive Police of Tetipac, Guerrero; they were dismissed due to job abandonment on May 13th 2009.

THIRD. When your previously mentioned meeting takes place, you are also urged to agree to instruct whomever it may concern to repair the damage caused to V2 and, regarding the death of V1, that compensation be paid to whoever proves to be lawfully entitled to it."

From the logical juridical analysis performed on the entirety of the evidence which is present in file CNDH/1/2009/314/RI, the Mexican National Human Rights Commission considered the recourse of impugnation presented by Q1 against the response of the members of the town hall of Tetipac, Guerrero to Recommendation 86/2009 to be correct and well founded. As far as the National Commission is concerned, this response signified the unacceptance of such Recommendation; it was noted that the state commission demonstrated within this document that AR1, AR2, AR3 and AR4 respectively, violated the right to life to the detriment of V1 and the rights to personal integrity and legal certainty to the detriment of V2.

It is important to point out that in order to be accepted and complied with, the recommendations issued by human rights protecting bodies require good will, political will and the highest efforts on behalf of the authorities to whom they are addressed. Therefore, this unacceptance represents the highest level of incompliance with this recommendation and shows the authorities of the town hall of Tetipac, Guerrero's lack of respect for the culture of legality and total disinterest in respecting human rights.

Therefore, based on article 66, clause a) of the Mexican National Human Rights Commission Law and article 159, section IV of its internal regulations, the Mexican National Human Rights Commission ratified Recommendation 86/2009 issued by the State Human Rights Defense Commission of Guerrero, allowing itself to respectfully present you, the members of the town hall of Tetipac, Guerrero and you, the government delegate who presides over the Board of Directors of the Congress of the State of Guerrero's LIX Legislature with the following:

RECOMMENDATIONS

To you, the government delegate who presides over the Board of Directors of the Congress of the state of Guerrero's LIX Legislature:

FIRST AND LAST. Proceed to take actions which lead to the acceptance and fulfillment of the terms contained within Recommendation 86/2009, issued by the State Human Rights Defense Commission of Guerrero and, if the aforementioned Town Hall reiterates its unacceptance, proceed to suspend its members in accordance with articles 115, section I, third paragraph, of the Political Constitution of the United Mexican States and 94, section II and 95, section I of the Fundamental Law of the Free Municipality of the state of Guerrero, informing the National Commission of its compliance.

To you, the members of the town hall of Tetipac, Guerrero:

FIRST AND LAST. Proceed to instruct whomever it may concern in order for Recommendation 86/2009, issued by the State Human Rights Defense Commission of Guerrero on August 21st 2009, to be accepted and fulfilled, informing the National Commission about such compliance.

DIRECTORY

President

Raúl Plascencia Villanueva

First General Visitor

Luis García López Guerrero

Second General Visitor

Marat Paredes Montiel

Third General Visitor

Daniel Romero Mejía

Fourth General Visitor

Cruz Teresa Paniagua Jiménez

Fifth General Visitor

Fernando Batista Jiménez

Executive Secretary

Luis Ortiz Monasterio

Technical Secretary
for the Consulting Council

José Zamora Grant

EXECUTIVE SECRETARIAT

Bld. Adolfo López Mateos, 1922, 1er piso,
Col. Tlacopac, Del. Álvaro Obregón, C.P. 01049, México, D.F.

Telephone: (52 55) 17 19 20 00 ext. 8725

Fax: (52.55) 17 19 21 53

Toll-Free LADA: 01 800 715 2000

Correspondence

anadarbella@cndh.org.mx

dmmendez@cndh.org.mx

<http://www.cndh.org.mx>