



Comisión Nacional de los Derechos Humanos

México

Recommendation 7/2011

The following is a synopsis of the recommendation emitted by the CNDH. The complete version may be consulted on this institution's web page.

Mexico City, February 22nd, 2011

Case: “Respite Care Home for minors run by the Benito Juárez Municipal System for Integral Family Development”, Quintana Roo

Authority Responsible: Members of the Honourable City Hall of Benito Juárez, Quintana Roo

On May 21st, 2010, Q1 (mother of V1) presented a written complaint before the Quintana Roo State Human Rights Commission, regarding her daughter, who was staying at the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development” in the city of Cancún, Quintana Roo. She announced that she was victim of maltreatment from other children, as well as staff that worked there, adding that they punished and locked her up in an area known as “confinement”, where she had to sleep on a dirty and broken mattress. This was the catalyst for file 1.

Additionally, on August 3rd, 2010, a note was published in the newspaper “Quintana Roo Journal”, in which it was written that Q1 had stated that V1 had been a victim of sexual abuse from another girl within the installations of the aforementioned “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development”. Therefore, the Quintana Roo State Human Rights Commission launched file 2, the following day.

In continuation, on August 9th, 2010, staff at the State of Quintana Roo Human Rights Commission, accompanied by AR1, delegate of The Agency for the Defence of Minors and the Family of the district municipality of Benito Juárez System for Integral Family Development, carried out a visit to the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development”. There, the visual inspection revealed a room reminiscent of a prison cell, 2 metres wide and 3 metres long, with welded bars instead of a door, which could only be opened from outside. Inside there was a single bed, a punch bag, a sealed window and no sanitary or electric installations. AR1 specifically referred to this room as a “room for reflection or isolation”, in which they put the minors that experienced moments of stress, high levels of aggression or abstinence syndrome.

Later, on August 11th, 2010, Q2 presented a complaint before the aforementioned state commission, given that his wife (V2), who was held

captive at the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development” told him that both her and her daughter (V3) suffered maltreatment from the nursing staff (AR2 and AR3). Additionally, she told that when someone misbehaved they were locked in the aforementioned “confinement room”, as well as the fact that on nearly a daily basis V3 experienced a high temperature due to a lack of hygiene and attention from the staff in charge of her care. This provoked Q2 and V2 to report the events to the “director of the care home”, who limited herself to requesting an explanation from AR2 and AR3, which brought about the file launch on the same day.

On August 13th, 2010, Q3 (mother of V4) presented a complaint before the Quintana Roo state Human Rights Commission, regarding the fact that her daughter, who was staying at the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development”, demonstrated that she felt scared to stay there. This is due to the fact that the carers told her off a lot and punished her leaving her without food and drink. This brought about the file launch. On the date indicated in the previous paragraph, Q4 (mother of V5) also present a complaint before the aforementioned state commission, given that she could not justify that the staff of the aforementioned temporary care home would not return her child to her, especially considering that her daughter cried on several occasions that she did not want to stay there. This brought about the file launch.

Given the above, and the fact that the events surpass the concern of the federal entity and have bearing on the nation’s public opinion, as it is a matter that involves at least eighteen minors, this National Human Rights Commission exercised its authority to assert jurisdiction. This was carried out under the provisions of article 60 of the Law on the National Human Rights Commission and 14 of its internal rules of procedure in order to discover the facts. Additionally, it requested the corresponding report from the president of the district municipality of Benito Juárez System for Integral Family Development.

The logical legal analysis of the collection of evidence that constitute file CNDH/1/2010/4506/Q, under the provisions of article 41 of the Law on the National Human Rights Commission, showed the presence of elements that prove violations of to right to dignified treatment, personal integrity and safety, to the detriment of V1, V2, V3, V4 and V5, as well as other boys and girls staying at the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development”. The violations are attributable to civil servants of this institution.

As a result, this National Human Rights Commission presents, with all due respect, the following Recommendations:

To those at the City Council of Benito Juárez, Quintana Roo:

First. Circulate instructions so that the civil servants of the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development” stop holding in enclosed conditions the boys and girls that live there or that stay in another place under their care and custody; Therefore, eradicating their detention in the “confinement room” or any other room of a similar nature.

Second. Instruct whom it may concern to repair the damages caused to the minors that stayed or stay at the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development”. This is regarding the institutional responsibility incurred by the district municipality of Benito Juárez System for Integral Family Development staff, which will reduce the suffering present in each specific case. This is through the necessary medical and psychological treatment to recuperate their physical and emotional health. Additionally, provide the National Commission with evidence that proves accomplishment of the above.

Third. Circulate instructions to whom it may concern in order to design and deliver integral training courses for civil servants of the district municipality of Benito Juárez System for Integral Family Development staff, specifically for the staff at the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development”. These are related to strategies offering alternatives to optimise the healthy psychological and physical development of the minors and aimed at protecting the personal, psychological and emotional integrity of the children that are in the care and custody of this institution. This is to avoid acts such as those that brought about this declaration. Additionally, provide the national institution with evidence that proves accomplishment of the above, as well as indications of management or evaluation applied to the staff that received the same instruction, in which the effective impact of the training is specified.

Fourth. Circulate instructions so that this municipal district’s civil servants adopt preventive methods that impede repetition of the events highlighted in this declaration. This consists in continuous visits, verification and registration the functioning of the “Respite Care Home run by the Benito Juárez Municipal System for Integral Family Development”. This is so that the home in question complies with the requirements demanded by related national and international legislation. Additionally, keep the National Commission informed of the progress and outcomes of the above.

Fifth. Full collaboration with this National Human Rights Commission in the presentation and processing of the complaint brought before the Comptrollership of the municipal district of Benito Juárez, Quintana Roo,

against the civil servants involved in the events of this recommendation. Additionally, provide the national institution with any evidence required.

Sixth. Collaboration, where required, in the investigations derived from the complaint regarding the events, which the National Human Rights Commission presents before the Quintana Roo state District Attorney's Office, given the involvement of local civil servants. Additionally, provide the national institution with any evidence requested.