

NEWS LETTER

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CONTENTS

- THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS ISSUED THE FOURTH GENERAL RECOMMENDATION.
- RECOMMENDATIONS
- Recommendation 45/2002 - 49/2002
- DOMESTIC RELATIONS
- The CNDH initiated its annual support program for migrant workers
- The CNDH signed cooperation agreements with the High Commissioner of the United Nations for the Refugees and with the International Red Cross
- CNDH program for the year 2003 on Attention to Migrants
- Training Courses
- PUBLICATION

THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS ISSUED THE FOURTH GENERAL RECOMMENDATION

In accordance with the reforms made to the Internal Regulation of the National Commission for Human Rights published in the Official Diary of the Federation on November 7, 2002, article 129 states that the Mexican National Commission for Human Rights may also issue General Recommendations to diverse authorities within the country, so that the changes and modifications of those normative dispositions and administrative practices which constitute or propitiate violations to the Human Rights, be promoted. The General Recommendations do not require acceptance on behalf of the authorities to whom they are addressed, and will also be published in the National Human Rights Commission's monthly publication.

During the month of June 2001, the first two General Recommendations were issued, the third in February 2002, and on December 16 of the current year, the Fourth General Recommendation was issued.

General Recommendation 4/2002

December 16, 2002

Case: Derived from the administrative practices which constitute violations to the Human Rights of the members of the indigenous communities in regard to obtaining free and informed consent for the practice of family planning methods.

Authority addressed: Public Health Secretary, Governors of the Federative Entities, Head of Government for the Federal District, and those persons responsible for the public health services.

The Mexican National Commission for Human Rights, in response to several complaint files, has noticed administrative practices which constitute violations to the Human Rights of the members of the indigenous communities with respect to the informed consent of the practice of family planning methods.

Within these practices, it has been noted that the medical personnel of the rural clinics of the public health institutions, forces the women who go to these clinics for medical consultation, to use the intra-uterine device (IUD) as a birth control method, under threat of losing support from the government programs, in case they not accept.

This National Commission also documented that the medical and paramedical personnel of the community health brigades (which give medical care in areas with indigenous population) exercise pressure over the masculine population; in order to obtain their consent in the practice of definitive methods of birth control (vasectomy), with the promise of giving them material benefits and economic resources.¹ In the extreme end of the spectrum, they threaten them with exclusion from the government assistance programs if they do not grant their consent.

Taking into consideration that the Mexican Constitution acknowledges, in its article No. 2 that the Mexican nation has a multi-cultural composition sustained by its indigenous peoples, who preserve their own social, economical, cultural and political institutions, and which establishes the obligation of ensuring, amongst other rights, the respect to the dignity of indigenous men and women, obtaining their access to health services and thus bettering their conditions of life, besides which in the same legal ordinance, in article No. 4 the equality of men and women is consecrated before the law, and declares that each person has the right to decide, in a free, responsible

and informed manner, over the number and spacing of their children, framing sexuality and reproduction as parts of the human condition, as a human and social right which involves the persons in an interested manner, based upon free decision making and informed consent.

Due to the above, the Mexican National Commission for Human Rights addressed General Recommendation 4/2002 to the Health Secretary, State Governors, Head of the Federal District and those persons responsible for the public health services in our country, so that they may enforce inter-institutional coordination mechanisms in the offices and entities of the federal, state and municipal governments, for the purpose of ensuring that the free decision and choice of the users of birth control services be made easier, guaranteed and respected by means of informed consent.

The recommendation is also made that the pertinent administrative measures be taken for the preparation and propagation, in the language of the indigenous communities of brochures, triptychs and any other material with trustworthy information, regarding the risks and benefits of the birth control methods. That the personnel be reinforced by further training in its services to the indigenous communities and that subjects relevant to Human Rights in the social and cultural procedures of the indigenous peoples and their value system, uses and customs be included, so that the treatment towards the users, the quality of the services be improved, and the dignity of the persons regarding their decisions on birth control, be respected.

RECOMMENDATIONS

Recommendation 45/2002
December 5, 2002

Case: Mr. Javier Pérez Delgado and others

Authority addressed: Comptroller and Administrative Development Secretary (Secodam), Attorney General for the Republic (PGR) and President of the Tributary Administration (SAT).

On June 10 of the current year, the Mexican National Commission for Human Rights received the written complaint made by Ms. Leticia María del Carmen Ríos Mendoza, who stated that on May 30 last, persons from the PFP arrived at her home, and that without showing any document or arrest warrant, took her husband Mr. Javier Pérez Delgado away to the company which he owns, where they undertook a presumed "special operation" in search of merchandise of foreign origin, which they did not find, nor did they find clandestine sale of diesel, and without written orders issued by the competent authorities deprived him of his freedom, together with 14 other persons.

From an analysis of the facts, the Mexican National Commission for Human Rights ascertained that besides infringing upon the plaintiffs' rights to personal freedom, to legal security, to legality, the right of all those persons detained to the respect to his/her dignity and the presumption of innocence, there also existed the violation of the rights of all, who where unduly detained, reason for which Recommendation 45/2002 was issued, addressed to the heads of the Secodam, SAT, and PGR requesting that: the corresponding legal intervention be given the internal comptrollers in their respective offices that they may investigate the public servants who committed actions and omissions, and that the CNDH be notified of the actions practiced from beginning to end. Also, that the corresponding measures be set, so that the personnel does not again repeat the actions or omissions which gave rise to this Recommendation.

Recommendation 46/2002
December 6, 2002

Case: Mrs. Hermelinda del Valle Ojeda, chinanteca native from the community of Río Chiquito, Santiago Jocotepec, Oaxaca

Authority addressed: General Director of the Mexican Social Security (IMSS)

In January 2000 Mrs. Del Valle Ojeda, chinanteca native from the community of Río Chiquito, municipality of Santiago Jocotepec, Oaxaca, went to the Rural Medical Unit number 290 of the IMSS for testing on the opportune detection of cervical uterine cancer, where an IUD was inserted, without her authorization, only becoming aware of this fact two years later, and for which her signature was forged in an official document.

From an analysis of the facts, the CNDH proved that the reproductive right, and the right to health acknowledged by the Constitution, the laws and international agreements regarding the right of all persons to the protection of his/her health, and to decide freely and in an informed and responsible manner on the number of and the spacing of the children these rights of Mrs. Del Valle Ojeda were violated, and for this reason Recommendation 46/2002 was issued, requesting the head of the IMSS to notify the Internal Comptroller's Office in order to determine the administrative responsibility committed by public servants of the Corresponding Rural Medical Unit and if the results are admissible, that they be made known to the Department of the Public Prosecutor, as well as instructing and training the IMSS personnel who intervene in birth control programs that they may fulfill the normativity regarding informed consent and that they respect the right of individuals to decide upon the number and the spacing of their children.

Recommendation 47/2002

December 13, 2002

Case: Users of the Irrigation District 025 of the state of Tamaulipas

Authority addressed: Environmental and Natural Resources Secretary (SEMARNAT) and to the Secretary of Foreign Affairs

In May 2001, the CNDH received the written complaint from eight associations of Agricultural producers from the Irrigation District 025 of the State of Tamaulipas, injured for the last two years in their fundamental guarantees by the reduction of 100% of the allotment of volumes of water.

Based upon the facts, the CNDH proved violations to the right to development against the agricultural producers from District 025, contrary to the legal principle within which the authorities must behave, and for this reason Recommendation 47/2002 was issued pointing out, firstly, that the argument relative to the water deliveries to the United States are a result of the fulfillment of the Treaty is inadmissible, all the while that the fulfillment of an international instrument cannot supersede the reach of the compromise acquired. Thus, the CNDH made the following recommendations:

The Secretary of the Semarnat was advised to: 1) elaborate support programs for the economical activity of the users, so that their right to development does not continue to be abused, 2) Review the Internal Control Organism, of the Comptroller's and Administrative Development's Ministry, in that department, in order to ascertain if the performance of the personnel from the National Water Commission was accordance to the Law, upon reducing the supply of water to the users from Irrigation District 025 by 100%, 3) Conclude the elaboration of the Regulation on the Distribution and Use of the superficial waters in the basin of the Rio Bravo, 4) Comply in a precise manner with the right to petition and the guarantee to establish and duly motivate the resolutions, determinations or replies to petitions which may be made, 5) Inform the CNDH of the progress in the fulfillment of the above-mentioned points.

To the Secretary of Foreign Affairs: 6) Instruct the Mexican Commissioner in the International Commission of Limits and Waters (CILA) so that any agreement which modifies the terms of the Treaty, be placed before the Senate of the Republic for its consideration, 7) Instruct the Mexican Commissioner in the CILA to adhere strictly to the terms of the Treaty, 8) Review the Internal Comptrollers Office of the Foreign Affairs Office's performance by the personnel responsible of the Mexican section of the CILA, for its analysis, and, its case, initiate the administrative procedure and the corresponding resolution, in accordance with the Federal Law of Administrative Responsibilities of the Public Servants.

Recommendation 48/2002

December 18, 2002

Case: Appeal of Mr. Alberto Cruz Gómez

Authority addressed: Municipal President of Escuintla, Chiapas

On December 18, 2002, the CNDH received the appeal of Mr. Alberto Cruz Gómez for the inacceptance of Recommendation CEDH/021/2002 issued by the State Commission for Human Rights of Chiapas, addressed to the Municipal Presidency of Escuintla, of that federative entity. From an analysis of the evidence, violations to the Human Rights of the plaintiff committed by persons from the Management of Public Safety from the Municipality of Escuintla, Chiapas were proven, since the plaintiff was arbitrarily detained and beaten, thus altering the principle of legality and right to legal safety.

For this reason, the CNDH issued Recommendation 18/2002 addressed to the Municipal President of Escuintla, Chiapas that he may instruct the corresponding person to carry out Recommendation CEDH/21/2002 issued by the State Commission for Human Rights.

Recommendation 49/2002

December 1, 2002

Case: Mrs. Vicenta Adriana Paredes Vázquez and Mr. Jorge Hugo Reyes Mérida

Authority addressed: Magistrate President of the Supreme Court of Law for the State of Chiapas

On March 5, 2002, the CNDH received the written complaint of Mr. Jorge Hugo Reyes Mérida, who reported deeds presumably in violation to the right to legality and legal security committed against Mrs. Vicenta Adriana Paredes Vázquez, for actions pertaining to failing to carry out the public function, due to an inadequate handling of secured goods on behalf of the Fourth Criminal Court of the Judicial District of Tuxtla Gutiérrez, Chiapas.

Based upon an analysis of the evidence sufficient elements are found in order to establish that the right to legality and legal security was violated in prejudice to the aggrieved, since her vehicle was held and placed at the disposition of the legal authority. Due to this, the CNDH considered that violations to the Human Rights of Mrs. Vicenta Adriana Paredes Vázquez were committed, and for this reason, in due process, the First Visitor General of the CNDH made the perspective conciliation proposal to the President of the Supreme Court of the State of Chiapas.

Afterwards, Mrs. Vicenta Adriana Paredes Vázquez requested the return of her vehicle, and it was denied because the corresponding legal inspection was not practiced.

Based upon the facts, this National Commission declared lacking in legal support the determination of the Supreme Court of the State of Chiapas, to not accept the conciliation proposal, all the while that it issued its sentence on the personnel of the Fourth Court of Criminal Law for the Judicial District of Tuxtla, which consisted in the failure to fulfill its responsibility in the safeguarding of the secured property, and to preserve it in the state in which it was received, for its return, and thus on December 18, 2002, the CNDH issued Recommendation 49/2002.

DOMESTIC AFFAIRS

The CNDH initiated its annual support program for migrant workers

The Mexican National Commission for Human Rights began its annual support program for migrant workers who return to the country from the United States, through surprise inspection visits to customs and migratory revision in 12 border cities.

The program entails the presence of adjunct visitors who advise the people who enter the country regarding their rights and guarantees, and given the case, are alerted to accusations and presumed violations to the Human Rights committed by the authorities, federal, state or municipal, in each one of those places, for their investigation.

The CNDH signed cooperation agreements with the High Commissioner of the United Nations for the Refugees, and with the International Red Cross

On December 2, 2002, the CNDH endorsed collaboration agreements with the High Commissioner of the United Nations for the Refugees (ACNUR) and with the International Committee of the Red Cross (CICR), through which an effective promotion, observance, study and spread of the fundamental guarantees between the refugees and the displaced in our country is hoped for.

Said collaboration agreements which are part of the effort of the CNDH to strengthen its relationship with national and international organizations will allow for the establishment of agreements and opportune and effective strategies in order to counteract the violations to the Human Rights from the preventive perspective.

CNDH program for the year 2003 on Attention to Migrants

In accordance with the Activities 2003 Program, and wishing to strengthen the recognition and respect to the Human Rights of those who cross the national territory, the CNDH will reinforce its presence in three places with a high flow of migrants in the North of Mexico, and two in the South.

As of March, 2002, offices for complaints, and attention to the public will begin to function in Magdalena de Kino, Sonora; Tijuana, Baja California; Ciudad Juárez, Chihuahua; Tenosique, Tabasco; and Chetumal, Quintana Roo, places of high migratory flow where the CNDH will draw close its services to the public who frequently do not report violations because of fear or ignorance of the how and where to do so.

At the start of 2003, the Mexican National Commission for Human Rights issues warnings about the most harmful and frequent conducts committed in Mexico by migration agents contrary to the Human Rights of the migrants, as are threats and the degrading treatments detected in temporary detention centers, as well as the economic extortion and the prolonged detention in the same.

The CNDH has requested from the Mexican government support measures and legal assessment in favor of the integrity and the rights of the Mexican undocumented workers in the United States; in the same manner, it demands from the American authorities the investigation of the abuses committed against the migrants, the punishment of the perpetrators and preventive measures of information and accusations of racist and xenophobic attitudes, illegal persecution of immigrants and the enlightenment of the criminal cases of racial hatred.

Among the principal objectives of Program 2003 of the CNDH towards Migrant persons, the following stand out:

- To promote through all possible means the general recognition of migration as an inevitable world phenomenon, and characteristic of the beginning of the century which, for the same reason, must not be criminalized.
- Consider that, because of its reach and universality, the Human Rights do not have frontiers, and for the same reason, their defense and protection demand guaranteeing them in the North, but also in the treatment that the Mexican authorities give the central american migrants upon entering national territory through the Southern border states.

Training Courses

The Mexican National Commission for the Human Rights adhering to the spirit promoted by the institution of the Ombudsman to spread the study, teaching and disclosure of the Human Rights realized, during the month of December, 2002, 89 activities and in attention to

the request from the Attorney General's Office in the state of Mexico, held courses on Human Rights directed to federal investigations officers.

Amongst the subjects dealt with in the different training activities and the circulation of the Human Rights culture are: "Introduction to the Human Rights"; "Development of Promoters in Human Rights", "Human Rights and vulnerable groups", "Rights of boys and girls", "The right of women", "Domestic violence and ways to counteract them", "Human Rights of persons with different capacities", "Rights of persons living with HIV AIDS"; "Interamerican System of Human Rights"; "System of international and regional protection of Human Rights"; "Human Rights and the use of force and firearms"; "Human Rights of Migrants and the migratory stations in Mexico"; "Vulnerability and migrants" and "Human Rights and public safety" among others.

PUBLICATIONS

- Gaceta, Official monthly publication of the National Commission for Human Rights, number 147 corresponding to the month of November.
- The Human Rights of handicapped persons, México, CNDH, December 2002. Book.
- Principles and Criteria relative to Refugees and Human Rights. Volume 1, México, CNDH, December, 2002.
- Collection of Regional Instruments Relative to Human Rights, Refugee and Asylum. Volume II. México, CNDH, December 2002. Book.
- Protection and Assistance to Refugees in Latin America. Regional Documents 1981-1999. Volume III. México, CNDH, December, 2002. Book.
- Conclusions of the Executive Committee of the ACNUR Program, 1975-2000. Volume IV. México, CNDH, December, 2002. Book.
- Resolutions of the General Assembly of the Economic and Social Council of the United Nations and of the General Assembly of the Organization of American States Relative to the Protection of Refugees. Volume V. México, CNDH, December, 2002. Book.
- Political Constitution of the Mexican United States. Fifth Edition. México, CNDH, December, 2002. Book.
- Evolution of the Normative Frame of the Mexican National Ombudsman: 1990-2000. México, CNDH, December, 2002. Book.
- Racial and Religious Discrimination in International Law. México, CNDH, December, 2002. Book.
- Constitutional Theory and Fundamental Rights. Mexico, CNDH, December, 2002. Book.
- Personal Justice. México, CNDH, December, 2002. Book.
- Human Rights of Persons with Intellectual Handicap. México, CNDH, December, 2002. Primer.
- The Human Rights of Persons with Hearing Handicaps. México, CNDH, December, 2002. Primer.
- Discrimination towards Persons with Handicaps: Interamerican Convention for the Elimination of all forms of Discrimination against Handicapped Persons. México, CNDH, December, 2002. Primer.
- The Human Rights of Persons with Mental Illness. México, CNDH, December, 2002. Primer.
- Human Rights of Persons with Physical Handicaps. México, CNDH, December, 2002. Primer.
- The Right to Work of Handicapped Persons: Agreement 159 of the OIT on the Professional Readaptation and Work (invalid persons, 1983) México, CNDH, December, 2002. Primer.
- Older Women, their Aging Process and their Human Rights. México, CNDH, December, 2002. Primer.
- A look from the Young towards HIV AIDS, México, CNDH, December, 2002. Primer.
- Uniform Norms of the Equality of Opportunities for Handicapped Persons. México, CNDH, December, 2002. Primer.
- The Human Rights of Handicapped Women in the International Context. México, CNDH, December, 2002. Primer.

- Second World Assembly of the United Nations on Aging. México, CNDH, December, 2002. Primer
- Human Rights of Minor Offenders of the Criminal Law. México, CNDH, December, 2002. Triptych.

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