

# NEWS LETTER

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### THE CNDH REINFORCES ITS SUPPORT FOR VICTIMS OF CRIME

Through its Assistance to Crime Victims Program, PROVÍCTIMA, the National Human Rights Commission seeks to consolidate in the year 2005 a sector that will focus on offering assistance and support to those individuals who have been victims of crime or have been subjected to acts considered to be a misuse of power including, among other such acts, for example, failure to obtain a response from authorities while exercising their citizen's right to file a formal complaint or request.

Through this program, the CNDH aspires to provide this highly vulnerable demographic group with improved access to justice and other support measures. The personnel of PROVÍCTIMA provide timely follow-up for all cases submitted before it in order to fully enforce the rights acknowledged by the legal justice system as the rightful entitlement of victims.

The CNDH declares that the application of the processes of justice does not fully take into consideration the rights of the victim, even though the crime might cause him/her severe injury which, in many cases, is difficult or, indeed impossible to repair, since it can affect not only the physical integrity of the individual -as happens in the case of violent crimes- but, in several other situations, can also deteriorate his or her emotional state, social and family relationships, as well as his or her financial and legal situation.

The offices of PROVÍCTIMA where public complaints are received are located in República de Cuba street number 60, in the heart of Historical Downtown Mexico City, and they also provide telephone numbers that may be accessed directly from any part of the country: 018007182770 and 01800-7182768.

### RECOMENDATIONS

Recommendation 80/2004

December 2, 2004

Case: Beneficiaries of the Mexican Institute of Social Security (IMSS) are not allowed to select the type of pension regime they desire.

Responsible Authority: Director-General of the Mexican Institute of Social Security (IMSS).

On July 13 and 28, August 3, 4, 11, 13 and 26 as well as September 20, 2004, the CNDH received complaints presented by: Silvia Margarita Rodríguez Balám, Catalina Dehesa Barrán, Eulalia Lucas Bautista, Rosalía Montalvo de la Cruz , Amancia Blanca Padrón Aguillón, María del Rosario Benítez Chávez and Miguelita Valencia Macías, who denounced alleged Human Rights violations resulting in their grievance, caused by IMSS civil servants. The complainants stated that personnel from this Institution arbitrarily determined the type of pension system applicable to each one of their cases, without respecting their opinion or allowing them to exercise their right to select the pension regime of their choice.

The analysis both of the facts as well as the evidence contained in the files that were compiled, as well as the investigation carried out by the CNDH revealed that, in fact, civil servants from the IMSS decided to include the complainants, without their prior authorization, under the 1973 Social Security Law regime.

As a result, on December 2, 2004 the CNDH issued Recommendation 80/2004, addressed to the Director General of the IMSS, suggesting that the relevant measures be taken immediately in order to guarantee that the complainants be granted the right to select the pension regime they find most convenient, as of the moment when they request their pension and at the time when it is determined.

Finally, they were advised to begin an administrative process against personnel from different sectors of the IMSS involved in granting pensions to the complainants without taking their opinion into consideration.

Recommendation 81/2004

December 3, 2004

Case: Inhabitants of the municipalities of Comalcalco, Cunduacán and Cárdenas, in the state of Tabasco .

Responsible Authority: Director General of Mexican Oil (Pemex).

On October 29, 2003, we received a written complaint by Mr. Arturo Ramos Córdova, which stated that, as a result of seismographic prospecting carried out by (Pemex), several types of damages were caused to the communities within the municipalities of Comalcalco, Cunduacán and Cárdenas, in the state of Tabasco, causing, in addition, the breaking of wells and cracking of basins, also resulting in a decrease in agricultural production.

The analysis of evidenced revealed that the Human Rights of the inhabitants of the aforementioned municipalities were injured from a lawful, legal security and property standpoint by members of Pemex personnel; in addition, due to the activities carried out by Pemex, human health, ecological equilibrium and the environment of the region were endangered as well.

Due to all of the above, on December 3, 2004, the CNDH issued Recommendation 81/2004, addressed to the Director General of Pemex, which suggests the company carry out the necessary studies in order to assess damages and, in cases according to law, to provide indemnity against damages caused by civil construction as a result of seismographic prospecting undertaken in the above mentioned municipalities; in addition, the Recommendation suggests that the company issue an official rule establishing guidelines to carry out seismographic prospecting work; it further suggests that the company carry out studies regarding environmental issues in order to analyze the severity or magnitude of the damage caused by members of Pemex personnel and that the necessary measures be taken in order to repair damages caused by the work of said company and that the latter inform the CNDH regarding the progress and final result of said work.

Recommendation 82/2004

December 7, 2004

Case: Mistreatment of student "A" of Primary School "Roberto Koch" belonging to the Department of Public Education (SEP) in the Federal District .

Responsible Authority: Department of Public Education.

On June 2, we received a written complaint from Mrs. "X", in which she denounced alleged violations against the right to protection of the integrity of minor "A", as a result of the physical and psychological mistreatment he was subjected to by civil servants working at Primary School "Roberto Koch" of the SEP.

Through the analysis of the facts, it was concluded teacher AR-1 infringed the right to personal dignity of minor "A".

It should be mentioned that this CNDH found that the Director of the Primary School, as well as the Zone School Supervisor and the Director of Primary Education in the Federal District , failed to pay adequate attention to the complaint submitted by Mrs. "X", in order to investigate the reason behind the attitude of teacher AR-1.

Therefore, on December 7, 2004 the CNDH issued Recommendation 82/2004, addressed to the Minister of Public Education, instructing that he initiate and carry out an administrative process against teacher AR-1, as well as the Zone School Supervisor, the Director of the School and the Director of Primary Education in the Federal District, authorities who were aware of the facts and failed to take the appropriate measures immediately, also failing to provide the necessary psychological assistance to the victimized students.

Recommendation 83/2004

December 14, 2004

Case: Mr. José de Jesús Díaz Huizar.

Responsible Authority:

Director General of the Federal Commission of Electricity (CFE) and Constitutional Governor of the State of Jalisco .

On December 15, 2003, file 2003/3420-2 was established as a result of a complaint presented by Mrs. Guadalupe Huizar Hernández before the State Human Rights Commission of the state of Jalisco, against the CFE, due to the fact that her husband, Mr. José de Jesús Díaz Huizar, was electrocuted by a conductor belonging to the electric system of the CFE, and, as a result she filed the corresponding report before the Office of the Attorney General.

The analysis of evidence carried out by this CNDH revealed that the civil servants of the CFE, as a result of their neglect, had indeed placed the life of those who live at the location in which the events occurred under serious danger, which, in turn, caused the aggrieved party to lose his life.

In the light of this situation, on December 14, 2004 this CNDH issued Recommendation 83/2004, addressed to the Director General of the CFE as well as to the Governor of the State of Jalisco, which suggested that the latter authority cover the indemnity payment to the relatives on account of the death of Mr. José de Jesús Díaz Huizar; and, on the other hand, suggested that he carry out the corresponding investigations and begin a process of administrative responsibility against those civil servants who took part in the events that resulted in this Recommendation.

The later authority was asked to instruct the General Justice Attorney of the state of Jalisco to carry out the corresponding investigations and to apply the appropriate sanctions regarding the civil servants who incurred in the aforementioned irregularities.

Recommendation 84/2004

December 14, 2004

Case: Appeals process by Mrs. Leticia Ortega Pérez.

Responsible Authorities: Constitutional Governor of the State of Jalisco .

On June 20, 2003, this CNDH opened file 2003/243-2-I, as a result of the appeals process presented by Mrs. Leticia Ortega, due to the rejection of Recommendation 4/2002, addressed by the Human Rights State Commission of the state of Jalisco on December 5, 2002 to the Board of Directors of Cabañas Institute, in regard to the journalistic notes published on October 19 and 21, 2001, which referred to the death of minor Miguel Ángel González Ortega.

The analysis of evidence revealed that the rights to life, lawfulness, legal security and the protection of minors were violated in regards to the currently deceased minor, who was under the institutional custody of the aforementioned Institution.

Due to the above, on December 14, 2004 this CNDH issued Recommendation 84/2004, addressed to the Governor of the State of Jalisco, thus confirming the terms of Recommendation 4/2002 issued by the State Human Rights Commission of the state of Jalisco, requesting that they comply with Recommendation 4/2002 by opening an administrative investigation in order to determine the possible responsibility attributed to civil servants of the Cabañas Institute, as well as to determine who was responsible for the lack of attention, negligence and abuse of power in regards to the Human Rights violations undergone by the currently deceased minor Miguel Ángel González Ortega and his parents.

Recommendation 85/2004

December 14, 2004

Case: Appeals process presented by Mr. Abel Rodríguez Zamudio and Roberto Rodríguez Rodríguez.

Responsible Authority: The Constitutional Governor of the State of Chiapas .

On February 2, 2004, this CNDH opened file 2004/31-2-I, as a result of the appeals process presented by Mr. Abel Rodríguez Zamudio and Mr. Roberto Rodríguez Rodríguez, in regards to the rejection of Recommendation CEDH/063/2003, addressed by the State Human Rights Commission of the state of Chiapas on November 24, 2003 to the General Direction of Educational Services of the state of Chiapas.

The analysis of evidence revealed Human Rights violations and, as a result, on December 14, 2004 this CNDH issued Recommendation 85/2004, addressed to the Governor of the State of Chiapas, which confirms the Recommendation issued by the State Commission in regards to granting the space which was denied to them in Children's Development Center Number 1 of this city and opening an administrative process of investigation against personnel of Educational Services for Chiapas, for the violation of the equal rights of boys and girls.

Recommendation 86/2004

December 14, 2004

Case: Appeals process presented by Mrs. Gloria del Rosario Garza del Ángel.

Responsible Authority: The Honorable Municipal Council of Ciudad Victoria, state of Tamaulipas.

On August 23, 2004, this CNDH opened file 2004/315/TAMPS/1/1, as a result of the appeals process presented by Mrs. Gloria del Rosario Garza del Ángel, which denounced the act of non-compliance with Recommendation 107/2004, addressed on April 19, 2004 to the State Human Rights Commission of the state of Tamaulipas to the Chief Executive of the Municipality of Ciudad Victoria, since the municipal authority had failed to grant the corresponding indemnity for the damaged real estate.

The analysis of evidence revealed sufficient elements to establish the legal validity of the injury denounced by the appellant, in regards to the fact that the State Congress of Tamaulipas authorized the Honorable Municipal Council of Ciudad Victoria to donate to the Department of Public Education several properties for the construction of kindergartens, among them, the real estate owned by the complainant, which was damaged.

Consequently, on December 14, 2004 this CNDH issued Recommendation 86/2004, addressed to the Honorable Municipal Council of Ciudad Victoria, state of Tamaulipas, requesting that they comply with Recommendation 107/2004 issued by the State Human Rights Commission of the state of Tamaulipas.

Recommendation 87/2004

December 14, 2004

Case: Mrs. Mónica Pamela Garza Rosas.

Responsible Authority: Director General of the Mexican Institute of Social Security (IMSS).

On August 9, we received a written complaint by Mrs. Claudia Verónica Rosas Platas, denouncing alleged Human Rights violations committed against her daughter, Mrs. Mónica Pamela Garza Rosas, by civil servants of the General Hospital of Zone Number 1 of the IMSS in Saltillo, in the state of Coahuila, in reference to medical negligence.

The analysis carried out revealed proof and evidence for this case, and it attested to the fact that the health and life of the complainant and her minor daughter were violated, when the latter was not provided with adequate health services, received poor medical attention, there existing a lack of appropriate assessment, evaluation and monitoring of the labor process, and failure to extract the baby in a timely manner.

Based on the facts stated above, this National Commission issued Recommendation 87/2004, addressed to the Director General of the IMSS, which suggests the execution of the corresponding indemnity payment in accordance with the terms specified in the text of this document.

Recommendation 88/2004

December 15, 2004

Case: Appeals process presented by Mrs. María del Carmen Cereceres Perea.

Responsible Authority: The Honorable Municipal Council of Chihuahua, in the state of Chihuahua .

On January 29, 2004 we received a written appeals process by Mrs. María del Carmen Cereceres Perea against the rejection of Recommendation 061/2003 by the Chief Executive of the Municipality of Chihuahua; in a written complaint against the state Commission, the appellant declared that the Chief Executive of the Municipality of Chihuahua established a program which consisted in having minors paint on lime walls in areas affected by graffiti within that municipality, a program which included her daughter, Angélica Mirlet Piña Cereceres. On October 7, 2000 the participating minors, under the supervision of several municipal police, were painting walls using lime, when one of the minors caused said substance to fall on Angélica Mirlet's eye, resulting in her loss of vision in that eye due to burning of the cornea; she also mentioned that agents of the Head Office of Municipal Public Security of Chihuahua did not provide immediate assistance, nor did they transfer her to a hospital.

The analysis of the facts revealed that the Recommendation issued by the State Commission to the Chief Executive Office of that entity's Municipality complied with the Law.

Based on the facts mentioned above, on December 15, 2004 this CNDH issued Recommendation 88/2004, addressed to the Town Council of Chihuahua in order to ensure that they do their utmost in order to carry out, in the best manner available and free of charge to the girl or her parents, the necessary surgeries in order to perform the cornea transplant required by the aggrieved party, as well as to instruct them to provide the appropriate equipment to all the people involved in the program established by that Municipality of the Chief Executive Office of Chihuahua.

Recommendation 89/2004

December 16, 2004

Case: Appeals process  
presented by Mr. Santos Mateo Cruz  
and Mr. Enrique Castillo Aguilar.

Responsible Authority: President of the Human Rights Commission of the Federal District .

On March 12 and April 14, 2004, this CNDH opened the files related to the appeals process presented by Mr. Santos Mateo Cruz and Enrique Castillo Aguilar, due to the fact that, on January 30, and on February 27, 2004 the Human Rights Commission of the Federal District issued closure agreements in regards to the complaint files, establishing that it lacked the cognizance to be fully familiar with said files, since they involved labor matters.

The analysis of evidence revealed that the Government of the Federal District violated the lawfulness and legal security rights of Mr. Santos Mateo Cruz and Mr. Enrique Castillo Aguilar, as well as their right to the enforcement of justice.

Due to the facts stated previously, on December 16, 2004 this CNDH issued Recommendation 89/2004, addressed to the Chairman of the Human Rights Commission of the Federal District, which suggests the voidance of the decisions issued in the complaint files as well as suggesting the restoration of the rights of Mr. Santos Mateo Cruz and Enrique Castillo Aguilar which had been acknowledged as rightfully theirs by said decisions; in addition, they were asked to start and develop an administrative process against civil servants members of said Commission against those involved in the process of issuing the file complaints, due to any probable involvement in the case. Also, should it be appropriate, that they restore their full entitlement to the rights acknowledged by labor authorities.

Recommendation 90/2004

December 20, 2004

Case: Minor Javier Alejandro Olmedo Santiago.

Responsible Authority: The Minister of Public Education (SEP).

On November 5, 2003 we received a complaint from Mr. Javier Olmedo Medellín, in which he denounced the alleged violations which occurred regarding the right to the protection of the integrity of his minor son, Javier Alejandro Olmedo Santiago, committed by civil servant members of the Department of Public Education.

After the analysis of the facts, the CNDH came to the conclusion that the right to protection of the integrity of the injured minor, Javier Alejandro Olmedo Santiago, was indeed violated

Consequently, the CNDH issued Recommendation 90/2004 addressed to the Minister of Public Education, which established that all processes necessary should be carried out in order to provide the medical attention and rehabilitation required by minor Javier Alejandro Olmedo Santiago during the period he should so require them. In addition, it was suggested that all the appropriate measures should be taken in order to ensure that the child receive personalized medical attention, financial indemnity and assistance to cover all expenses generated by the current health condition of minor Javier Alejandro Olmedo Santiago. In addition, permanent medical service must be provided in Primary School "Leopoldo Kiel" of the SEP within the Federal District , as well as training for staff members in terms of knowledge and application of first aid measures.

Recommendation 91/2004

December 21, 2004

Case: Appeals process presented by Mrs. M.J.P.R.

Responsible Authority: The Honorable Municipal Council of Chihuahua, in the state of Chihuahua .

On March 24, 2004, we received the appeals process document presented by Mrs. María de Jesús Pérez Regalado before the State Human Rights Commission of the state of Chihuahua , regarding the rejection of Recommendation number 5/04 by the Chief Executive Municipality of Chihuahua.

The analysis of proof which comprises file 2004/100-4-I, reveals that members of the Head Office of Municipal Public Security of Chihuahua, set fire, on two different occasions, to a property belonging to Mrs. Pérez Regalado without filing the corresponding administrative process regarding responsibility.

In this regard, the CNDH compiled an objection file, and as a result, came to the conclusion that the rights of the appellant to property, lawfulness and legal security, were violated.

As a result, on December 21, 2004 the CNDH issued Recommendation 91/2004, addressed to the Constitutional Municipal Council of Chihuahua, which suggested that an administrative process be started focused on the investigation of Municipal Police Agents of Chihuahua and, should the investigation reveal that they have administrative responsibility, that the corresponding sanction be imposed as established by Law and that measure be taken in order to proceed to repair the damage caused to the property of Mrs. Pérez Regalado. An investigation should be carried out as well in order to determine which members of the Municipal Police Force might also have been involved in the events and that the corresponding administrative measures be taken against them, so that, should they be

attributed with administrative liability, the sanction established by Law be imposed and measures be taken to repair the damage caused to the complainant's property.

Recommendation 92/2004

December 21, 2004

Case: Appeals process presented by Mr. Francisco Luján Bonilla and others.

Responsible Authority: The Honorable Constitutional Municipal Country of Meoqui, in the state of Chihuahua .

On December 12, 2003, we received the appeals process document submitted by Mr. Francisco Luján Bonilla before the Human Rights State Commission of the state of Chihuahua against the rejection of Recommendation 57/2003 by the Chief Executive of the Municipality of Meoqui, in the state of Chihuahua.

The analysis of proof revealed that the former Chairman of the Court of Arbitration for Municipal Workers of Meoqui, Chihuahua , hindered the work-related action interposed by the complainants against the unjustified termination of their employment in the aforementioned municipality, by failing to accept the work-related action and delaying the execution of an audience involving evidence, claims and eventual decision.

The CNDH put compiled the appeals process and, as a result, came to the conclusion that the Human Rights State Commission of Chihuahua issued Recommendation 57/2003 in accordance with the Law, since it legally acknowledged the violation of the lawfulness and legal security Human Rights of the complainants.

Therefore, on December 21, 2004 the CNDH issued Recommendation 92/2004, addressed to the Honorable Constitutional Municipal Council of Meoqui, in the state of Chihuahua, which suggested they begin an administrative process to determine responsibility for the faults committed by the Chairman of the Court of Arbitration of Municipal Workers of Meoqui, in the state of Chihuahua, and should it be the case, impose the corresponding sanctions.

## NATIONAL AFFAIRS

The CNDH will increase the number of measures taken in favor of migrants

During a work tour which included several border-cross areas in Ciudad Juarez, as well as the House of the Migrant, National Ombudsman José Luis Soberanes Fernández, was acquainted with the grievances of national as well as Central American migrants who are subjected to abuse when trying to cross the border towards the United States in search of a better quality of life

In this regard, Soberanes Fernández declared that the National Human Rights Commission would increase its activities to assert the Human Rights of those who belong to this vulnerable group, a sector of society that has been neglected and forgotten by the government. He stated that the CNDH will reinforce its assistance services both in the Northern as well as the Southern part of the country, hoping to provide help to migrants and a Fifth General Criminal Investigations Unit specially focused on addressing the complaints of these individuals and to provide counseling will begin operations as of the year 2005.

He stated that, in addition to the seven public assistance centers of the CNDH located near the border, in Tijuana, Ciudad Juarez, Nogales, Reynosa, San Cristobal de las Casas, Tapachula, and Villahermosa, in the near future, an office will be established in Coatzacoalcos, in the state of Veracruz, a city which has become an obligatory crossing path for migrants and where a large number of human rights violations occur at the hands of civil servants.

The Fifth General Criminal Investigations Unit will be responsible for coordinating and strengthening the tasks of the CNDH with special focus on the defense and promotion of the human rights of migrants.

#### Training Courses

As part of the measures taken to promote a Human Rights culture, during the month of November, the CNDH organized 107 activities, for instance: courses, workshops and conferences aimed at workers for the basic and higher educational systems, groups in vulnerable situations, civil servants and social organizations.

#### PUBLICATIONS

- Gazette 167, corresponding to the month of June , Mexico CNDH, 2004.
  
- Gazette 171, corresponding to the month of October , Mexico CNDH, 2004.
  
- Main Rights of People with Disabilities, Mexico CNDH, December, 2004 (three-page leaflet).
  
- Are you Mexican and wish to serve your prison term in Mexico?, Mexico CNDH, December, 2004 (three-page leaflet).
  
- What are the Rights of Mexicans Deprived of their Freedom in the United States of America?, Mexico CNDH, December, 2004 (three-page leaflet).
  
- The Human Rights of People who Live With HIV or AIDS, Mexico CNDH, December, 2004 (booklet).
  
- Disabilities are Everybody's Concern, Mexico CNDH, December, 2004 (three-page leaflet).
  
- Bibliography for the Ombudsman and Similar Institutions, Mexico CNDH, December, 2004 (book).

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