

NEWS LETTER

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INTERNATIONAL DAY OF THE MIGRANT

The National Commission of Human Rights considers the construction of the 1,100 kilometer barrier in Laredo , Texas to be a materialization with walls of the tendency towards criminalizing migration with characteristics that hold reminders of the 'Berlin Wall'.

The previsions point out that in 2006 the number of Mexicans attempting to emigrate to that country will reach, at least, 400 thousand, of whom 70 percent will do so in an undocumented way.

The more than 30 billion dollars that the authorities from the United States have spent in 11 years of border vigilance between Mexico, far from containing the migration, has propitiated directly or indirectly the death of more than 3 thousand 500 Mexicans; this situation will tend to worsen- with measures such as the above mentioned- as long as migration is not recognized to be associated directly to the supply and demand of employment in both nations.

In one "International Day of the Migrant" darkened by the announcement of these new dispositions, the CNDH regrets that as its migratory policy is not supported in agreements which recognize the socio-economic dimension of the phenomenon, but rather applied in coercive measures, the United States once again forces Mexican and Central American migrants to look for un-patrolled routes where adverse conditions predominate, with extreme temperatures that convert crossing attempts into high risk operations, synonymous to death and more fundamental human rights violations.

The CNDH considers, in the same fashion, that the Mexican government must exhaust all legal, diplomatic, and consular resources so as to prevent the actions of groups of private individuals that act as civil guards in diverse points along the border: As well to bring about the fulfillment of the safe and orderly repatriation agreements, with special attention placed in cases of minors who travel alone.

With respect to the southern border, this year the number of immigrants, above all Central Americans meaning to reach the United States , also reached a historic peak. It is estimated that in the year 2005 the National Institute of Migration detained more than 230 thousand foreigners with no migration documents, a figure superior to the previous year by 7 per cent, without any known pertinent national policy in this regard.

he Mexican authorities must procure the necessary apparatus for detained migrants on Mexican national territory to have the right to a dignified stay in migratory stations and to assure that their human rights are respected.

RECOMENDATIONS

Recommendation 44/2005

December 5th 2005

Case: Appeal submitted by Fidencio Díaz Solano.

Addressee Authority : Honorable City Council of the Municipality of Carmen , Campeche .

May 23rd 2005, The National Commission opened the file number 2005/202/CAMP/4/I motivated by an appeal submitted by Fidencio Díaz Solano against the non acceptance of the recommendation on the part of the City Council of the municipality of Carmen, Campeche, emitted by the Commission of Human Rights of that federal entity.

Allegedly, April 25th 2004, six elements of the Operational Direction of Public Security and Public Transit of Carmen, Campeche , broke into the domicile of Fedencio Díaz Solano, broke the door and entered, then proceeded to detain, handcuff, and hit the said person. Once detained, he was carried to the detention cell of the police outpost in the town of Chiebul , where he remained until April 27th, 2004

January 28th, 2005, the Local Organism issued the Recommendation addressed to the municipal President of the City Council of Carmen, Campeche , which was not accepted by the responsible authority.

The CNDH coincided with the human rights protecting state organism in that the City Council of Carmen, Campeche must dictate the necessary administrative provisions in order to prevent elements of the Operational Direction of Public Security and Transit of Carmen from incurring in acts which transgress against the human right to privacy in the moment of effectuating its detentions.

In response to the above, December 5th 2005 this National Organism issued Recommendation 44/2005, addressed to the Honorable City Council of Carmen, Campeche , to the effect that it must fulfill the recommendation issued by the Commission of Human Rights of the State of Campeche .

Recommendation 45/2005

December 6th 2005

Case: Undocumented Foreigners crossing in the State of Coahuila .

Addressee Authority : Constitutional Government of Coahuila and the National Institute of Migration (INM).

The National Commission received the written complaints which state that Sonia Elizabeth Cáceres and Aura Maritza Barrios, foreign migrants, were traveling aboard a train car. Watchmen from the private security company Copssa, which guards the railways, shouted to Sonia to get off and then pulled her down with the train in motion, causing her to fall beneath the wheels of the train and amputating a foot. In the case of Aura Maritza, personnel of Copssa assaulted and threw her from the moving train, causing injuries which led to amputation of a foot.

From the analysis of the events, it was determined that it was an inappropriate exercise of public function affecting the rights of legality and judicial certainty of the victims, to permit personnel of private security to carry out acts of migratory verification. In the same way, public officials of the INM issued neither food nor adequate medical attention to the migrants when they were at their disposition.

For these reasons the National Commission issued Recommendation 45/2005 addressed to the governor of the State of Coahuila to give instructions and begin administrative proceedings against public officials of the Secretary of Public Security for permitting private companies to carry out acts reserved for the INM and against the private security company for its role in the matter. The Commissioner of the INM was requested to notify the Internal Control Organ to begin the administrative proceedings against the public officials in Coahuila and was recommended to give instructions that food and medical attention must be offered to people taken into custody in an opportune fashion.

Recommendation 46/2005

December 14th 2005

Case: José Alfonso Torres Martínez

Addressee Authority : Constitutional Government of the State of Colima .

On February 28th 2005, Petra Fernández accused José Alfonso Torres Martínez by way of requesting the help of a patrol car, which led to elements of the General Direction of Public Safety and Transit of the Municipality of Tecomán, Colima, to detain and handcuff him. Nevertheless, as he attempted to escape he was hit and later carried to the Civic Court and put at the disposition of the Public Prosecutor's Office.

From the analysis of the events, it was determined that the rights to legality, judicial certainty and physical integrity were infringed upon, for which the National Commission issued the Recommendation 46/2005, addressed to the governor of the State of Colima and the municipal president of Tecomán, to initiate administrative proceedings against the public officials involved in the acts.

In the same way, the municipal president was recommended to issue guidelines for public officials related with detentions to observe respect for human rights, and for Civic Judges to order the medical certifications of physical integrity of the people put at their disposition.

Recommendation 47/2005

December 19th 2005

Case: About the complaint by Lidia Reyes Castillo.

Addressee Authority : Presidency of the Commission of Human Rights of the Federal District .

The National Commission opened the file 2005/312/1/RQ, motivated by the lack of a determination, on the part of the Commission of Human Rights of the Federal District , in the complaint submitted by Lidia Reyes Castillo before this organism.

The analysis of events observed that delay did exist on the behalf of the personnel of the Commission of Human Rights of the Federal District in the integration of the file, as more than one year has transpired with no determination being dictated.

For the above reasons, The National Commission issued the Recommendation 47/2005, addressed to the President of the Commission of Human Rights of the Federal District to the end that it must issue the determination with all possible haste and that it must begin any administrative proceedings, which may correspond to this case, against the public officials that intervned in the integration of the file, motive of the complaint.

Recommendation 48/2005

December 21st 2005

Case: Hernán Alemán Serrato and others.

Addressee Authority: Ministry of Public Security.

The National Commission heard the complaints presented by Arturo Solís Gómez, Juan Bautista González, and Norma Angélica González Guajardo, in whose complaint claims of human rights violations were made.

After an analysis of the claims it was determined that elements of the Federal Preventive Police transgressed upon the right to life of the victims Jorge Castillo Fuantos, José Reyes Avendaño García, Alberto Jorge González Arévalo, and Pedro Moreno Fera, as well as upon the respect for their physical integrity , and put in grave danger the right to life of Hernán Alemán Serrato; as well, the rights to legality and judicial certainty were infringed upon as the mentioned public servers made illegitimate use of force and use of their fire arms.

In virtue of this, the National Commission issued the Recommendation 48/2005, addressed to the Secretary of Public Security, requesting it to proceed with the compensation in favor of Hernán Alemán Serrato and the families of Jorge Castillo Fuantos, José Reyes Avendaño García, Alberto Jorge González Arévalo, and Pedro Moreno Fera, and that files DGAI/DGADH/0976/05 and DGAI/DGADH/1104/05 be decided according to law, and the necessary actions be implemented to the effect that the elements of the Federal Preventive Police may be trained in the conduct they must observe with the aim of respecting the human rights of the population while carrying out the functions they have been charged with.

Recommendation 49/2005

December 21st 2005

Case: Aquileo Márquez Adame and others.

Addressee Authority: Military Justice Prosecutor's Office.

The National Commission received the complaint presented by Gilberto Cerón and others in which were manifested acts in detriment to Santos Cerón Urioso, Rigoberto Cerón Urioso, Israel Urioso Varona, Juan Salinas Cerón, Aquileo Márquez Adame, and the minor Lázaro Márquez Urioso which were committed by the elements of the Mexican Army who deprived Aquileo Márquez Adame of his life and detained arbitrarily the other people mentioned above.

From the analysis of facts it was determined that there was an illegitimate use of fire arms, which brought about the violation of the right to life in detriment of the offended, failing thus in the service which was commended upon the elements of the Mexican Army above mentioned.

For this reason, the National Commission issued the Recommendation 49/2005, addressed to the Military Public Prosecutor, in which it was recommended to integrate and determine immediately the initial investigations IXRM/22/2004, and for the administrative responsibilities of the acts and omissions of the forensic expert who intervened in the case where Aquileo Márquez Adame lost his life to be investigated and determined; to carry out the indemnization payments to the family of Aquileo Márquez Adame; to instruct and capacitate the elements of the Mexican Army in respect for the conduct that must be observed with the objective of respecting human rights while carrying out the functions they have been charged with; to impart courses on the legitimate use of force as well as the use of techniques of persuasion, mediation, negotiation, and peaceful solution of conflicts.

Recommendation 50/2005

December 21st 2005

Case: Appeal submitted by RMLA y JAGE.

Addressee Authority : Constitutional Government of the State of Nuevo León .

The National Commission opened the file 2005/226/NL/1/I motivated by the written appeal submitted by RMLA and JAGE in which they manifested their inconformity with the non acceptance on behalf of the Ministry of Education in the State of Nuevo León, of the first point of Recommendation 38/2005, issued by the State Commission of Human Rights of Nuevo León.

From the evidence which integrated the appeal it was determined that the Subsecretary of Basic Education and the Chief of the Regional Office Number 4, acted in an irregular manner in the attention they gave to the complaint presented by the parents of the minor AGL, as their only acts were limited to preventing the minor's right to education from being violated, but did not carry out any investigation as to whether the minor's school acted strictly within the law while expelling her.

For this reason the National Commission issued the Recommendation 50/2005 addressed to the governor of the state of Nuevo León, so that the first point of Recommendation 38/2005 issued by the State Commission of Human Rights on March 17th, 2005 would be fulfilled, and that administrative proceedings against the public servers above mentioned would also begin.

Recommendation 51/2005

December 22nd 2005

Case: Edwin Alexander Pool May and the minor Hiromy Geraldine Pool Pool.

Addressee Authority : General Direction of the Mexican Institute of Social Safety (IMSS).

Edwin Alexander Pool May, in the complaint presented, expressed that his daughter, Hiromy Geraldine Pool Pool, three months old, was admitted into a hospital in Mérida, Yucatán, but due to the poor administration of liquids, her situation worsened, causing the physicians to send the minor to La Raza hospital in Mexico City; however, in the international airport of this city, she was made to wait more than one hour for an ambulance. Once in the hospital La Raza , there were no personnel to attend her, as it was the weekend, all of which resulted in respiratory failure in the minor and her death.

From the analysis of evidence that comprises the file, it was determined that the rights of life and protection of health were violated in detriment to the victim.

In virtue of these facts, this National Organism issued the Recommendation 51/2005, addressed to the General Director of IMSS that the family of the minor, Hiromy Geraldine Pool Pool, be paid lawful indemnization; that the necessary administrative measures be put in place for La Raza Medical Center to have at its disposal all its services at all times throughout the week and weekends; that the emergency room area of this health care establishment be provided with an electrocardiogram apparatus; and the administrative proceedings of responsibility begin, if there be occasion, against the public servers involved in the present acts.

NATIONAL ISSUES

Special Report on the State of Fundamental Rights in the Migratory Stations and Sites Functioning as such in the country.

The National Ombudsman, José Luis Soberanes Fernández, presented December 21st 2005 to the public opinion a Special Report of the CNDH addressed, to the authorities of the National Institute of Migration, (INM) about the situation of the fundamental rights in the 51 migratory stations and 68 fitted out sites in different points of the country, with respect to the high rates of marginalization and poor treatment which migrants receive there, as well as the lack of interest or capacity of the authorities in dealing with the migratory phenomenon in those places.

In an extensive evaluation of the functioning and infrastructure of these facilities, the following conditions were noted: 35% are found to be in very poor condition; 41% in poor condition; and 24% in adequate condition.

In view of the evidence and information collected which demonstrate a prevalence of conditions harmful to the fundamental rights of the migrants, the CNDH asks the INM to carry out complete fulfillment of the specific normativity which regulates the operations of the migratory stations and which includes contingency plans for cases of massive apprehensions of migrants, to manage overcrowding, and the lack or bad quality of food and the absence of family or general medical services in the facilities.

The National Commission as well requests to the INM to abstain from setting up preventive jails as migratory stations.

Soberanes Ferenández, who was accompanied by The Fifth General Visitor, Mauricio Farah Gebara, emphasized that one of the saddest national shortcomings with respect to the migration phenomenon is in the incongruence in demanding respect for human rights from the north, while not ourselves being able to offer this to the south.

He pointed out that despite the program "dignification" to improve the conditions of the migratory stations, in general they lack the minimum elements necessary for adequate lodging in dignified conditions and are a source of constant human rights violations, as they are a patent failure in maintenance, in both preventive and corrective senses in sanitary and hydraulic installations, which has made the mentioned program insufficiently effective.

He also stated that these establishments act under a very similar concept to that of jail systems, as they operate with cells, chain link fences, chains, locks, etc, which becomes more serious when it is considered that the periods of detention of the migrants sometimes last several weeks or even months, "...there is a tendency to criminalize the undocumented migrants owing to the fact that the General Act of the Population considers entering the country without proper authorization to be a crime. This increases the vulnerability of the migrant person, and makes them susceptible to arbitrary treatment or arbitrary responses on behalf of federal, state, and municipal public officials or to exposes them to exactions or mistreatment".

Soberanes Fernández manifested that according to the data of the INM, the migrant people detained in the first semester of 2005 reach a total of 129 thousand migrants, of which 54 thousand 972 are from Guatemala, 42 thousand 50 from Honduras, 22 thousand 718 from El Salvador; the rest from other countries, even Irak, all together do not reach even 1.5 per cent of the total.

The National Ombudsman declared that 74.6% of the detentions took place in the geographic knot formed by the federative entities of Chiapas, Tabasco, Veracruz, Oaxaca, and Federal District, which is the reason it may be said that the phenomenon of migration to national territory acquires its principle relevance in the south-east zone of Mexico, with an overwhelming majority of migrants proceeding from Central America.

Human Rights National Award 2005

The President of the Republic, Vicente Fox Quesada gave the Human Rights National Award 2005, on December 9, to the founder of the City of the Girls and Boys from Oaxaca , José Miguel Pérez García, during a ceremony which took place in the Legislative Seat of the National Palace .

The National Ombudsman, José Luis Soberanes Fernández, pointed out that there is a lack of institutions in Mexico , capable of preventing that the poverty of the childhood becomes the adult misery.

During his participation in the ceremony, in which it was recognized the work that has been made by the priest José Miguel Pérez García for 47 years, giving food, housing medical service and education to the helpless minors, the head of the CNDH emphasized that the Mexican State fulfilled with the great obligation of recognizing and rewarding those who defend the dignity of people trough a personal commitment.

He underlined that children "kidnapped by misery" are the ones protected by the priest José Miguel, who after half a century is still resolute to says "no" to one of most painful expressions of adversity and unfairness, the carelessness of minors.

The prize is made up by a gold medal, a diploma and a check by 250 thousand pesos.

The presidium was also composed of Mrs. Martha Sahagún Fox and Carlos María Abascal Carranza, Government minister, in front of whom Soberanes Fernández pointed out that José Miguel Pérez García must have a reward and recognition because he rejected to accept a reality who bargain with the dignity of people.

Before heads of the Mexican Federation of the Human Rights Public Organisms, Non Governmental Organisms, academics, researches and members of the Consulting Board of CNDH, the National Ombudsman stated that the City of the Girls and Boys from Oaxaca and its five houses bring lodging, food, shelter and clothes as well as respect to the children.

He also added: "If we can not imitate him today, we can tell him, from the National Commission of Human Rights, as an institution created by the mexican State, that thanks to people like him and to his work of half a century, the life acquire, sometimes a different sense".

Soberanes Fernández pointed out that the national award recognizes him, thanks him and tells José Miguel Pérez García all what we all need to learn from his tireless effort and also how we should follow his example to preserve the smile and the good humor in the middle of the combat against adversity.

After stating that the economic amount seems to be high, the truth is that the money, is just enough to cover the basic necessities of the minors for a few days, the National Ombudsman underlined that with this award the CNDH wants to repeat a phrase which has been heard, by years trough all the valleys, mountain ranges, coasts and regions from Oaxaca: "Thank you indeed, padre José Miguel".

Training Courses

The National Commission of Human Rights, in accordance with the spirit promoted by the institution in order to spread the study, teaching and promotion of human rights, performed during December 2005, 151 training activities aimed at basic, intermediate and advanced students, at vulnerable groups, among them, children, elderly people, women people with some handicap, people with IHV AIDS, as well as public servers in the armed forces, public security officers, penitentiary staff, public health institutions' staff, Public Organisms of Human Rights, Human Rights Public Organisms, among others.

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