

NEWS LETTER

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CONTENTS

- WOMEN MIGRANTS
- RECOMMENDATIONS: Numbers 24/2006 to 28/2006
- NACIONAL ISSUES
Postgraduate Studies in the National Center of Human Rights(CENADEH)
- Training Courses

WOMEN MIGRANTS

The National Commission of Human Rights urges the federal government to begin actions tending to attend the cases of women migrants that, with greater and greater frequency, are sexually assaulted by delinquents who act on the Mexican side of the northern border of our country.

This National Organism laments the passivity of the authorities in the face of this wave of aggression and considers inadmissible the indifference toward the victims, who suffer these aggressions due to their condition as women and migrants as well as being victims of the omissions of the corresponding authorities.

The CNDH has received reports, on the part of non-governmental organizations on both sides of the border, showing that the number of sexual aggressions has increased in the last two years. Several NGO's point out that these aggressions have been carried out with the knowledge of the federal authorities, without receiving responses in concrete actions to prevent or attend this problem.

According to data from the Border Patrol agency of the United States, during 2004 and 2005, element of the that corporation have detained and repatriated in the last two years 340 thousand women migrants, which reveals the high number of women who are attempting to cross into the American Union in an undocumented manner, averaging more than 450 per day.

The National Commission reminds that in terms of the Interamerican Convention on the Prevention, Punishment and Eradication of Violence Against Women, the government may be made responsible for the private acts of violence when its functionaries have failed to act with appropriate diligence.

The CNDH emphasizes that, though it may correspond to the State to regulate the migratory flow in all areas regarding the entrance and exit of foreign people in the country, this must be done holding the rights of migrants in constant respect.

RECOMMENDATIONS

Recommendation 24/2006

July 11, 2006.

Case: Mrs. Maribel López Vicente.

Addressee Authority: Mexican Social Security Institute (IMSS).

On November 17, 2005, the CNDH received, because it is competent to do so, from the Human Rights Commission of the state of Tamaulipas, the complaint presented by Mrs. Maribel Lopez Vicente against public servers of the IMSS who did not inform her of the cause of death of her baby, and did not tell her either why the body of her baby was not given to her or where her baby's body was placed. Therefore, this National Organism opened complaint file 2005/4815/5/Q

Based on the investigation done, it was established that on September 10, 2005, the complainant presented herself at the IMSS General Hospital of Zone 13 in Matamoros, Tamaulipas, complaining of severe pain in her abdomen, and being in the 25th week of her pregnancy, because of presented that pain a caesarean surgery was performed and a lifeless baby weighing 480 grams was

removed. The next day, when the complainant was told of the death of her baby by her husband, she asked a social worker of the hospital why the body was not presented to her. The social worker said it was not possible due to the weight of the baby at birth. Although the complainant repeated her request on several occasions, the dead baby never was given to the complainant.

The authority noted that, according to CIE-II (International Statistical Classification of Illnesses and Problems Related to Health, issued by the World Health Organization), because the baby weighed only 480 grams, its birth was considered by them to be an abortion and therefore was sent to the freezer-refrigerator for its storage, later transport, authorization and final disposition on September 22, 2005 by AMEO de Mexico, S.A.

As well, evidence exists to show that the failure of the authority to prepare a certificate of death and of fetal death impeded the establishment of cause of death of the baby.

For these reasons, the National Commission issued, on July 11, 2006, Recommendation 24/2006 directed to the general director of the IMSS, which asks that directors of the IMSS hospitals be instructed so that their medical personnel formulate certificates of fetal death; it orders that payment of indemnification be made to Mrs. Maribel Lopez Vicente. It is ordered that, if necessary, the complainant be given the necessary psychological aid; it is further ordered that instructions be given to directors of IMSS hospitals that their personnel responsible for giving medical attention fulfill the Mexican Official Norm (NOM) pertaining to clinical files. Finally, instructions are given to those concerned requiring them to provide all necessary elements named in administrative procedure QU/82/06/TAM, and that the CNDH be informed as soon as the determination is issued.

Recommendation 25/2006

July 11, 2006.

Case: Appeal submitted by Mr. Juan Antonio Velásquez Dávila.

Addressee Authority: Municipal Council of Ojocaliente, Zacatecas.

On October 25, 2005, the National Commission of Human Rights opened file 2005/415/RI due to the appeal made by Mr. Juan Antonio Velásquez Dávila against the failure of the major of the municipality of Ojocaliente, Zacatecas, to fulfill the recommendation issued by the Zacatecas State Human Rights Commission.

On January 28, 2005, the Municipal Public Security Director of Ojocaliente, Zacatecas, ordered at 16:50 hours the arrest of the current petitioner for having injured verbally and physically Mr. Juan Cervantes Zapata. For that reason he was confined in a cell of the municipal Direction of Public Security. He remained confined in that place until 13:35 hours of January 29, 2005, when the said public server was turned over to the agent of Public Prosecutor no. 2 of the Judicial District of Ojocaliente. That agent ordered his immediate freedom since the acts of which he was arrested were not a crime. Due to those events, Mr. Juan Antonio Velásquez Dávila presented a complaint on February 3, 2005, before the Zacatecas State Human Rights Commission.

Acting on that complaint, on May 18, 2005, the local commission issued a recommendation directed to that major of Ojocaliente, Zacatecas, and it was duly delivered and accepted. Since the authority has not complied with that recommendation, the complainant has entered his appeal before the CNDH.

For the preceding reasons, on July 11, 2006, the CNDH issued Recommendation 25/2006 directed to the Municipal Council of Ojocaliente, Zacatecas, asking for fulfillment of the Recommendation issued by the Zacatecas State Human Rights Commission.

Recommendation 26/2006

July 17, 2006.

Case: Workers of Industrial Minera México, S.A. de C.V. (Pasta de Conchos unit) company.

Addressee Authority: Ministry of Labor and Social Welfare (STyPS).

On March 3, 2006, the CNDH received a complaint sent by the Coahuila State Human Rights Commission, which named presumed violations committed by public servers of the Federal Labor Delegation, a dependency in Coahuila of the STyPS.

The complaint was presented because of the catastrophe which occurred on February 19, 2006, in the Pasta de Conchos coal mine, located on the Santa Maria communal farm in the municipality of San Juan de Sabinas. It caused the death of 65 miners and injured 11 other workers.

On February 21, 2006, the federal labor delegate in Coahuila declared, according to the Vanguardia newspaper of Saltillo, that the agency of which he is in charge had, on February 7, 2006, inspected the Pasta de Conchos mine and did not find any irregularities that might have caused a disaster of the size that the mine suffered two days before.

On July 12, 2004, an inspection of the mine showed that the company did not have 19 documents related to security measures and hygiene in the interior and exterior of the mine. Federal labor inspectors examined the mine, looking for acts or insecure conditions related to security and hygiene; they made 48 observations inside and outside the mine related to repairs, installation of security devices, elimination of oil and gas leaks, placement of missing security valves, installation of security protection for the power chain, couplings and conveyor belt terminal to prevent mechanical risks to the workers in the entire area of the crusher, among other items.

The inspection showed the existence of security and hygiene conditions which did not allow the mine to guarantee integrally the health and lives of its workers. The mine was ordered to fulfill 34 security and hygiene measures; time periods were set for their completion in some cases, while permanent observance was set for others.

On February 7, 2006, an inspection visit was made of the security and hygiene measures required. That inspection showed that 28 of the required measures had been fulfilled. However, it was not possible to verify the other six measures because they were in closed areas and the equipment was not operating.

On February 19, 2006, an explosion inside mine 8 of the Unidad Pasta de Conchos took the lives of 65 workers and left 11 others injured.

An analysis carried out by the CNDH showed that, although the labor authorities had full knowledge of working conditions in the mining company, and that those conditions put in risk the lives of workers, and that mining is cataloged as a dangerous activity with a risk of grade 5, the entire process of inspection and verification of safety requirements was not carried out in a prompt and expeditious manner. Tolerating such faults as these in an industry with these characteristics makes said authorities share the blame for its improper functioning.

It does not pass unnoticed by the CNDH that the STyPS has legal instruments that could have stopped work temporarily at the Unidad Pasta de Conchos until the measures identified during the inspection carried out on July 12, 2004, had been duly put in place, and in spite of that nothing was done about it.

The CNDH expresses its concern about retrieval of the bodies of 64 miners that still remain in the interior of the

mine—one was retrieved on June 23, 2006—since that implies the violation of the rights of the families of the miners.

For these reasons, the National Commission issued, on July 17, 2006, its recommendation 26/2006, directed to the Minister of Labor and Social Welfare (STyPS), to the effect that instructions be issued so that the Internal Control Organ of the STyPS take into consideration the evidence and observations of this recommendation during the processing of the investigation of the administrative procedure of responsibility DE/66/2006; that instructions be issued to the responsible persons so that procedures be completed and payment of indemnifications be made according to law to the families of the 65 miners who lost their lives inside the mine; that instructions be issued so that the STyPS coordinates its work with the General Civil Protection Coordination, the federal authorities and authorities of the state of Coahuila; that instructions be given to the corresponding persons so that everything necessary be done for the periodic evaluation of the personality profile and knowledge of human rights of the public servers assigned to the federal labor delegations; that necessary measures be taken to strengthen procedures related to the civil service for hiring and selection, taking into consideration the profile and needs of the job, formation, qualification, training and evaluation of employees and public servers in charge of the various federal labor delegations in the areas of security and hygiene and, in this way, guarantee the adequate application of the law; the necessary instructions are given so that the federal labor delegations in the Mexican Republic are given sufficient material, monetary and human resources to establish the necessary measures for the prevention of labor accidents and illnesses; necessary instructions are issued so that the federal labor delegate, as Technical Secretary, exhort the president of the Coahuila State Hygiene and Labor Consultative Commission to resume its functions in a periodic manner, and that, with the participation of the State Government, the STyPS, the Ministry of Health, the Mexican Social Security Institute, as well as two representatives designated for each of the labor and employer sectors, comply with the attributes established in articles 121 and 122 of the Federal Rules for Labor Security, Hygiene and Environment, and abstain from conforming and convoking the Coal Region Security Committee since said committee lacks the judicial instruments which would give it validity before other instances and because it does not comply with the existing legal framework.

Recommendation 27/2006

July 17, 2006.

Case: Mrs. Yara Lucía Hernández Rosas.

Addressee Authority: Institute of Security and Social Services for State Workers (ISSSTE).

On September 13th, 2005, The National Commission received the file of complaint CEDH-2VQ-481/2005, opened before the State Commission of Human Rights of San Luis Potosí, motivated by the journalistic report published on June 20th of that year quoted in the daily Pulso de San Luis, in which presumed violations of human rights were reported in detriment to Mrs. Yara Lucía Hernández Rosas and her son, attributable to public servers of the ISSSTE.

On the 15th of July, 2005, Mr. Eduardo Delgado González appeared before the personnel of the mentioned Local Organism to manifest that, at approximately 13.00 hours on the 5th of June of the mentioned year, his wife, Mrs. Yara Lucía Hernández Rosas, entered the Area of Emergencies of the hospital clinic of the ISSSTE, in Ciudad Valles, San Luis Potosí, as she was presenting pre-labor symptoms; that around 16:15 hours the gynecologist noticed that the placenta had burst and that the liquid contained fecal material, which lead them to request Mr. Delgado González's authorization to intervene surgically on the victim, as the unborn could asphyxiate; as well it was pointed out that, afterward, the pediatrician of the health center explained to them that the baby had inhaled amniotic liquid, which brought about irreversibleneurological damage, to the degree that on the fourth of October of that year the minor passed away, which lead the parents Yara Lucía Hernández Rosas and Eduardo Delgado González to present an accusation before the Public Prosecutor's Office in Ciudad Valles, San Luis Potosí, which opened the preliminary investigation file AP/PGR/SLP/CV/U/093/D/2005.

From the analysis carried out, it was possible to determine that the right to the protection of health of the minor, registered with the name Héctor Eduardo Delgado Hernández, was violated, due to inadequate offer of public service on the part of the personnel of the hospital clinic of the ISSSTE, in Ciudad Valles, San Luis Potosí.

From the above, the CNDH, on July 17th, 2006, issued Recommendation 27/2006, addressed to the General Director of the ISSSTE, in which it requests that he order the fulfillment of the administrative applications corresponding to the effect that the parents of the minor, Héctor Eduardo Delgado Hernández, be indemnified in accordance to the law; in the same manner that instructions be given so that all necessary aid and documentation tending to the adequate completion of the preliminary investigation AP/PGR/SLP/CV/U/093/ D/2005 be handed over to the General Attorney's Office; As well, that the necessary administrative measures be implemented so that, in an ethical and professional manner, medical attention may be administered to patients; that the necessary administrative measures be implemented to the effect that doctors who offer subrogated medical attention to the patients of the hospital clinic of the ISSSTE, Ciudad Valles, San Luis Potosí, have at their disposition the knowledge and experience necessary, so as to prevent cases like this which motivated the issue of the recommendatory document from presenting themselves again. Finally, it was recommended that instructs be issued so that the competent Internal Organ of Control be notified, with the objective that the corresponding administrative proceedings may be initiated and determined against those who are found responsible.

Recommendation 28/2006

July 17th, 2006.

Case: Appeal by Mr. Olegario Galarza Grande.

Addressee Authority: Government of the State of San Luis Potosí.

On September 1st, 2004, the National Commission opened the file 2004/329/SLP/1/, motivated by the appeal submitted by Mrs. Elsa Cecilia Bremer Hernández for the non acceptance of the Recommendation 6/2004, which the State Commission of Human Rights of San Luis Potosí addressed, on June 4th, 2004, to the State Public Prosecutor of that federative entity.

From the evidence that makes up the file, it follows that approximately at 11.30 hours on December 8th, 2003, Mr. Olegario Galarza Grande was detained by judicial agents adscribed to the Public Prosecutor's Office of the State of San Luis Potosí, while exiting his domicile, who then transported him to the hotel La Posada, without identifying themselves and without having shown him the corresponding judicial order.

In the same manner, it was observed that it was not until 17:00 hours on December 8th, 2003 that Mr. Olegario Galarza Grande obtained knowledge of his legal situation, when he was notified by personnel of the Seventh Criminal Court of the state of San Luis

Potosí of the emission of the order for domiciliary arrest that was granted on December 7th of that year, as stated in the document number 1630/04, on March 16th, 2004, underwritten by the Minister of Accords of the Seventh Criminal Court.

Stemming from the above, the State Commission accredited violations against the human rights to legality and judicial certainty in detriment to Mr. Olegario Galarza Grande, for which it was requested that administrative proceedings be initiated against the public servers involved and to call a session of the Council of Honor and Justice, with the objective of opening, integrating, and resolving the proceeding which is referred to in articles 102 and 103 of the Internal Rules of the Police of the State Public Prosecutor's Office against the agents of that corporation.

Based on the above, the National Commission, on July 17th, 2006, issued Recommendation 28/2006, addressed to the governor of the State of San Luis Potosí, requesting that instructions be sent to the effect that the Public Prosecutor of San Luis Potosí implement the necessary and sufficient actions to fulfill the first, second, third, and fifth points of Recommendation 6/2004, issued on June 4th, 2004 by the State Commission, in accordance with the precisions contained in the chapter of observations of this Recommendation, and that the National Commission be promptly informed of the completed actions.

NATIONAL ISSUES

Postgraduate Studies in the National Center of Human Rights of the CNDH.

The National Center of Human Rights (CENDAH) intensified this year its academic activities, in coordination with distinct houses and instances of study in the national and international realms, by imparting postgraduate studies, master's degrees and specializations in this subject. This is part of the responsibilities that the normativity establishes upon the National Commission of Human Rights, relating to the study and teaching of the human rights for promoting a culture of respect for people.

As of the past month of January through to last day of June the programs were initiated of the Doctorate in Human Rights, which the "Universidad Nacional de Educación a Distancia" (University of distance education) (UNED) in Spain imparts, and the Master's Degree in Human Rights, which is coordinated by the University of Castilla, La Mancha (UCLM) together with the CENDAH itself, the National Institute of Criminal Sciences (INACIPE) and the Office of the General Attorney of the Republic.

With respect to the Master's Degree in Human Rights, the National Commission of Human Rights signed last year the Collaboration Agreement with the University of Castilla, La Mancha, of Spain, in order to impart the course in Mexico City.

As part of the program of the activities of the course, from April 17th to 21st, the cycle of conferences was presented by national and foreign lecturers, who imparted lectures related with the current vision of the most significant problems which appear before the subject of human rights.

The past June 9th, the closing ceremony was held for the first generation of the Master's Degree in Human Rights, which was presided over by Doctor José Luis Soberanes Fernández, President of the CNDH; Doctor Francisco Javier Díaz Revorio, Vice Dean of Legal Studies of the UCLM, and Victor Manuel Martínez Bullé Goyri, General Director of the CENADEH, who presented the accrediting documents to the students as specialists in human rights, who as well are able to validate their studies to complete their doctorate in the Universidad de Castilla La Mancha.

Training Courses

The National Commission of Human Rights, with strict adherence to the spirit promoted by the institution for the dissemination of study, teaching, and outreach in human rights held in the month July, 2005, 54 training activities directed toward basic, intermediate, and superior level students, groups in situations of vulnerability, among them children, elderly, women, people with HIV- AIDS, as well as public servers of the armed forces, public security, law enforcement, prison personnel, personnel of public health institutions, and Public Organisms of Human Rights, among others.

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