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**CGCP/147/10**

**Nothing justifies aggression towards journalists**

The Mexican National Human Rights Commission is investigating the intimidation, harassment and threats suffered by journalist Laura Castellanos. The National Commission will request information from the authorities involved and will evaluate the evidence gathered in order trace these offences.

It also expresses its solidarity and concern for the journalists who were attacked by the Secretary of Public Safety's anti riot police during an evacuation of protesters this morning.

#### **CGCP/148/10**

##### **Cndh announces more committees against human trafficking**

The Mexican National Human Rights Commission announced the creation of a larger number of regional committees against human trafficking. The CNDH, which is presided by Raúl Plascencia Villanueva, will strive to fight this phenomenon more vehemently at a local level in response to the scale it has reached.

The CNDH has ten regional committees, most of them located along the country's northern and southern borders. It was divulged that the committee operating out of Jalisco, which has yet to be installed, will cover Nayarit and Colima whilst the Western Center (Centro Occidente), based out of Aguascalientes, covers the states of Guanajuato, Zacatecas and San Luis Potosi. The other committees have their offices in Tijuana, Baja California; Ciudad Juárez, Chihuahua; Nogales, Sonora; Reynosa, Tamaulipas; Coatzacoalcos, Veracruz; Villahermosa, Tabasco; Campeche, Campeche and Tapachula and San Cristóbal de las Casas, Chiapas.

#### **CGCP/149/10**

##### **Violence, Exploitation and Abuse, Child Aggression Problems**

Violence, exploitation and abuse are three serious problems constantly suffered by Mexican girls and boys. On the *International Day of Innocent Children Victims of Aggression*, which is observed on the 4th of June, the CNDH pointed out that, in Mexico, aggression against children is represented by the violation of their human rights. Children are exposed to violence in many places. At home, there are cases of maltreatment, abandonment, and physical and emotional violence which occur when there is an inadequate relationship with parents, tutors or guardians.

Mexican children are a priority of the Mexican National Human Rights Commission because even though their rights are acknowledged within national laws and several international texts, they are still subject to aggressions which affect their dignity. Through the *National Program for the Prevention and Protection of Girls, Boys and Teenagers Victimized by Mistreatment and Sexual Behavior*, the CNDH has educated more than 192 thousand 667 minors on their fundamental rights.

#### **CGCP/150/10**

##### **Pgr illegally retains Cndh official**

The Mexican National Human Rights Commission will present a penal complaint before the Attorney General's Office because of its illegal retention of a CNDH official.

When he presented himself at the headquarters of the Deputy Attorney's Investigations Office Specialized in Organized Crime (SIEDO), several agents detained and interrogated him. The Mexican National Human Rights Commission declares it will not tolerate any intimidating action and it vehemently condemns this evident abuse of power which resulted in an unlawful detention. The CNDH demands that this case, which represents an extreme abuse of power, be brought to justice, investigated and punished.

#### **CGCP/151/10**

##### **Cndh investigates alleged medical malpractice committed by the Imss**

The Mexican National Human Rights Commission initiated a complaint file on the case of a minor who was allegedly a victim of medical malpractice at several hospitals of the Mexican Social Security Institute. This led him to lose both of his kidneys and suffer bladder damage. After the parents of the six year old boy filed a complaint, the CNDH immediately arranged for him to be treated at the Centro Médico Siglo XXI hospital compound.

The CNDH began looking into this case, it has requested data from the different IMSS hospitals where the minor was treated, it is gathering testimonials and supporting documents and it will issue its resolution in accordance with the law when appropriate.

**CGCP/152/10****Cndh investigates the deaths of three minors in Reynosa, Tamaulipas**

Three youths aged 13, 16 and 17 lost their lives on June 2nd, 2010, after allegedly being chased by Army personnel at kilometer 12 of the riverside highway, in the vicinity of the Ejido Los Cavazos in Reynosa, Tamaulipas. A relative of the offended stated that the soldiers had cordoned off the area where the incident took place and did not allow him to enter in order to check his nephew's condition.

A complaint was lodged at the Mexican National Human Rights Commission in order to begin the investigation of the events which caused the deaths of three minors. The National Commission has been in contact with the relatives of the youths, with the aim of assisting them and following up on these events. The CNDH considers that Mexican laws and international treaties on human rights require authorities to perform public safety duties in accordance with the law and with respect to the fundamental rights to life and physical integrity of all.

**CGCP/153/10****Raúl Plascencia asks that we turn the country of our dreams into a reality**

Raúl Plascencia Villanueva, president of the Mexican National Human Rights Commission called upon society and government to join their efforts in order to place human rights on a common agenda and turn the country we have been longing for during the last 200 years into a reality.

He underlined that day after day, the National Commission is getting closer to society and to victims of crime, abuse of power and intolerance. Limiting the abuse of power will allow us to achieve the ideals and goals longed for by Mexican society, he said.

**CGCP/154/10****Offences against Journalists infringe upon Freedom of Speech: Cndh**

The Mexican National Human Rights Commission considers freedom of speech to be the key element in the preservation of public freedoms. Even though the Constitution and the international treaties signed by Mexico recognize freedom of speech, the truth is that the exercise of this right has been impaired by constant offences against journalists.

The CNDH finds it worrying that at a time when there is more political transparency, there are also a series of difficulties which hinder journalists' and communicators' ability to exercise their profession safely. There is an ever growing number of journalists who are offended through threats, intimidations, persecutions, attacks and forced disappearances, whilst some have even been murdered.

2009 was the year with the most attacks and offences against journalists, during which the CNDH lodged 79 complaint files, 12 of them related to murdered journalists. Thus far, there have been four murdered journalists in 2010.

**CGCP/155/10****Mexico needs us all: Raúl Plascencia**

Raúl Plascencia Villanueva, president of the Mexican National Human Rights Commission asked that we reflect on and make decisions about our country's future in a tolerant and inclusive manner. He underlined that we must consider all of the alternatives for turning the principles of freedom, independence, justice and equality, which we aspire and have a right to, into a reality.

"Our task requires the dedicated collaboration of each and every one of the actors, both collective and individual, both public and private, but above all, of society".

Plascencia Villanueva spoke during the commemoration of the 20th anniversary of the CNDH which was presided by the head of the executive branch, Felipe Calderón Hinojosa. The national Ombudsman noted that the National Commission is entering a new stage in the defense and protection of human rights in a way which is dynamic, open to dialogue and close to society.

**CGCP/156/10****Mexico longs for justice and the full enforcement of Human Rights**

Raúl Plascencia Villanueva, president of the Mexican National Human Rights Commission, declared that the constitutional reform which broadens this national Commission's faculties is essential for Mexican society to be able to satisfy their desire for justice and the full enforcement of human rights.

Plascencia Villanueva reiterated the population's demand for their rights to be recognized not only within the legal framework but also for them to be enforced and respected by civil servants. He said this reform is important for the institutional life of the CNDH given that it contemplates the recognition of human rights included within international treaties and mentions the importance of State education on the subject of fundamental rights.

#### **CGCP/157/10**

##### **Cndh supports family of murdered minor**

The Mexican National Human Rights Commission is supporting and assisting relatives of the minor Sergio Adrián Hernández Huereca, whose death was caused by bullet wounds inflicted on him by a U.S. border patrol agent in the vicinity of the Paso del Norte bridge in Ciudad Juárez, Chihuahua.

As part of its actions, the CNDH is in contact with the Chihuahua state office of the PGR, the District Attorney's Office of this state and the Mexican General Consulate in El Paso, Texas.

Additionally, the CNDH reiterates that the authorities in charge of enforcing laws and policies on border security, both in Mexico and the United States of America, must respect the fundamental rights to life and physical integrity of all people.

This event is similar to the assault on Mexican migrant Anastasio Hernández Rojas which took place on May 26th at the San Ysidro border crossing in Tijuana; he died as a result of the beating administered by police officers of the neighboring country.

#### **CGCP/158/10**

##### **Cndh investigates offence against a journalist in Oaxaca**

The Mexican National Human Rights Commission initiated a complaint out of its own accord in order to investigate the case of a journalist who was shot.

Personnel from the national Commission travelled to Oaxaca in order to interview the victim, provide assistance and legal advice and gather evidence and testimonials, as well as to consult the prior investigation launched by the District Attorney's Office of the state.

The events took place in the city of Oaxaca, whilst she was covering the clash between two groups who were fighting over control of the buildings of the Faculty of Law and Social Sciences within the Benito Juárez Autonomous University of Oaxaca. The National Commission underlines the importance of detaining and bringing the assailants to justice.

#### **CGCP/159/10**

##### **Cndh requests the protection of a journalist in Oaxaca**

The Mexican National Human Rights Commission, presided by Raúl Plascencia Villanueva, asked the government of the State of Oaxaca for precautionary measures in favor of journalist Ixtli Martínez, who was shot yesterday. Through these actions, the CNDH seeks to guarantee the personal safety of the offended and her husband Virgilio Sánchez who is also a journalist, shielding them from harassment or intimidating actions. It also requested that the authorities investigate thoroughly and impartially in order to resolve this case.

### **RECOMMENDATIONS**

Below is a summary of the Recommendations issued by CNDH during June 2010. The full version can be found on the institution's website: <http://www.cndh.org.mx/cartnews/cartnws.htm>

#### **Recommendation 30/2010**

**Mexico City, June 2nd, 2010**

**Subject: About the case of V1's Death and the Violation of his Right to Health Protection**

**Authority Responsible:**

**General Director of Mexican Petroleum (PEMEX)**

Q1's complaint was received at the National Commission on the 12th of May 2009 and in it he stated that at



approximately 19:34 hours on November 27th 2008, V1 entered the emergency room of the Mexican Petroleum Northern Central Hospital (HCN-PEMEX) in Mexico City suffering from abdominal pain. He continued by saying that even though medical personnel had the results of a series of studies which V1 was subjected to, and from which it was possible to determine the cause of her pain, as and from 22:22 hours of that same day, it wasn't until approximately 00:30 hours of the following day that she was diagnosed with a "ruptured tubal pregnancy" and a surgical intervention was requested due to the urgency and the risk of death. This delay of over two hours in the diagnosis by medical staff of the Emergency Room led V1 to go into an acute hipovolemic shock caused by loss of blood; finally provoking a cardio-respiratory seizure which ended her life.

From the logical juridical analysis performed on the entirety of the evidence which makes up file of complaint number CNDH/2/2009/2255/Q, the National Commission accredited violations to the human rights to life and health protection, to the detriment of V1. This was caused by the inadequate medical attention she received from civil servants assigned to the Mexican Petroleum Northern Central Hospital (HCN-PEMEX).

In light of these events, the Mexican National Human Rights Commission issues the following **Recommendations**:

**First.** Instruct whomever it may concern so that the necessary measures are taken to repair the damage and harm inflicted upon the relatives of V1 or anyone who proves to be lawfully entitled, as a result of the institutional responsibility incurred upon by civil servants of the Mexican Petroleum Northern Central Hospital, based on the considerations mentioned within this recommendation and sending proof of compliance to the National Commission.

**Second.** Provide a comprehensive human rights and public health services education and training program for the staff of the Mexican Petroleum Northern Central Hospital in order to make the public service offered both by medical and infirmiry personnel becomes one which conforms to the legal framework and the principles of federal public service, guaranteeing the execution of precise intervention protocols, therefore avoiding events such as the ones which led to the issuance of this recommendation. The National Commission must be notified once this has been done.

**Third.** Collaborate amply with the Mexican National Human Rights Commission in the processing of the complaint which this public organization presents before the Internal Control Body of Mexican Petroleum against the PEMEX civil servants who participated in the events mentioned in this case, sending any evidence requested to the human rights protecting body, as well as proof of compliance.

**Fourth.** Adequately collaborate with the investigations derived from the formal complaint which the Mexican National Human Rights Commission presents before the Attorney General's Office in light of these events, given that those involved are federal civil servants. It must also forward any proof of compliance requested on to the National Commission.

## **Recommendation 31/2010**

**Mexico City, June 7th, 2010**

**Subject: About Q1's Recourse of Impugnation**

**Authority Responsible:**

**H. Town Hall of Santiago Sochiapan, Veracruz**

On August 31st 2009, Q1 submitted an appeal the State Human Rights Commission of Veracruz due to a lack of compliance with recommendation 64/2009, issued by such local body on the 2nd of July 2009. The events which caused the recommendation which in turn resulted in the current recourse of impugnation took place on the 18th of August 2008, when AR1 and a group of workers from the CONSTRUFIMO S.A. de C.V. Company were working on broadening, lining and building the sidewalk for José María Morelos street in the municipality of Santiago Sochiapan, Veracruz. Whilst doing so, they damaged Q1's property given that, according to him, they invaded a meter and a half of his land whilst working.

From the logical juridical analysis performed on the entirety of the evidence which makes up file CNDH/1/2008/263/RI, the CNDH considers the recourse presented by Q1 to be valid, as the human rights to legality and legal certainty, contemplated in articles 14, second paragraph and 16, first paragraph of the Political Constitution of the United Mexican States, were violated to his detriment by civil servants of the municipality of Santiago Sochiapan, Veracruz.

### **Recommendations**

**first and Last.** Instruct the municipal president to comply with the terms of recommendation 64/2009 issued by the

State Human Rights Commission of Veracruz, notifying the National Commission about such compliance.

## **Recommendation 32/2010**

**Mexico City, June 8th, 2010**

**Subject: About the case of the Migrants in Chahuities, Oaxaca**

**Responsible Authority:  
Secretary of Public Safety**

An article whose headline read "Migrants robbed, raped and killed in Oaxaca" was published in the "El Universal" newspaper, which is circulated nationwide, on the 27th of January 2010. Notable amongst its contents is the fact that on January 23rd 2010, at around 18:00 hours, in the municipality of Chahuities, Oaxaca, armed persons who identified themselves as Federal Police Officers stopped the train which runs between Arriaga, Chiapas and Ciudad Ixtepec, Oaxaca, forcing approximately one hundred (sic) central American migrants to descend from it. They then subdued, robbed and abandoned them on the train tracks. On the 25th of January, "V1", a Honduran migrant who was one of the victims of these events went to ask for help at the "Hermanos en el Camino" shelter located in Ciudad Ixtepec, Oaxaca. This caused personnel from the National Commission to arrive at the "Hermanos en el Camino" shelter on the 27th of January 2010, during which time "V1" lodged her complaint in which she confirmed she witnessed the moment when six Federal Police Officers took the money of approximately fifty (sic) migrants who were travelling on the train towards Ciudad Ixtepec, Oaxaca on January 23rd 2010.

From the logical juridical analysis performed on the entirety of the evidence which makes up file CNDH/5/2010/552/Q, in this case it is possible to confirm violations to the human rights to property and possession, legality and legal certainty to the detriment of "V1", "V2", "V3", "V4", "V5" and other central American migrants, attributable to civil servants assigned to the Federal Public Safety Secretariat.

The Mexican National Human Rights Commission therefore issues the following **Recommendations**:

**First.** Collaborate amply with the Mexican National Human Rights Commission in its presentation of the observations contained within this recommendation before the Internal Control Body of the Federal Police Force. This is for them to be taken into account during administrative procedure of investigation QU/144/2010, informing the institution about the progress of this procedure in a timely manner until it is appropriately resolved.

**Second.** Generously collaborate with the Mexican National Human Rights Commission in the processing of the complaint which is presented before the Attorney General's Office against the Federal Police personnel who participated in the events condemned in this case.

**Third.** Issue instructions to ensure that a Comprehensive Training and Education Program on Human Rights is designed and implemented within the Secretariat of Public Safety with the aim of making the duties performed by Federal Police personnel adhere to legality and respect human rights, sending proof of compliance to the National Commission.

**Fourth.** Instruct whomever it may concern so that an official missive is published, informing Federal Police personnel about the procedures they must observe whilst performing migratory inspection, verification and patrol duties, thus guaranteeing the physical integrity and legal certainty of the migrants located within our borders and avoiding the repetition of acts such as the ones which provoked this recommendation, sending proof of compliance to the National Commission.

## **Recommendation 33/2010**

**Mexico City, June 10th, 2010**

**Subject: About the Recourse of Impugnation of V1 and others**

**Authority responsible:  
Honorable Congress of the State of Oaxaca and Constitutional Town Hall of San Juan Yatzona, Villa Alta District, Oaxaca**

On the 23rd and 24th of July 2007, the complaint of V4, V10 and V11 was received at the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca. In it, they denounced violations to their human rights attributable to civil servants of the Town Hall of San Juan Yatzona, Villa Alta, Oaxaca, due to which complaint file CEDH/815/(27)/OAX/2007 was initiated. On the other hand, the Commission for the Defense of

Human Rights of the Free and Sovereign State of Oaxaca received the complaint of V2, V6 and others on February 27th 2008, who also accused civil servants of the Town Hall of San Juan Yatzone, Villa Alta, Oaxaca, and resulted in the initiation of complaint file CDDH/225/(27)/OAX/2008.

The plaintiffs enunciated that they were expelled from their homes on July 22nd 2007 and on February 26th 2008 by a group of people including the municipal president and representative of San Juan Yatzone Villa Alta, Oaxaca, who expressed they were no longer welcome at such location because they had converted to another religion. They said they were taken to the community of Santa María Temazcalapa, Villa Alta District, Oaxaca. The human rights protecting body of Oaxaca issued recommendation 01/2009 on the 27th of February 2009, addressed at the members of the H. City Hall of San Juan Yatzone, Villa Alta, Oaxaca, the Secretary General of Oaxaca and the District Attorney of the State.

From the logical-juridical analysis performed on the aforementioned evidence which makes up the recourse of impugnation, it is possible to ratify the State Commission's resolution given that the human rights to legality and legal certainty, to no discrimination due to religious beliefs as well as the right to freedom of religious convictions were violated to the detriment of de V1, V2, V3, V4, V5, V6, V7, V8, V9, V10 and V11.

Therefore, recommendation 01/2009, issued by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca was confirmed based on the contents of articles 65 and 66, clause a) of the Mexican National Human Rights Commission Law, as well as article 168 or its internal regulations, leading to the respectful issuance of the following:

### **Recommendations**

#### **For you, the members of the Constitutional Town Hall of San Juan Yatzone, Villa Alta District, Oaxaca:**

**First.** Proceed to instruct whomever it may concern in order to comply with recommendation 01/2009, issued on February 27th 2008 by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca, sending proof of its entire compliance to the National Commission.

**Second.** Instruct the person responsible in order to collaborate with the administrative investigation which is initiated as a result of the recommendation presented by the National Commission to the Honorable Congress of the State of Oaxaca and the considerations contained within the observations chapter of the current document, submitting any evidence requested.

#### **To you, honorable members of the H. Congress of the State of Oaxaca:**

**First.** Issue appropriate instructions to whomever it may concern so that a lawful investigation is initiated with the purpose of establishing the responsibilities in which civil servants from the municipality of San Juan Yatzone, Villa Alta, Oaxaca, may have incurred during the events which led to the violation of the victims' human rights, sending proof of compliance to the National Commission.

**Second.** Issue appropriate instructions to whomever it may concern so that a lawful investigation is initiated against the former civil servants who were then President and Representative of the Municipality of San Juan Yatzone, Villa Alta, Oaxaca, due to their likely involvement in the events which led to the expulsion of the victims from their community.

**Third.** Exhort the Constitutional Town Hall of San Juan Yatzone, Villa Alta District, Oaxaca, to submit the reports requested of it by the Mexican National Human Rights Commission and the State Human Rights Commission of this federative entity in order to comply with what is established within the laws of both human rights protecting organizations.

### **Recommendation 34/2010**

**Mexico City, June 10th, 2010**

**Subject: About the case of V1's Death**

**Authority responsible:  
Secretary of the Navy**

The National Commission initiated file CNDH/2/2009/5299/Q out of its own accord on the 9th of November 2009, given that several articles were published that day on the websites of the online newspapers "Río Doce", "Noroeste.com" and "La Jornada en Internet". In them, it was said that Mexican Navy personnel killed V1 in the vicinity of Mocorito, Sinaloa on November 6th 2009. In light of these events and with the aim of investigating the

denounced human rights violations, assistant visitors worked on gathering information and relevant documents. Moreover, reports were requested from the authorities involved; their logical juridical appraisal is analyzed in the observations chapter of this recommendation.

From the logical juridical analysis performed on the entirety of the evidence which makes up file CNDH/2/2009/5299/Q, the National Commission observed that civil servants from the Navy Infantry Paratrooper Battalion of the Mexican Navy's Fourth Naval Zone violated the human rights to life, personal integrity and safety and to legality and legal certainty, resulting in loss of life.

In response to these events, the Mexican National Human Rights Commission considers it appropriate to issue the following **Recommendations**:

**First.** Instruct whomever it may concern so that the necessary measures are taken to repair the damage and harm inflicted upon the relatives of V1 or anyone who proves to be lawfully entitled, as a result of the institutional responsibility incurred upon by civil servants of the Secretariat of the Navy, based on the considerations mentioned within this recommendation and sending proof of compliance to the National Commission.

**Second.** Collaborate generously with the National Commission in the processing of the complaint it presents before the General Inspection and Comptrollership body of the Navy against the civil servants of the Secretariat of the Navy who participated in the events condemned in this case, keeping the Commission posted from the beginning of the investigation all the way through to its conclusion.

**Third.** Amply collaborate with the presentation and follow up of the declaration of events which the national commission presents before the Attorney General's Office and the Office of the General Attorney of Military Justice, respectively, in order for them to initiate the legally corresponding prior investigation in accordance with their jurisdiction, as the behavior of federal civil servants provoked this recommendation. Any proof of compliance requested must be sent to the national commission.

**Fourth.** Train Mexican Navy personnel involved in operatives aimed at ensuring a State of Law so that all duties and actions are performed adhering to legality and to the respect of human rights; so that respect to life and personal integrity and safety are guaranteed; and so they are trained on the use of firearms to comply fully with the contents of General Recommendation number 12/2006. Such training must also be offered to the upper ranks who are assistant or joint commissioned officers within the Secretariat under your command and, having done this, the Mexican National Human Rights Commission must be promptly notified.

### **Recommendation 35/2010**

**Mexico City, June 16th, 2010**

**Subject: About the case of inadequate medical attention at the Issste's general hospital no. 26 to the detriment of V1**

**Authority responsible:**

**Head of General Management at the Institute of Social Security and Services for State Employees**

This complaint refers to two different events to the detriment of V1 which were attended at "Doctor Carlos Calero Elorduy" General Hospital No. 26 of the Institute of Social Security and Services for State Employees (Issste) in Cuernavaca, Morelos.

The first took place on October 7th 2007 when V1, a 41 year old woman, was interned at the aforementioned General Hospital in order to undergo a simple hysterectomy, which was performed on the 8th of October 2007 by AR1; however, given that this doctor mistakenly stitched her right ureter, she was operated on again on the 19th of October of that same year, this time by another doctor who, through the appropriate procedure, inserted a double "J" catheter and removed the two stitches which were erroneously made by AR1. She was released on October 22nd 2007 and her health was stable. The second event took place on February 25th 2009, when V1 entered the emergency room of this General Hospital because of abdominal pain. Once there she was interned and then diagnosed with an ovarian cyst on the 27th of February of that same year. This cyst was surgically removed on March 5th by AR2; however, the cyst (a 10 x 8 cm tumor) burst during the intervention and released fluids within her pelvic cavity which meant she had to be cleaned and a sample of this fluid was sent to the Pathology lab to be analyzed. Once the surgery was over, a "penrose" (a drainage catheter) was left in place to drain any remaining fluids from her pelvic cavity, causing her to be released on March 9th, 2009.

V1 pointed out that, given the inadequate attention provided by AR2, who perforated her large intestine during the surgery he performed, Issste doctors told her that she would have to use a "*Hartmann*" bag for the rest of her life as



a result of the colostomy she was subjected to, thus affecting her life plan considerably.

From the logical juridical analysis performed on the entirety of the evidence which makes up the file, the Mexican National Human Rights Commission has sufficient elements to confirm the transgressions of the right to the protection of health and to a life plan to the detriment of V1, attributable to civil servants of the Issste.

Therefore, the Mexican National Human Rights Commission issues the following:

### **Recommendations**

**First.** Instruct whomever is responsible in order to take the necessary steps to repair and pay compensation for the damages caused to V1, resulting from the institutional responsibility incurred upon by the doctors of the Institute of Social Security and Services for State Employees who treated her, following the considerations set forth in the body of the current recommendation, through the provision of medical attention and rehabilitation for as long as necessary, sending proof of compliance to the National Commission.

**Second.** Issue instructions to whomever it may concern in order to ensure that within Institute hospitals, and particularly at General Hospital No. 26 "Dr. Carlos Calero Elorduy" in Cuernavaca, Morelos, comprehensive training and educational programs are developed and given on the content, management, and observance of Official Mexican Norms concerning health, so that the public service which is provided by doctors as well as nursing staff is adjusted to suit the legal framework and administrative best practices that should be observed in performing their functions, guaranteeing that intervention protocols are applied precisely and thereby avoiding actions such as those that led to the present declaration. Proof of compliance should be sent to the Commission.

**Third.** Cooperate fully with the Mexican National Human Rights Commission in the presentation and processing of the complaint presented before the Institute's Internal Control Body against the doctors involved in the treatment of V1, sending proof of compliance to the Commission as required.

**Fourth.** Duly cooperate in investigations arising from the complaint, which the Mexican National Human Rights Commission will present before the Attorney General's Office in light of these events, as the case involves federal public servants. Submit to the Commission proof of compliance as required.

### **Recommendation 36/2010**

**Mexico City, June 16th, 2010**

**Subject: About the case of the events which took place to the detriment of minors Martín Almanza Salazar,**

**Brayan Almanza Salazar and others in the state of Tamaulipas**

**Authority responsible:**

**Secretary of National Defense and Attorney General of the Republic**

The Mexican National Human Rights Commission learned on April 5, 2010, through news reports published in various national daily papers as well as by local Tamaulipas news media, that in the afternoon of April 3, 2010, in Ciudad Mier, Tamaulipas, 13 people traveling in an van were assaulted with firearms and grenades as the vehicle reached kilometer 117 of the Nuevo Laredo-Reynosa highway, along the Ciudad Mier-Nueva Ciudad Guerrero stretch. This resulted in the death of two minors, Martín and Brayan Almanza Salazar, aged 9 and 5, and the injury of V1, V2, V3, V6, and V9.

In response to this, the Commission initiated complaint CNDH/2/2010/1836/Q out of its own accord and, in order to investigate the human rights violations, assistant visitors and appraisers from the Commission worked on compiling information and relevant documents. Moreover, reports were solicited from the Secretariat of National Defense and the Attorney General's Office, as well as the District Attorney's Office of Tamaulipas, whose logical juridical assessment is discussed in the observations chapter of this recommendation.

The human rights protecting body considers it necessary to make clear that, while investigating this case, it encountered obstacles and lack of cooperation from the Secretariat of National Defense, which partially refused to provide information requested to clarify the historical truth of the facts.

From the logical juridical analysis of the evidence included in complaint file CNDH/2/2010/1836/Q, the Commission observed violations of the human rights to life, physical integrity and personal safety; to dignified treatment; and to access to justice, legality and legal certainty. These are in addition to the violation of the human right of minors to the protection of their integrity. Violations cited are due to actions consisting of deprivation of life;



attacks on personal integrity and safety; arbitrary use of law enforcement powers; cruel, inhuman, and degrading treatment; failure to provide protection; alteration of a crime scene; noncompliance with search warrant issuance formalities; and abuse of public office, all to the detriment of Martín and Brayan Almanza Salazar, V1, V2, V3, V4, V5, V6, V7, V8, V9, V10, and V11 and attributable to civil servants of the Secretariat of National Defense.

The Mexican National Human Rights Commission therefore makes the following **Recommendations to the Secretary of National Defense**:

**First.** Issue instructions to whomever it may concern in order to take the necessary steps to repair the damages inflicted and compensate the relatives of Brayan and Martín Almanza Salazar, due to the institutional liability incurred upon by the public servants of the Secretariat of National Defense, following the considerations presented in the current recommendation and sending proof of compliance to the Commission.

**Second.** Issue instructions to whomever it may concern to compensate for physical and psychological injury to V1, V2, V3, V4, V5, V6, V7, V8, V9, V10 and V11, with the aim of reducing the suffering of each individual through medical and psychological treatment as necessary in order to reestablish the physical and mental health of each victim and put their lives back on track, sending proof of compliance to the Commission.

**Third.** Issue instructions in order for the public servants of the Secretariat of National Defense to refrain from altering crime scenes and/or misrepresenting the legal and historical truth of said circumstances; furthermore, personnel should be trained on the preservation of criminal evidence. Once this is carried out, proof of compliance should be remitted to the Commission.

**Fourth.** Issue instructions to whomever it may concern in order to implement an effective mechanism to effectively carry out periodic toxicological and psychological examinations of Mexican Army personnel. Furthermore, such examinations should be conducted on the personnel who participated in the events of this particular case, including these results in the preliminary investigations. Proof of compliance should be sent to the Commission.

**Fifth.** Fully cooperate with the Mexican National Human Rights Commission so that within the Secretariat of National Defense a Comprehensive Training and Education Program on Human Rights is designed and implemented, directed at the upper and middle ranks and officers of the armed forces, so that the carrying out of functions in the course of their regular work conforms with legality and respects human rights, sending evidence of compliance to the Commission.

**Sixth.** Cooperate generously with the Mexican National Human Rights Commission in the processing of the complaint which the commission brings before the General Inspection and Comptrollership Unit of the Secretariat of Defense against the military personnel who were involved in the actions of this case. Proof of compliance should be remitted to the Commission.

**Seventh.** Cooperate fully in the presentation and follow-up of the complaint that this public body brings before the Attorney General's Office and the Office of the Attorney General of Military Justice, respectively, so that they initiate the prior investigation required by law in accordance with their different jurisdictions given that this case involves the behavior of federal civil servants. Proof of compliance should be remitted to this Commission as requested.

**To you, Mr. attorney general of the Republic:**

**First.** Consider the observations of this recommendation for due integration into file AP/PGR/DGCAP/DF/050/2010 and undertake appropriate action to clarify the facts of this recommendation, in order for the families of the aggrieved to have full access to justice and so those responsible are punished. Proof of compliance should be sent to the Commission.

**Second.** Recognize V1 and V2, and the survivors of these events in general, as crime victims so that they may access all rights available to them as outlined by the Political Constitution of the United Mexican States, international texts and national legislation, sending evidence of compliance to the Commission.

**Third.** Amply collaborate with the Mexican National Human Rights Commission in the investigative administrative procedure initiated before the Internal Control Body of the Attorney General's Office against the personnel involved in the events of this case, and remit proof of compliance to the Commission.

**Recommendation 37/2010**

**Mexico City, June 17th, 2010**

**Subject: About the case of inadequate medical attention to the detriment of V1 (Yucatan)**

**Authority responsible:  
Secretary of Public Health**

On the 30th of January 2009 V1, a 26-year-old woman, was admitted at the Highly Specialized Regional Hospital of the Yucatan Peninsula, a dependency of the Secretariat of Public Health, after being diagnosed with endometrial cancer. AR1 prescribed a hysterectomy as treatment and, given that the patient was overweight, he also ordered an evaluation by a bariatric surgery specialist in order to carry out a gastrojejunal anastomosis (mini-gastric bypass). AR2 confirmed the feasibility of performing the mini bypass at the same time as the hysterectomy.

Due to all of the complications which emerged after the surgical interventions performed on the patient at the aforementioned Regional Hospital, V1 died on July 17th, 2009. In light of these events, Q1 filed a complaint before the State Human Rights Commission of Yucatan, which was passed on to this National Commission due to jurisdictional reasons.

From the logical juridical analysis carried out on the entirety of the evidence which makes up this case, the Mexican National Human Rights Commission observed that sufficient evidence exists to confirm that V1's rights to health protection and life were violated as a result of the inadequate medical attention provided, attributable to personnel of the Highly Specialized Regional Hospital of the Yucatan Peninsula, a dependency of the Secretariat of Public Health.

Therefore, the National Commission allows itself to respectfully present you, Mr. Secretary of Public Health, with the following **Recommendations**:

**First.** Issue instructions to whomever it may concern in order to take the necessary measures to repair the damages and compensate the relatives of V1, resulting from the institutional responsibility incurred upon by the doctors of the Highly Specialized Regional Hospital of the Yucatan Peninsula who treated her, sending evidence of compliance to the National Commission.

**Second.** Issue instructions to those concerned so that within Secretariat of Health hospitals, and especially within the Highly Specialized Regional Hospital of the Yucatan Peninsula, comprehensive training and education programs on the subject of human rights are developed and implemented, with special emphasis on the content, management, and observance of the Official Mexican Norms regarding matters of health, so that the public service provided by both the medical and nursing staff is adjusted to suit the legal framework and administrative best practices that should be observed whilst performing their duties, guaranteeing that intervention protocols be applied precisely, therefore avoiding actions which violate human rights such as those which led to this recommendation. Evidence of compliance should be sent to the National Commission.

**Third.** Cooperate fully with the Mexican National Human Rights Commission in the initiation and processing of the complaint brought before the Secretariat of Health's Internal Control Body against the doctors who participated in the treatment of V1, sending evidence of compliance as required to the National Commission.

**Fourth.** Cooperate duly in the investigations stemming from the complaint that concerns the presented events which the Mexican National Human Rights Commission brings before the Attorney General's Office, as the case involves federal public servants, and remit to the National Commission proof of compliance as required.

**Recommendation 38/2010**

**Mexico City, June 21st, 2010**

**Subject: About the case of V1's Death and the Violation of his Right to Health Protection**

**Authority responsible:  
Secretary of National Defense**

On May 8th 2009, the Commission received the complaint of Q1 and Q2 via telephone, ratifying it on the same day. In it, events which allegedly violated human rights to the detriment of V1 and committed by public servants of the Secretariat of National Defense (Sedena) were described. They stated that V1, a relative of theirs who is an army sapper lieutenant of the Secretariat of National Defense, was seen for a fever and admitted at the Mexican Army Health Platoon in Ciudad Juarez, Chihuahua on April 27th 2009 but he failed to receive adequate medical attention during five days at the platoon. Following this, on May 1, 2009, a colonel of the Mexican Army asked Q1 to authorize V1's admittance to the IMSS General Hospital in Ciudad Juarez as V1 was suffering from the AH1N1 virus and his health was in a delicate state.

On May 5th 2009, V1 was transferred to the privately owned Specialized Medical Center of Ciudad Juarez (Centro Médico de Especialidades de Ciudad Juárez S.A. de C.V.). On May 10th, 2009, Q1 reported that V1 had died.

From the logical legal performed on the entirety of the evidence which makes up the present file, the Mexican National Human Rights Commission found sufficient evidence to prove that the human right to health protection was violated to the detriment of V1, through actions attributable to the chief medical surgeon assigned to the 20th Motorized Calvary Regiment of Ciudad Juarez, Chihuahua.

As a result, the Mexican National Human Rights Commission considers it prudent to respectfully present you, Mr. Secretary of National Defense, with the following **Recommendations**

**First.** Instruct whomever it may concern so that the necessary measures are taken to repair the damage and harm inflicted upon the relatives of V1 or anyone who proves to be lawfully entitled, as a result of the institutional responsibility incurred upon by civil servants of the Secretariat of National Defense (Sedena), based on the considerations mentioned within this recommendation and sending proof of compliance to the National Commission.

**Second.** Issue instructions to those concerned so that within Sedena's hospitals, comprehensive training and education programs on the subject of human rights are developed and implemented, with special emphasis on the content, management, and observance of the Official Mexican Norms regarding matters of health, so that the public service provided by both the medical and nursing staff is adjusted to suit the legal framework and administrative best practices that should be observed whilst performing their duties, guaranteeing that intervention protocols be applied precisely, therefore avoiding actions which violate human rights such as those which led to this recommendation. Evidence of compliance should be sent to the National Commission.

**Third.** Cooperate fully with the Mexican National Human Rights Commission in the processing of the complaint that this public body brings before the General Inspection and Comptrollership Unit of the Mexican Army and Air Force against the public servants of the Secretariat of National Defense involved in the events discussed in this case. Sending the Commission evidence of compliance as required.

**Fourth.** Cooperate fully in the presentation and follow-up of the complaint that this public body brings before the federal Attorney General's Office and the Attorney General's Office of the Military Judiciary, so that in their respective areas these offices initiate preliminary investigations as required by law regarding the violations noted in this recommendation. Proof of compliance should be remitted to this Commission as requested.

## **Recommendation 39/2010**

**Mexico City, June 25th, 2010**

**Subject: Regarding the appeal challenge of V1.**

### **Authority responsible:**

**H. Congress of the State of Veracruz and the H. Town Hall of San Juan Evangelista, Veracruz**

On February 14th, 2008 the State Human Rights Commission of Veracruz received the complaint of "V1" regarding conduct by the municipal president of San Juan Evangelista in that state. File Q-1921/2008 was initiated as a result and in it, "V1" asserts power of attorney for legal entity "V2," "V1" also asserts that on an unspecified date, the municipal president installed two municipal police officers on the property of the represented moral entity, thereby impeding access to it, and installed permanent security at the premises' entry points.

With regards to this property, the office of the municipal land registry refused to issue a certificate of value until the municipal president requested it. Upon investigation, the State Human Rights Commission of Veracruz determined violation of the human rights to legality and legal certainty and, on May 21st, 2009 it issued recommendation 26/2009 addressed at the Town Hall of San Juan Evangelista of that federative entity.

From the logical juridical analysis of the evidence in this appeal as described above, the State Commission's findings are considered well-founded in that the human rights to legality and legal certainty were violated to the detriment of "V1."

For this reason the National Commission issues the following: **Recommendations**

**To you, distinguished Members of the City Hall of San Juan Evangelista, Veracruz:**

**First and last.** Instruct the persons concerned in order for recommendation 26/2009 of the State Human Rights Commission of Veracruz and directed at the City Hall of San Juan Evangelista, Veracruz, to be accepted and met.

**To the members of the H. Congress of the State of Veracruz:**

**First.** Establish a point of agreement that compels the San Juan Evangelista Town Hall to comply with recommendation 26/2009, issued by the State Human Rights Commission of Veracruz and that, if it does not comply, ensures that appropriate action will be taken according to article 115, section I of the Political Constitution of the United Mexican States.

**Second.** The Town Hall of San Juan Evangelista, Veracruz is urged to render to the Mexican National Human Rights Commission and the State Human Rights Commission of Veracruz the documentation requested in order to comply with what is established by the laws of both human rights institutions.

## **Recommendation 40/2010**

**Mexico City, June 25th, 2010**

**Subject: Regarding the appeal challenge of V1.**

**Authority responsible:**

**H. Congress of the State of Veracruz and of the H. City Hall of Agua Dulce, Veracruz**

On October 6th, 2008, "V1" presented a complaint before the State Human Rights Commission of Veracruz against the municipal president of Agua Dulce, Veracruz, for which file number 9844/2008 was created. The essence of this file says that such authority's refusal to pay what was ordered by the Conciliation and Arbitration Tribunal of the Veracruz Judicial branch is harming "V1."

The case indicated that with this action, the aforementioned authority disregarded a judicial mandate, an action which impeded the prompt and expedient implementation of justice. Once the State Human Rights Commission of Veracruz carried out the appropriate investigations and it determined that the human rights to legality and legal certainty were violated in this case, it issued recommendation 43/2009 aimed at the Agua Dulce Town Hall. It was delivered during a council meeting on May 27th, 2009.

From logical-legal analysis of the aforementioned evidence contained within the appeal, the determination of the State Commission is considered well-founded in that the human rights to legality and legal certainty were violated to the detriment of "V1."

For all of the above reasons, the National Commission respectfully issues the following **Recommendations**

**To you, esteemed members of the Town Hall of Agua Dulce, Veracruz**

**First.** Issue instructions to whomever it may concern so that recommendation 43/2009 issued by the State Human Rights Commission of Veracruz and directed at the Agua Dulce City Hall, is accepted and complied with. Submit evidence accrediting constancy of its observance.

**Second.** Consider adding an item to the Expense Budget of the Municipality of Agua Dulce, Veracruz in order to facilitate the compliance with the resolutions issued by competent authorities.

**To you, esteemed sirs, members of the H. Congress of the State of Veracruz:**

**First.** Come to an agreement with the Town Hall of Agua Dulce, Veracruz, which compels it to comply with recommendation 43/2009 issued by the State Human Rights Commission of Veracruz, and which in case of noncompliance ensures that appropriate actions will be taken in accordance with article 115, section I of the Political Constitution of the United Mexican States.

**Second.** Urge the City Hall of Agua Dulce, Veracruz to submit the documentation requested by the Mexican National Human Rights Commission and by the State Human Rights Commission and of that federative entity in order to comply with what is established by the laws of both human rights institutions.

## **DIRECTORY**

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