



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 042/2010**

The following is a synopsis of the recommendation emitted by the CNDH . The complete version may be consulted on this institution's web page.

**Mexico City, July 15th, 2010**

**Subject: About the case of "V1"'s torture**

**Authority responsible:**

**Secretariat of National Defense**

Due to jurisdictional reasons, on November 3rd 2008, the National Commission received the complaint presented by Q1 before the State Human Rights Commission of Michoacán in his position as public defender due to the maltreatments and possible torture which V1 may have been subjected to by Mexican Army personnel. They detained him on the 18th of October 2008 whilst he was fishing in the vicinity of the Balsas river, using their feet to hit him in the stomach and testicles, subsequently loading him onto a military vehicle in which they undressed him, continuing the beating, threatening to rape him and accusing him of participating in a kidnapping.

He was then taken to the military facilities at Huetamo where they drenched with cold water, beat him and placed a bag containing chilies with vinegar around his head. He was then presented before the investigative Agency of the state Delegation of the Attorney General's Office in Morelia, Michoacán as he allegedly committed crimes which violated the Federal Firearms and Explosives Law, was involved in a kidnapping as well as any subsequent findings, resulting in the initiation of Prior Investigation 1 (AP1) against him.

Due to the human rights violations reported, the National Commission initiated complaint file CNDH/2/2008/5431/Q and, with the aim of assembling it properly, personnel from this office carried out plenty of field work in order to collect information, testimonials and documents; it also requested that the Secretariat of National Defense (SEDENA) and the Attorney General's Office (PGR) submit reports.

From the logical-juridical analysis performed on the entirety of the evidence which makes up file of complaint CNDH/2/2008/5431/Q, the national commission came to the conclusion that violations to the human rights to freedom, integrity and personal safety as well as to legality and legal certainty to the detriment of V1 have been confirmed. This was due to acts of illegal detention and torture attributable to army personnel from the 1st Special Forces Battalion operating out of the Huetamo Operations Base in Michoacán.

In light of these events the Mexican National Human Rights Commission considers it appropriate to respectfully present you, Mr. Secretary of National Defense, with the following **Recommendations**:

First. Repair and compensate V1 for the damage caused by means of the medical, psychological and rehabilitation assistance required to return his physical and psychological condition to the way they were before his human rights were violated, informing the National Commission about the result.

Second. Collaborate generously with the National Commission in the processing of the complaint it presents before the General Inspection and Comptrollership body of the Mexican Army and Air Force against the civil servants of SEDENA who participated in the events condemned in this case, sending any evidence requested as well as proof of compliance to the National Commission.

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 due to the violations stated within this recommendation. Any proof of compliance requested must be sent to the national commission.

Fourth. Issue an official missive aimed at military personnel so that people detained in flagrante are brought before the corresponding prosecuting authority immediately and without delay in accordance with article 16 of the Political Constitution of the United Mexican States. This is to keep them from being taken to military facilities in order to perform physical integrity evaluations given that the PGR has its own medical experts to perform such revisions. Once this is done, a copy of such missive must be sent to the national commission.

Fifth. Fully collaborate with the Mexican National Human Rights Commission so that a Comprehensive Educational Program on the subject of Human Rights is designed and executed within the Secretariat of National Defense. It should be aimed at the middle and upper ranks as well as officers of the Mexican Armed Forces in order to teach them to carry out their duties lawfully and respecting human rights. Proof of compliance must be sent to the national commission.

Sixth. In order to guarantee unbiased and objective physical integrity certifications on behalf of army medical personnel, courses must be given in order to insure their compliance with their legal and ethical obligations to abide by the medical examination procedures dictated by the law. They must not fail to describe detected injuries or comply with their obligation to notify an agent of the Public Prosecutor's Office about cases in which mistreatment or torture are thought to have been inflicted. The Mexican National Human Rights Commission must be notified once this has been done.