



Comisión Nacional de los Derechos Humanos

México

Recommendation 68/2011

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, November 30th, 2011

SUBJECT: ABOUT THE RECOURSE OF IMPUGNATION FILED BY V1

AUTHORITY RESPONSIBLE: MADAME PRESIDENT OF THE BOARD OF DIRECTORS OF THE HONORABLE CONGRESS OF THE STATE OF BAJA CALIFORNIA'S XX LEGISLATURE, MEMBERS OF THE HEROIC CITY HALL OF TIJUANA, BAJA CALIFORNIA STATE

On August 22nd 2009, officers assigned to the municipal police of Tijuana, Baja California, detained V1, V2, V3, V4 and V5, even though they were not caught doing anything in flagrante, they were not presented with any legal document whatsoever ordering their arrest, nor were they given the reasons behind such action. Furthermore, in the case of V2, V3 and V4, the responsible authorities entered their homes even though they did not have the necessary warrant. The offended were taken to the facilities of the public municipal jail of the city of Tijuana, Baja California, known as the "Eighth", where they were held in solitary confinement for approximately ten hours. During this time, they were subjected to torture and maltreatment with the intent of getting them to claim responsibility for the attacks against municipal police officers which occurred on the 21st and 22nd of August 2009. They also forced them to fire guns at a barrel containing sand so that their hands would show that they had fired some kind of weapon.

The victims were sent to the Federal Public Prosecutor's Office, subject to confinement conditions for 40 days. Subsequently, they were handed over to the 9th District Court of the city of Tijuana due to the probable commitment of the crime of possessing firearms exclusive to the Mexican Army, Navy and Air Force, specified within judicial inquest 1 (CP1). Within the constitutional deadline, set on October 8th 2009, the judicial authority declared their freedom due to lack of evidence. Having performed the necessary inquiries, the Government Attorney's Office for Human Rights and Citizenry Protection of Baja California issued recommendation 06/2010 where it proved violations to the human rights of V1, V2, V3, V4 and V5, attributable to police officers assigned to the Municipal Secretariat of Public Safety of Tijuana, Baja California.

From the logical-legal analysis performed on the entirety of the evidence contained within the recourse of impugnation at hand, violations of the human rights of V1, V2, V3, V4 and V5 to legality and legal certainty, integrity, freedom and to personal safety were observed. They were the result of actions and omissions such as arbitrary detention, illegal searches, unlawful retention, solitary confinement and

torture, attributable to the civil servants of the Municipal Secretariat of Public Safety of Tijuana, Baja California.

Due to these events, the Mexican National Human Rights Commission has decided to issue the following **Recommendations**:

To you, Madame Deputy and President of the Board of Directors of the Honorable Congress of the state of Baja California's XX Legislature:

First. Issue the necessary instructions for whomever it may concern to initiate an investigation to determine the responsibilities in which civil servants from the municipality of Tijuana may have incurred as a result of their actions and their refusal to comply with recommendation 04/2010, issued by the Government Attorney's Office for Human Rights and Citizenry Protection of Baja California, as well as due to their lack of response to the request for information. Proof of compliance must be sent to the National Commission.

Second. Urge the Town Hall of Tijuana, Baja California to submit the reports requested by the Mexican National Human Rights Commission in order to comply with what is established by the law of this institution which protects human rights.

To you, the members of the Town Hall of Tijuana, Baja California:

First. Proceed to instruct whomever it may concern in order for recommendation 06/2010, issued on August 19th 2010 by the Government Attorney's Office for Human Rights and Citizenry Protection of Baja California, to be complied with. Proof of compliance must be sent to the National Commission.

Second. Fully cooperate with the filing and follow-up of the complaint which the Mexican National Human Rights Commission submits to the Baja California District Attorney's Office given that it was the behavior of civil servants which led to the current recommendation. Proof of compliance must be sent to the Commission as requested.