



Comisión Nacional de los Derechos Humanos

México

Recommendation 75/2011

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 CASE OF V1, V2, V3, AND V4'S TORTURE AND THE CRUEL TREATMENT OF MINORS V5 AND V6

AUTHORITY RESPONSIBLE: SECRETARY OF NATIONAL DEFENSE

At approximately 00:30 hours on March 26th 2008, V1, V2 and V4 were detained by Mexican Army personnel at a bar in Zinapécuaro, Michoacán and were told to get down on the ground, they were searched, interrogated, beaten and taken as detainees. At approximately 00:00 hours of the same day, the soldiers entered the home in which V3, T2, T3 and T4 were and took V3, T3 and T4 as detainees. Additionally, they visited the homes of V1 and Q3 at 03:00 hours and interrogated their relatives. V1, V2, V3 and V4 were taken to the facilities of the 21st Military Zone in Morelia, being beaten and accused of kidnapping during their journey there and T3 and T4 were released. In the end, V1, V2, V3 and V4 were placed at the disposal of the agent of the Federal Public Prosecutor's Office in Morelia, in Michoacán State, at 11:40 hours on March 26th 2008, who in turn initiated Preliminary Investigation 1.

On March 27th 2008, the social representative of the Federation initiated a criminal proceeding against V1, V2, V3 and V4. A detailed description of Preliminary Investigation 1 was sent to the military on the same day, due to the complaint submitted by the offended objecting to their detention. As a result, the agent of the Military Public Prosecutor's Office assigned to the 21st Military Zone in Morelia, Michoacán State, initiated Preliminary Investigation 2. On the same day, the prosecuting agent in Morelia, Michoacán State, handed Preliminary investigation 1 over to a District judge of such state. On the following day, March 28th 2008, Judicial Inquest 1 was initiated against V1, V2, V3 and V4.

On April 2nd 2008, the judge responsible for carrying out Judicial Inquest 1 dictated a constitutional deadline in which he declared the freedom of V1, V2, V3 and V4 due to lack of evidence. On March 4th 2009, the agent of the Military Public Prosecutor's Office in charge of Preliminary Investigation 2 forwarded this inquiry to his counterpart assigned to the XII Military Region in Irapuato, Guanajuato State, in order for the archives to be consulted. He, in turn, forwarded it to the Office of the General Attorney of Military Justice for the same purpose.

From the logical-legal analysis performed on the entirety of the evidence contained within complaint file number CNDH/2/2008/1430/Q which was initiated due to these

events, the Mexican National Human Rights Commission confirmed violations of the human rights to freedom, integrity and personal safety, as well as to legality and legal certainty, to the detriment of V1, V2, V3 and V4. These were the result of actions consisting in arbitrary detention, illegal retention, arbitrary use of public force, incompliance with protocols during a search or on-site inspection and torture, attributable to military personnel assigned to the 12th Infantry Battalion operating out of Morelia, Michoacán State, and to personnel from the Morelia Joint Operations Base.

In response to these events, the Mexican National Human Rights Commission has considered it necessary to issue the following **Recommendations**:

To you, Mr. General and Secretary of National Defense:

First. Instruct whoever is responsible to take the necessary steps to pay compensation for and repair the damage brought upon V1, V2, V3, V4, V5 and V6 by means of the medical, psychological and rehabilitation aid needed to return their physical and mental health to the way they were before their human rights were violated. Proof of compliance must be sent to the National Commission.

Second. Generously collaborate with the Mexican National Human Rights Commission during the filing and processing of the complaint it submits to the General Inspection and Comptrollership Unit of the Secretariat of National Defense against the soldiers involved in the events condemned herein. Any evidence requested must be delivered to the national commission together with proof of compliance.

Third. Amply collaborate with the filing and follow up of the declaration of events which the National Commission submits to the Office of the Attorney General and the Office of the General Attorney of Military Justice, respectively, in order for them to initiate the legally corresponding preliminary investigation in accordance with their jurisdiction, given that the actions of federal civil servants led to 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 have physical integrity evaluations performed on them given that the Office of the Attorney General has its own medical experts to perform such revisions. Once this has been done, a copy of such missive must be sent to the national commission.

Fifth. In order to guarantee unbiased and objective medical evaluations by medical personnel in the military, courses must be carried out to verify the fulfillment of the legal and ethical obligation to abide by the medical revision procedures established

by the law, without failing to describe the injuries observed and to report cases in which maltreatment or torture is believed to have occurred to the agent of the Public Prosecutor's Office. The national commission must be informed once this has been done.

Sixth. Instruct whomever it may concern so that the application of the "Human Rights Program, Secretariat of National Defense (S.D.N.) 2008-2012" and the "Program for the Promotion and Strengthening of Human Rights and International Humanitarian Law S.D.N. 2010" is intensified. These programs must be aimed at the middle and lower ranks and effectiveness indicators must be created to evaluate the beneficial impact of this training on respect for human rights. Proof of compliance must be sent to the national commission.

Seventh. Instruct those responsible so that educational courses are imparted within such Secretariat. These courses are to be aimed at the middle and upper ranks as well as the officers of the Armed Forces and shall address the human rights of women and minors in an attempt to avoid actions of violence and discrimination such as those condemned in this case from reoccurring during the operatives they participate in. The Mexican National Human Rights Commission must be briefed in detail once this has been done.