



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 76/2011**

*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, December 1st, 2011**

**SUBJECT: ABOUT THE RECOURSE OF IMPUGNATION BROUGHT FORTH BY V1 AND V2**

**AUTHORITY RESPONSIBLE: MADAME PRESIDENT OF THE BOARD OF DIRECTORS OF THE HONORABLE CONGRESS OF THE STATE OF OAXACA'S LXI LEGISLATURE, MEMBERS OF THE HEROIC TOWN HALL OF SAN MATEO CAJONOS, VILLA ALTA, OAXACA STATE**

On April 11th 2010, AR1 in his position as municipal president of San Mateo Cajonos, Villa Alta, Oaxaca, ordered the *topiles* (community police officers) to deprive V1 and V2 of their freedom and lock them in the public jailhouse of such place. This was due to a decision made by the community assembly because due to the alleged fact of having carried out administrative irregularities whilst acting as civil servants within such municipality in 2009. Even though precautionary measures were dictated by the State Human Rights Commission of the Free and Sovereign State of Oaxaca (CDDHEO) in this case to achieve the victims' release or, if needed, to hand them over to the corresponding authorities, AR1 and AR2 ignored them. They justified their actions by saying they had acted on the basis of local ways and traditions, releasing the offended on the 15th of April of this year, when it was agreed that the Chief Auditing Body of the State would review the administrative management of 2009.

On April 18th 2010, AR1 ordered V1 and V2 to be detained once again together with V3, all of whom were locked in the public jailhouse of the aforementioned municipality, adducing that the order was motivated by a decision made by the community assembly held on that day because of them committing irregularities whilst serving as civil servants of the town hall. AR1 also ordered the drinking water supply to be cut off at the homes of V1 and V2. This time, V3 was released on April 22nd and V1 and V2 regained their freedom on April 25th of this year. Although the Oaxaca District Attorney's Office sent official missives to AR1 and AR2 asking them to release the victims or place them at their disposal if they had indeed committed a crime on both occasions, the authorities responsible, apart from ignoring them, declared that they had no jurisdiction over the case because it was a decision made by the assembly, which is always convened by the Communal Assets committee.

After proving that the victims were deprived of their freedom in an unlawful manner and that V1 and V2 had their drinking water supply and sewerage systems cut off,

the CDDHEO issued recommendation 13/2010, which was not accepted by the members of the Town Hall of San Mateo Cajonos, Villa Alta, Oaxaca,

From the logical-legal analysis performed on the entirety of the evidence contained within the recourse of impugnation at hand, it was confirmed that the human rights of V1, V2 and V3 to personal freedom, due process, legality, legal certainty healthcare and to an environment suitable for their development, were violated. This occurred because they were deprived of their freedom as per the instructions of AR1 at the municipal jailhouse of San Mateo Cajonos, Villa Alta, Oaxaca, and; because their drinking water supply and sewerage systems were cut off.

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

**To you, Madame Deputy and President of the Board of Directors of the Honorable Congress of the state of Oaxaca's LXI Legislature:**

**First.** Act as necessary to ensure that recommendation 13/2010, issued by the State Human Rights Commission of the Free and Sovereign State of Oaxaca, is fully complied with. Also, an investigation must be initiated to determine the responsibilities in which civil servants from the municipality of San Mateo Cajonos, Villa Alta, Oaxaca, 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 San Mateo Cajonos, Villa Alta, Oaxaca, 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 San Mateo Cajonos, Villa Alta, Oaxaca:**

**First.** Proceed to instruct whomever it may concern in order for recommendation 13/2010, issued on May 20th 2010 by the State Human Rights Commission of the Free and Sovereign State of Oaxaca, 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 Oaxaca District Attorney's Office against the municipal civil servants who participated in the events which led to this recommendation. All evidence requested must be submitted to the National Commission together with proof of compliance.

**Third.** Order the design and execution of a permanent training program on traditional regulatory systems as well as on local ways and traditions used to solve internal disputes, to which municipal civil servants and community authorities must be subjected to. This must be done in accordance with the general principles of the Political Constitution of the United Mexican States and with respect for human

rights and for the dignity and integrity of the people. Proof of compliance must be sent to the national commission.