



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 86/2011**

*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 21st, 2011**

**SUBJECT: ABOUT THE CASE OF THE ARBITRARY DETENTION, UNLAWFUL RETENTION AND TORTURE OF V1 AND V2 IN THE CITY OF MATAMOROS, TAMAULIPAS STATE**

**AUTHORITY RESPONSIBLE: SECRETARY OF THE NAVY**

On February 3rd 2010, the National Commission received the written complaints submitted by Q1 and Q2, in which they stated that, at approximately 15:00 hours on February 2nd 2010, V1 and V2 were onboard a van owned by V2 in the *Victoria* gated community in Matamoros, Tamaulipas when they were detained by Naval personnel. They then took them to the headquarters of the local naval-military sector located at kilometer 17.5 of the highway to Ciudad Victoria. The plaintiffs tried to locate them at the local and federal Public Prosecutor's Offices without any luck and therefore visited the cited naval sector at approximately 19:00 hours, where they were received by AR1. AR1 mentioned being aware of the fact that two youths were with them but not at the headquarters; claiming that they could not be given any further information and advised them to expect a call at 22:00 hours. After not hearing from AR1, they once again went to the aforementioned headquarters at around 22:40 hours, at which time they were taken to building at the far end of the complex.

Q2 recalled dialing V2's telephone number at that moment and hearing it ring in a room adjacent to the office of AR1, who denied they were there. However, AR1 told them that they had been detained for carrying a radio with a frequency which struck them as "strange", but had given orders for them not to be beaten, and said they would be brought before the agent of the Federal Public Prosecutor's Office at midnight.

Q1 and Q2 said they arrived at the branch of the Office of the Attorney General in Matamoros, Tamaulipas State, at approximately 01:00 hours on February 3rd 2010, where they saw V1 and V2 and noticed there were injuries on their faces, skull and buttocks and their clothes were damp. On February 3rd 2010, V1 and V2 were released by the Federal prosecuting authority due to lack of evidence.

Also, on February 11th 2010, Q2 told the Mexican National Human Rights Commission staff stationed in Matamoros, Tamaulipas that at approximately 01:00 hours of that day, naval personnel entered their homes without a search warrant and arrested V1 and V2. They then took them to the airport of such city and loaded

them onto a “Hercules” transport plane belonging to the Secretariat of the Navy and ferried them to Mexico City. In the end, they were handed over to the agent of the Federal Public Prosecutor's Office attached to the Assistant Attorney General's Office for Special Investigations on Organized Crime.

In response to the denounced human rights violating events, the National Commission initiated complaint file CNDH/2/2010/671/Q and, in order to assemble it properly, its staff performed a variety of field work to gather information, testimonials and other evidence relating to the offended, their relatives, and witnesses and to the place where the events took place. Also, the Secretariat of the Navy and the Office of the Attorney General were asked for information.

From the logical-legal analysis performed on the entirety of the evidence contained within file CNDH/2/2010/671/Q, the National Commission confirmed violations of the human rights to freedom, personal integrity and safety and to legality and legal certainty, to the detriment of V1 and V2. They resulted from actions consisting in arbitrary detention, illegal retention, delay in bringing detainees before the competent authority, isolation, torture and wrongful accusation of criminal behavior, attributable to civil servants from the Secretariat of the Navy assigned to the Naval Sector of Matamoros, Tamaulipas.

In response to these events, the Mexican National Human Rights Commission has issued the following **Recommendations**:

**To you, Mr. Secretary of the Navy:**

**First.** Instruct whoever is responsible to take the necessary steps to pay compensation for and repair the damage brought upon V1 and V2 by means of the victimological, medical, psychological and rehabilitation assistance 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.** Amply collaborate with the Mexican National Human Rights Commission in order to achieve the design and implementation of a Comprehensive Human Rights Training Program at the Secretariat of the Navy, aimed at the middle and upper ranks and at the officers of the Mexican Navy. This aims to make them perform their duties with respect for human rights and in accordance with the law and with the conditions of Regulation 003/09, which governs the legitimate use of force by naval personnel. Proof of compliance must be sent to the National Commission.

**Third.** Instruct whoever it may concern so that Mexican Navy personnel involved in public safety duties, mainly operatives against organized crime, refrain from using force except when strictly necessary and unavoidable. This will avoid an abuse of power or arbitrary use of public force through actions such as the torture of the people they detain as a result of these duties. Proof of compliance must be sent to the National Commission.

**Fourth.** Issue an official missive aimed at naval 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 naval 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 navy, 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.** Collaborate generously with the National Commission during the processing of the complaint it submits to the General Inspection and Comptrollership Body of the Mexican Navy against the civil servants of the Secretariat of the Navy who were involved in the events condemned in this case. The national commission must be continuously informed from the beginning of the investigation up until the procedure is concluded.

**Seventh.** Amply collaborate during the filing and follow up of the declaration of events which the Mexican National Human Rights 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 preliminary investigation in accordance with their jurisdictions, given that the behavior of federal civil servants was the one to originate this recommendation. Any proof of compliance requested must be sent to the national commission.