

PUBLIC

AI Index: AMR 41/01/99

UA 07/99

Possible arbitrary detention/Torture

14 January 1999

MEXICO Juan Chivarras de la Cruz (28) - Huichol Indian

Miguel Hernandez de la Cruz (24) - Huichol Indian

Isidro López Díaz - Huichol Indian (Community Leader)

Juan Chivarras de la Cruz and Miguel Hernandez de la Cruz have been detained, by members of the Mexican army, and accused of the murder of Philip True, a USA journalist. They are apparently being held exclusively on the strength of confessions extracted under torture. As a result of this Amnesty International has serious concerns as to the legality of these detentions.

Philip True's body was found on 16 December 1998 in a shallow grave in the Sierra Madre mountains, Jalisco State. After an autopsy the authorities stated that he had been strangled. According to reports on 20 December members of the Mexican army entered the indigenous community of San Sebastián Teponahuaxtlan, where they tortured Isidro López Díaz, a community leader, to discover the whereabouts of Juan Chivarras de la Cruz and Miguel Hernandez de la Cruz.

The two men were subsequently detained by members of the Mexican army. After their arrest the men confessed to strangling Philip True. Subsequently however, a second autopsy, observed by an official USA forensic expert, found the journalist had been beaten, not strangled, to death. If this is confirmed it could serve as evidence to indicate that the confessions had been obtained under duress and/or torture to fit the initial thesis of the authorities.

BACKGROUND INFORMATION

Amnesty International has received reports that in many parts of Mexico torture is routinely used to obtain confessions and that these confessions are then used as evidence to prosecute defendants. Furthermore Amnesty International, along with other human rights organizations, has questioned the way in which Mexican courts have accepted confessions obtained under torture in cases presented to them.

In January 1998 the UN Special Rapporteur on torture concluded that "As a general rule, judges, and attorneys, public prosecutors and the judicial police itself are all overwhelmed with work, so there may be a tendency to resort to confessions as a quick way to solve the case". The report followed his visit to Mexico in August 1997. In the same report he also recommended, among other things, that, "...cases of serious crimes committed by military personnel against civilians, in particular torture and cruel, inhuman or degrading treatment or punishment, should, regardless of whether they took place in the course of service, be subject to civilian justice".

Mexico ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the UN Convention against Torture) in January 1987, and it became law on 26 June 1987.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in Spanish or your own language:

- calling for the authorities to promptly make public all the evidence used to detain Juan Chivarras de la Cruz and Miguel Hernandez de la Cruz, or release them pending further investigations;
- asking that the reported torture of Juan Chivarras de la Cruz, Miguel Hernandez de la Cruz, and Isidro López Díaz, be thoroughly investigated, that their findings be made public and that any officials found guilty be brought to justice;
- calling for Juan Chivarras de la Cruz and Miguel Hernandez de la Cruz to be given adequate access to doctors, lawyers and their families, while in detention;
- calling on the authorities to note the recommendations made by the UN Special Rapporteur on Torture, and the Inter-American Commission on Human Rights in its November 1998 *Report on the situation of human rights in Mexico*, which calls for the adoption of measures toward ensuring that acts of torture are characterized and punished as such by jurisdictional organs, in accordance with the international definition of torture;
- reminding the government of Mexico of its commitment to the Universal Declaration of Human Rights, in particular Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

APPEALS TO:Attorney General of Jalisco

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Fax: +52 3 618 6744**Salutation: Sr. Procurador/Dear State Attorney**Governor of Jalisco

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and to diplomatic representatives of Mexico accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 25 February 1999.

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"

Article 5, Universal Declaration of Human Rights

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