

Congress of the United States
Washington, DC 20515

March 2, 2011

The Honorable Hillary Clinton
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Madame Secretary:

On October 18, 2010, Mexican President Felipe Calderón submitted to the Mexican Congress a proposal to reform the country's Code of Military Justice. Given this development, the Department of State has a unique opportunity to convey to Mexico our concerns regarding its system of military jurisdiction, as well as the importance we place on compliance with the human rights requirements established by the U.S. Congress.

At a time when the United States is providing training, equipment, and other support to Mexico's security forces under the framework of the Mérida Initiative, we urge the State Department to give this message the highest priority in its dialogue with Mexico.

Congress has mandated by law that 15 percent of select Mérida funds be withheld until the State Department issues a report to Congress confirming that Mexico is complying with four human rights requirements.

The State Department's September 2010 report recognized the need for reform to Mexico's system of military jurisdiction in order to fulfill the first of these requirements: "Ensure that civilian prosecutors and judicial authorities are investigating and prosecuting... members of the federal police and military forces who have been credibly alleged to have violated internationally recognized human rights..."

Reports issued by the Mexican Department of Defense indicate that, since 2007, military courts have convicted only one soldier for a human rights violation committed during the current administration. The State Department's report to Congress in July 2010 notes that while "information on military prosecutions is difficult to obtain," the "limited information on military prosecutions and complaints filed suggest that actual prosecutions are rare."¹

Furthermore, several recent binding sentences issued by the Inter-American Court of Human Rights require Mexico to make specific reforms to its system of military jurisdiction. In these sentences, the Court made clear that "The possibility that the military courts prosecute any soldier who is accused of an ordinary crime, for the mere fact of their being in service, implies that jurisdiction is granted due to the mere circumstance of [the accused] being a soldier. In that sense, even when the crime is committed by soldiers while they are still in service..., this [alone] is not enough...to correspond to the military criminal courts."²

¹ U.S. Department of State, "Mexico - Report on Actions Taken to Investigate, Prosecute and Punish Violations of Human Rights," July 29, 2010, pg. 2.

² Inter-American Court of Human Rights, *Caso Radilla Pacheco vs. Estados Unidos Mexicanos*, Sentence of November 23, 2009, paragraph 286. The Court cites its sentence in the case of Radilla Pacheco in its August 31, 2010 sentence in *Caso Rosendo Cantú y Otra vs. México*, paragraph 162.

The Court's sentences specify that Mexico's Code of Military Justice must mandate that no human rights violation be investigated or tried in military jurisdiction.³ Without such a reform, military authorities will continue to assume jurisdiction over all crimes committed by military personnel, including human rights violations committed against civilians. The failure to enact this critically important reform, or the passage of an incomplete reform that does not fulfill this basic criterion, would make it impossible for Mexico to meet the human rights requirements of the Mérida Initiative, comply with the Inter-American Court's orders, and afford victims of abuses access to independent and impartial hearings.

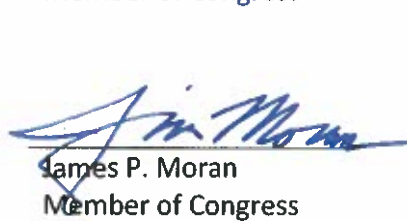


We were very encouraged by your comments during your recent visit to Mexico, where you stated, "We need to make sure that any human rights violators committed by the military against civilians are tried in civilian courts." However, the reform proposed by President Calderón would exclude only three crimes from military jurisdiction – forced disappearance, torture, and rape – and only after a preliminary analysis by military authorities. Such a reform would not bring Mexico into compliance with either the Mérida requirements or the sentences of the Inter-American Court, nor does it meet the basic standard set in your remarks in Mexico.


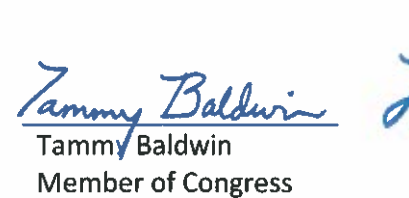
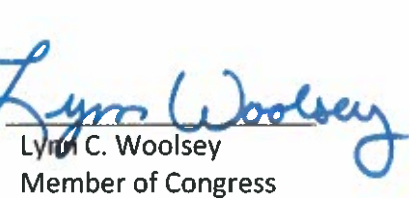
If the Mérida Initiative human rights requirements are not met, by law, 15 percent of specified funds must be withheld. We urge you to give this message the utmost priority in your dialogue with Mexico.

Thank you very much for your consideration.

Sincerely,

 Barbara Lee Member of Congress	 Raúl M. Grijalva Member of Congress	 Ted Poe Member of Congress
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 James P. Moran Member of Congress	 Maxine Waters Member of Congress	 Fortney "Pete" Stark Member of Congress
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 Gwen Moore Member of Congress	 Tamm Baldwin Member of Congress	 Lynn C. Woolsey Member of Congress
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³ E.g., Inter-American Court of Human Rights, *Caso Cabrera García y Montiel Flores vs. Estados Unidos Mexicanos*, Sentence of November 26, 2010.

Karen Bass

Karen Bass
Member of Congress

Janice D. Schakowsky

Janice D. Schakowsky
Member of Congress

Edward J. Markey

Edward J. Markey
Member of Congress

Jesse Jackson, Jr.

Jesse Jackson, Jr.
Member of Congress

Barney Frank

Barney Frank
Member of Congress

James P. McGovern

James P. McGovern
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Michael M. Honda

Michael M. Honda
Member of Congress

Jim McDermott

Jim McDermott
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Bob Filner

Bob Filner
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Donald M. Payne

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Eleanor Holmes Norton

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John Lewis

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Peter Welch

Peter Welch
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