



Latin America
Working Group
Education Fund

July 16, 2009

Mexican and U.S. Human Rights Organizations Call on the U.S. Government to Withhold Merida Initiative Funding for Mexico

- In providing security assistance to Mexico under the Merida Initiative, the U.S. Congress recognized the Mexican government’s urgent need to make substantive progress in its respect for fundamental human rights within the framework of its security operations
- Based on our organizations’ collective work and documentation in the area of human rights, we can affirm that the Mexican government has failed to meaningfully advance the investigation, prosecution or sanction of human rights violations, particularly abuses committed by members of the Mexican military against civilians.
- In light of the Mexican government’s failure to meet these critical commitments, the United States should not release to Mexico the portion of Merida Initiative funding withheld under the Initiative’s human rights reporting requirements.

As Mexican and U.S. organizations that have closely monitored U.S.-Mexico security cooperation, we can affirm that the Mexican government has failed to meet the basic human rights requirements contained in the Merida Initiative assistance package, including its obligation to vigorously investigate and sanction those responsible for human rights violations in a transparent manner.

Given the failure of the Mexican government to meet these critical commitments, the United States should not release to Mexico the portion of Merida Initiative funding withheld under the Initiative’s human rights reporting requirements.

During the past year, the U.S. Congress has approved over \$1 billion in assistance through the Merida Initiative to provide Mexico with helicopters, airplanes, equipment, training, and other goods and services for the country’s security forces. **With the enactment of the first installment of this security assistance in June 2008, the U.S. Congress recognized the Mexican government’s urgent need to make substantive progress in its respect for fundamental human rights within the framework of its security operations.** As part of the Initiative, Congress stipulated that 15% of specific funding categories within the Initiative would not be

released until the U.S. Department of State reported that the Mexican government was meeting four human rights requirements, including “ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the federal police and military forces who have been credibly alleged to have committed violations of human rights.”

The U.S. Congress again recognized and underscored the need for Mexico to carry out robust investigations of human rights violations last month when it mandated that the State Department must prepare a report on the substantive actions that the Mexican government has taken to investigate and prosecute military and police abuses, within 45 days of the enactment of the FY2009 supplementary appropriations legislation that contain the latest approval of Merida Initiative funding

As mandated by the U.S. Congress, the State Department must also report on the official investigation into the murder of U.S. journalist Bradley Will, which occurred during the repression and conflicts in Oaxaca state during 2006. Our experience with the documentation, defense, and analysis of human rights violations and related legal processes in Mexico, including since the implementation of the Merida Initiative, demonstrates that the Mexican government has failed to meaningfully advance the investigation, prosecution or sanction of those responsible for this and other violations identified by Congress.

U.S. assistance under the Merida Initiative comes at a time when drug-related violence continues to rise; to date over 3,500 drug-related killings have been reported in 2009. During this period, Mexico has also experienced a steep rise in reported human rights violations committed by security forces, particularly the Mexican military. We believe that this dramatic increase in violations stems directly from President Felipe Calderón’s emphasis on highly visible military operations—operations that have failed to bring about clear or sustainable gains in overall public security and have occurred at the expense of targeted measures to address the structural causes of crime or to encourage institution-building.

Notably, reports of human rights violations by soldiers received by Mexico’s National Human Rights Commission have more than sextupled during the first two years of the Calderón administration, jumping from 182 in 2006 to 1,230 in 2008. The Commission has issued reports and recommendations on dozens of violations during the Calderón administration, all of which have been officially accepted (hence recognized as true) by the Mexican Department of Defense. However, these officially reported and confirmed abuses represent only a small percentage of actual violations, many of which go unreported due to fear of reprisals by the military. Recent cases of credibly reported military human rights violations in 2009 include multiple forced disappearances in several parts of Mexico; the torture of dozens of detained municipal police in military barracks in Tijuana, Baja California; soldiers who arbitrarily opened fire on a bus containing civilians, resulting in one fatality, in Huamuxtitlán, Guerrero; and soldiers who invaded a group of rural communities in Guerrero state, torturing and threatening residents, including children and pregnant women. Further details on these cases will be included in a memo we are collectively preparing for submission to the U.S. Congress and Department of State.

Human rights violations committed by the Mexican military against civilians remain in total impunity because such cases are transferred over to the notoriously opaque military justice system. These military courts—comprised of fellow members of the military and under the command of Mexico’s Department of Defense—and are tasked with the investigation, prosecution and sanction of human rights violations committed

by soldiers; thereby impeding impartial proceedings. Despite repeated and well-documented efforts to obtain information on the status of these cases, the complete lack of transparency results in uncertainty as to whether or not these abuses are ever investigated at all.

Far from allowing civilian authorities to investigate and try human rights violations, the Mexican government has publicly declared in multiple forums that it refuses to halt the use of military jurisdiction. In June 2009, for instance, Mexico addressed the United Nations Human Rights Council, seven of whose member States had recently recommended that Mexico investigate human rights violations in civilian jurisdiction to bring an end to impunity for such abuses. Mexico ignored these recommendations, informing this highest intergovernmental human rights body that it would maintain its use of military jurisdiction for human rights violations committed by soldiers against civilians. The ineffectiveness of military jurisdiction to investigate and prosecute soldiers responsible for human rights violations was again illustrated when, at the recent questioning by the organization Human Rights Watch, **the Mexican government was unable to cite a single case in the last ten years in which human rights violators were punished in military jurisdiction.**

Mexican officials routinely rely on deceptive or false reasoning to defend their interpretation of when it is appropriate for a case to be placed in military jurisdiction. For instance, the Mexican delegation tried to justify their position before the U.N. Human Rights Council by arguing that all decisions of military courts may be appealed to civilian courts. However, they failed to explain that the **only party who can appeal is the soldier accused of the human rights violations, not the victims of these violations, thus effectively rendering this supposed appeals process null and void.**

The U.S. Congress was correct to identify Mexico's failure to investigate and prosecute human rights violations committed by its security forces as a major concern when contemplating how to appropriately support Mexico's efforts to address drug-related crime. Scores of Mexican and U.S. civil society organizations have raised their voices over the past year to underscore the damaging message the United States could send to Mexico and to the world if it channels vehicles and equipment to Mexico's security forces while ignoring the gravity of these forces' human rights violations.

Challenges to public security will not disappear in the short term, either in Mexico or in the region. Failure by the U.S. government to withhold 15% of funds under the Merida Initiative's human rights conditions would hinder, not help, Mexico's efforts to bring about long-lasting improvements to public security. **It is crucial that the United States government demonstrate that its commitment to fundamental human rights and a safer Mexico goes beyond words by not releasing the 15% of Merida Initiative funding given that Mexico has failed to show progress in the human rights areas identified,** particularly given the government's open refusal to hold accountable in civilian courts soldiers implicated in grave human rights violations such as extrajudicial executions, rape, and torture.