

11-3-2010

## President Felipe Calder<sup>3</sup>n Sends Senate Initiative to Subject Military to Civilian Courts for Three Serious Crimes

Carlos Navarro

Follow this and additional works at: <https://digitalrepository.unm.edu/sourcemex>

---

### Recommended Citation

Navarro, Carlos. "President Felipe Calder<sup>3</sup>n Sends Senate Initiative to Subject Military to Civilian Courts for Three Serious Crimes." (2010). <https://digitalrepository.unm.edu/sourcemex/5445>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in SourceMex by an authorized administrator of UNM Digital Repository. For more information, please contact [amywinter@unm.edu](mailto:amywinter@unm.edu).

## **President Felipe Calderón Sends Senate Initiative to Subject Military to Civilian Courts for Three Serious Crimes**

by *Carlos Navarro*

Category/Department: Human Rights

Published: Wednesday, November 3, 2010

President Felipe Calderón has sent the Senate an initiative to amend Mexico's military law (Código de Justicia Militar) to require civilian trials for members of the armed forces accused of forced disappearances, torture, and rape. Human rights advocates offered lukewarm support for the measure, saying that the initiative will not do enough to curb military abuses of civilian populations. The Mexican military has for generations been linked with acts of impunity and suppression of dissent ([SourceMex, Oct. 16, 2002](#)) and ([Nov. 15, 2006](#)).

The accusations against the military multiplied in the past four years, after Calderón decided to use the armed forces in an intensive campaign against drug traffickers ([SourceMex, Feb. 3, 2010](#)) and ([July 16, 2008](#)). Many of the violations by the military during the campaign involved innocent civilians. The charges are contained in a 76-page report issued by the international organization Human Rights Watch (HRW) in April 2009. The report provided details of 17 cases involving alleged military abuses against more than 70 victims.

"Not one of the military investigations into these crimes has led to a conviction for even a single soldier on human rights violations," the report said. "The only civilian investigation into any of these cases led to the conviction of four soldiers."

### ***Mexico seeks to comply with IACHR***

Under Calderón's initiative, military investigators would be required to refer cases of torture, forced disappearances, and rape where there was probable cause to the federal investigating magistrate. But those accused and convicted would continue to be held in military, not civilian, prisons.

The president's initiative is a direct response to a ruling from the Inter-American Court of Human Rights (IACHR) in November holding Mexico responsible for the disappearance of Rosendo Radilla Pacheco in August 1974. Radilla was mayor of Atoyac de Alvarez in Guerrero state during the government's dirty war against dissenters in the 1960s and 1970s. Radilla's son, Rosendo Radilla Martinez, said the victim was detained only because he composed ballads that criticized the military.

Radilla Pacheco disappeared shortly after being detained at a roadblock, and human-rights advocates are pressing the government to resolve the case.

The IACHR used the case as an example of why Mexico should allow civilian courts to issue judgments against the military, insisting that the incident was part of a systematic campaign to eliminate dissidents.

Some legal experts noted that Mexico was obligated to follow the IACHR because the government agreed in 1998 to recognize the court's jurisdiction in human rights matters.

In sending the legislation to the Senate, Calderón did not discuss the dirty war of the 1960s and 1970s but cited the need for military personnel to fall under civilian rule in cases involving direct violations of human rights and, in particular, disappearances, torture, and rape.

Calderón alluded to the need for Mexico to bring its laws in line with international norms. "The Mexican state is harmonizing its domestic laws with the norms spelled out in the American Convention on Human Rights and the Inter-American Convention on the Forced Disappearance of Persons," the president said.

Alejandro Poiré, a spokesperson for the Secretaría de Seguridad Pública (SSP), said the president's initiative intends to strengthen Mexico's culture of human rights, not only protecting the civilian populations but also instilling new values among the military. He emphasized that the changes are not intended to override, but to strengthen, military justice and bring it in line with civilian standards.

Additionally, Poiré said members of the military who are accused of the three crimes would receive the same rights as a civilian when facing trial. "The measure protects the dignity and the civil rights of the military personnel," he said.

The president's decision to make the military more accountable in civilian courts received some praise. Victoria Unzueta, an adviser to the defense committee (Comisión de Defensa) in the Chamber of Deputies, said the reforms include some important legal concepts, including the presumption of innocence and the requirement that any military personnel immediately report in detail all detentions made during duties involving public safety.

"We have to celebrate the executive's decision to present the reforms of the military code to Congress, following the directions of the IACHR," jurist José Antonio Guevara said in a guest column in the Mexico City daily newspaper Reforma.

### *Human rights advocates say reforms fall short*

Several domestic and international organizations that promote human rights in Mexico also weighed in on the initiative, calling the measure limited. A spokesperson the office of the UN High Commissioner for Human Rights (UNHCHR) in Mexico said the law is incomplete because it does not require that civilian authorities investigate and prosecute all serious crimes committed by military personnel, including unlawful detention and extrajudicial killings.

Other organizations concurred. "This is a cosmetic gesture meant to give the appearance of reforming what, in practice, will continue to remain the same," said a declaration by 13 Mexican rights groups.

The Comisión Nacional de Derechos Humanos (CNDH) and HRW said the law leaves some loopholes for the military to exploit. HRW researcher Nik Steinberg said, for example, that the military could seek to classify abuses as lesser offenses during preliminary investigations to steer cases from civilian prosecution.

"Any reform of the military code should include civilian jurisdiction for all human rights abuses not just a selection of certain abuses," said Maureen Meyer, a Mexico specialist at the Washington Office on Latin America (WOLA).

Luis Arriaga, president del Centro de Derechos Humanos Miguel Agustín Pro Juárez (PRODH) and Édgar Cortez, an investigator at the Instituto Mexicano de Derechos Humanos y Democracia (IMDHD), said the initiative as written fails to meet Mexico's commitments under international human rights conventions. Both said the law could be improved by placing any crime committed by the military under the jurisdiction of civilian courts.

Guevara agreed, saying that Mexican legislators must make the necessary changes to the executive's initiative. "The Congress can offer guarantees to the Mexican people, especially victims of abuse of power, that any crimes that imply human rights violations be heard by impartial and independent judges," said Guevara, who holds a doctorate in law from the Universidad Carlos III in Madrid.

The jurist suggested that the Congress could greatly expand the list of crimes committed by military personnel that would fall under the civilian courts, including homicide, theft, fraud, blackmail, extortion, sexual violations, illegal seizure of property, and kidnappings, among others.

-- End --