

Congress of the United States
Washington, DC 20515

July 5, 2012

The Honorable Hillary Rodham Clinton
Secretary of State
U.S. Department of State
Washington, D.C. 20520

Dear Secretary Clinton,

As the Department of State prepares its next report on the human rights requirements included in U.S. assistance to Mexico through the Merida Initiative, we wish to express our concern about widespread human rights violations committed by security forces in the country and the failure to investigate and prosecute the officials responsible for these abuses. We ask that you obtain specific information on these matters in order to make your assessment, including items highlighted in this letter.

We believe the relationship between the United States and Mexico is an important and special one, including in the area of national security. We further believe that the U.S. can play a constructive role in helping Mexico address the serious problem of organized crime. This support is predicated on the understanding that respect for human rights is critical to effective public security efforts. We therefore reiterate the importance of the Mexican government's compliance with and the U.S. government's enforcement of the human rights requirements included in the Merida Initiative, upon which 15 percent of select funds are conditioned.

Since President Felipe Calderón took office in December 2006 and deployed the Mexican military and federal police to combat cartels, Mexico's National Human Rights Commission has registered a five-fold increase in complaints of serious human rights violations by Mexican soldiers and federal police – including torture, rape, extrajudicial executions, and forced disappearances – which have risen from approximately 500 in 2007 to 3,000 in 2011.

A major reason these abuses persist, and have increased, is that virtually none of the soldiers and police who commit them is held accountable. This is in large part because alleged military abuses are investigated in the military justice system, which lacks the independence and impartiality to effectively prosecute soldiers, and because the federal police lack effective internal control mechanisms.

Recognizing that military jurisdiction is a serious problem, the U.S. Congress included as one of the Merida Initiative's human rights requirements that all military abuses be investigated in civilian jurisdiction – a condition whose importance you highlighted, Madam Secretary, in a January 2011 press conference with Mexican Foreign Minister Espinosa. Yet the practice remains unchanged and widespread impunity persists. Of nearly 4,000 investigations that have been opened into alleged abuses in the military justice system since 2007, only 29 members of the military have been sentenced.

In July 2011, Mexico's Supreme Court ruled that military jurisdiction should not be applied in cases of alleged human rights abuses against civilians. Since that time, President Calderón has on multiple occasions committed to implementing the ruling, which followed four judgments by the Inter-American Court of Human Rights that reached the same conclusion. Regrettably, legislative efforts to reform military jurisdiction, including a deeply flawed proposal by President Calderón, have failed to advance in Mexico's Congress. Although a handful of cases have been transferred from military to civilian jurisdiction, the *de facto* practice continues to be that cases of alleged human rights violations by the military are investigated and prosecuted in military courts.

Other key human rights requirements in the Merida Initiative have also not been fulfilled. In spite of reforms to the Constitution that explicitly prohibit the use of confessions and other evidence obtained through torture and other forms of ill-treatment, torture remains a widespread practice in Mexico. In its November 2011 report *Neither Rights Nor Security*, Human Rights Watch documented more than 170 cases of torture in five states. The patterns across the cases showed that torture occurs in similar venues (on military bases, in police stations), under near identical circumstances (before detainees are handed over to prosecutors), and using the same tactics (asphyxiation with plastic bags, waterboarding, electric shocks), which provides evidence that these are not isolated cases, but rather part of a systematic practice.

We are also alarmed by the continuing admission of confessions coerced through torture. For example, on February 3, 2010, Israel Arzate Meléndez was arbitrarily detained by Mexican soldiers in Ciudad Juarez and taken to a military base where he was beaten, given electric shocks, and asphyxiated repeatedly until he gave a false confession. When he later informed a judge that he had been tortured into giving his confession, she refused to view the visible marks on his body, failed to open an investigation into possible wrongdoing by the soldiers, and instead ordered that his trial proceed. Such abuses persist in spite of the fact that Mexico's justice system is undergoing an historic transition that was designed to eradicate precisely these types of abuses. In fact, the state where Arzate Meléndez was tortured – Chihuahua – was the first state to implement the new reforms.

Madam Secretary, we welcomed the statement made by Deputy Assistant Secretary Kathleen Fitzpatrick at the May 10, 2012 Tom Lantos Human Rights Commission hearing on human rights in Mexico that, "Respect for human rights requires both protection for citizens and prosecution for those who violate the rights of others." However, we remain deeply concerned that the Mexican government is not implementing the reforms needed to adequately protect civilians and that Mexican security forces are not being held accountable for grave abuses.

As you assess the Mexican government's efforts to fulfill the human rights requirements in the Merida Initiative, we believe it is crucial that the State Department evaluate candidly whether the Mexican government has in fact made a real transition towards prosecuting alleged military abuses in civilian jurisdiction, held accountable official forces using torture, and barred the use of confessions made under torture. We therefore strongly encourage you to obtain:

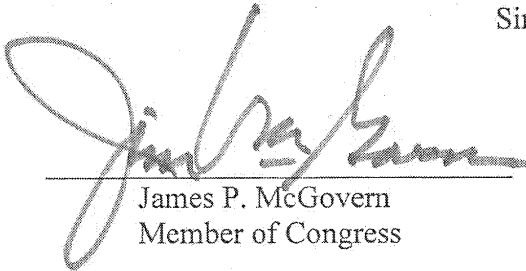
- Figures of how many alleged human rights violations involving military personnel during the Calderón administration are being investigated in military jurisdiction, and how many in civilian jurisdiction, respectively;

- Detailed, case-specific information on the status of the investigation, prosecution, and, where appropriate, the sanction of human rights violations committed by soldiers and the federal police;
- Information detailing the cases where government, military, police and public security officials have been convicted of torture; and
- Information of cases in which evidence against defendants has been barred because judges determined that it was obtained through torture or other illicit means.

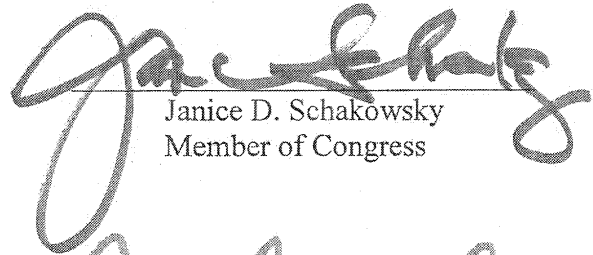
If, upon obtaining this information, the Department of State determines that the human rights requirements are not being met, we believe your report should reflect this conclusion and the 15 percent of select funds should be withheld.

Once again, we thank you for the ongoing efforts of the Department of State to strengthen human rights and the rule of law in Mexico and for your serious attention to these requests.

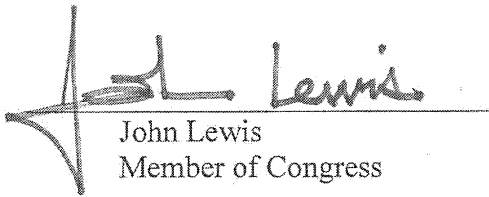
Sincerely,



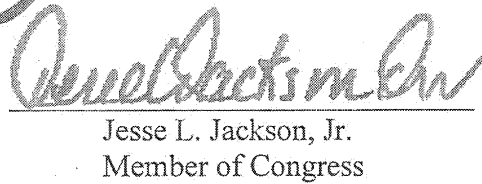
James P. McGovern
Member of Congress



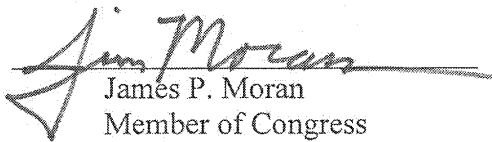
Janice D. Schakowsky
Member of Congress



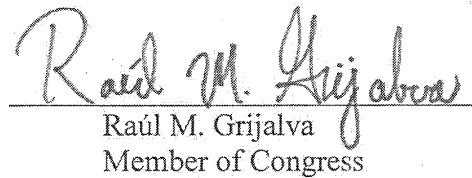
John Lewis
Member of Congress



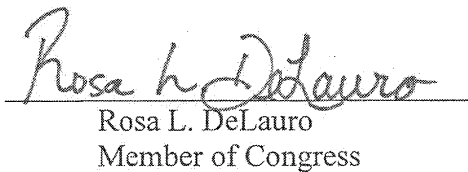
Jesse L. Jackson, Jr.
Member of Congress



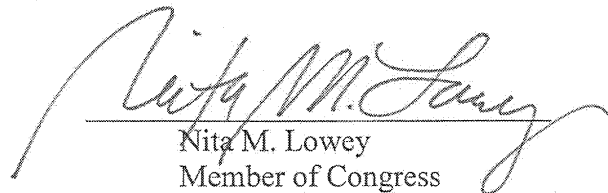
James P. Moran
Member of Congress



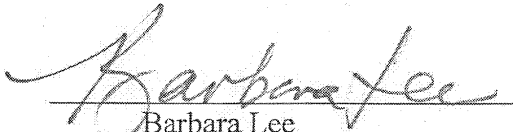
Raúl M. Grijalva
Member of Congress




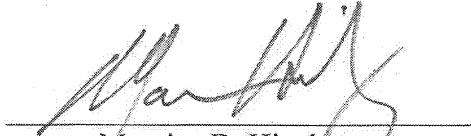
Rosa L. DeLauro
Member of Congress

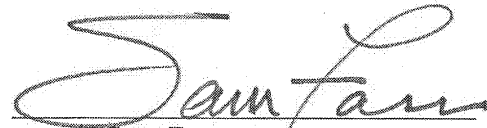



Nita M. Lowey
Member of Congress

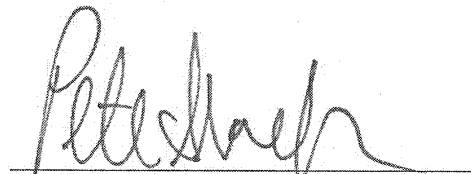

Barbara Lee
Member of Congress



John Conyers, Jr.
Member of Congress

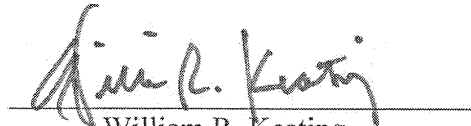

Maurice D. Hinchey
Member of Congress


Sam Farr
Member of Congress



Dennis J. Kucinich
Member of Congress

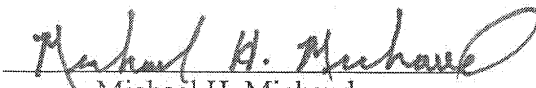

Fortney "Pete" Stark
Member of Congress



Michael E. Capuano
Member of Congress


William R. Keating
Member of Congress


Keith Ellison
Member of Congress


Michael M. Honda
Member of Congress


Michael H. Michaud
Member of Congress


Maxine Waters
Member of Congress

Donna F. Edwards

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Member of Congress

Lynn C. Woolsey

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Member of Congress

Bob Filner

Bob Filner
Member of Congress

Earl Blumenauer

Earl Blumenauer
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José E. Serrano

José E. Serrano
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Yvette D. Clarke

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Member of Congress

Charles B. Rangel

Charles B. Rangel
Member of Congress

Carolyn B. Maloney

Carolyn B. Maloney
Member of Congress

John W. Olver

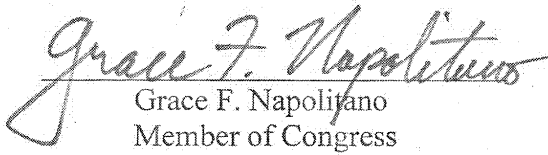
John W. Olver
Member of Congress


Eleanor Holmes Norton

Eleanor Holmes Norton
Member of Congress

Danny K. Davis

Danny K. Davis
Member of Congress


Grace F. Napolitano
Member of Congress


Henry C. "Hank" Johnson, Jr.
Member of Congress

cc: Roberta Jacobson, Assistant Secretary of State for Western Hemisphere Affairs
Michael Posner, Assistant Secretary of State for Democracy, Human Rights and Labor