



## After 9 Years of Military Impunity, the Investigations initiated into the Cases of Inés Fernández Ortega and Valentina Rosendo Cantú are sent to Federal Civilian Jurisdiction

- The Attorney General for Military Justice sent the investigations of Inés Fernández and Valentina Rosendo to the Attorney General’s Office of the Republic.
- It is now up to the Attorney General to bring the military personnel responsible for the rape and torture committed against Inés and Valentina to federal justice.

On August 12, the Attorney General for Military Justice (PGJM) notified Inés Fernández and Valentina Rosendo in writing that the investigations into their rape and torture, suffered at the hands of the Mexican Army in 2002, have been transferred to the Attorney General of the Republic (PGR).

In said document, the Public Minister of the PGJM noted that:

“...the Military Prosecutor has recognized the lack of jurisdiction to continue hearing and make a determination regarding inquir[ies] numbered SC/179/2009/II-E and SC/180/2009/II-E. Thus, this Military Prosecutor, submitted [two] letter[s] on July 29 of this year, through which it transferred, to the Regional Deputy Attorney General for Process Control and *Amparo* of the Attorney General of the Republic, [both] referenced inquir[ies] in order to determine the manner in which to proceed.”

The notification signals that such action is in response to the elements in the complaints that were filed, and as stipulated by the recent Constitutional human rights reforms and in the recent sentences of the Inter-American Court of Human Rights (IACtHR) against the Mexican State.

It is critical to remember that the submission of the inquiries to civilian jurisdiction is in response to the express request presented by both Me’phaa women in response to the recent determination of the Supreme Court of Justice of the Nation (SCJN), upon pronouncing on the case “Varios 912/2010” (in regards to the case *Rosendo Radilla*), in which it held that human rights violations do not fall under military jurisdiction, but should be tried in civilian tribunals. Notwithstanding, the transfer of both cases to civilian jurisdiction was an existing obligation, previously determined by the Inter-American Court in the sentences mentioned above and about which the Mexican State was notified in October 1, 2010.

This resolution comes after nine years of struggle, which Inés and Valentina have courageously undertaken, accompanied by organizations dedicated to the defense and promotion of human rights and hundreds of persons around the world who, individually and collectively, have come together to demand to the Secretariat of National Defense (SEDENA) that violations of human rights committed by Army personnel should not remain under military jurisdiction.

Given this scenario, today the PGR has the unavoidable responsibility to initiate criminal action in federal court against the responsible military personnel who have already been identified by Inés and Valentina. Therefore, there is no excuse for carrying these investigations in directions that will lead to continued impunity, as was done previously by the PGJM and the PGR by attempting to submit the investigations to local jurisdiction.

It is important to reiterate that in the sentences handed down in the cases of Valentina Rosendo Cantú and Inés Fernández Ortega against Mexico, the Inter-American Court established extremely precise and specific parameters that would satisfy the requirements of the investigation in order to serve as effective reparation. The Court signaled that in compliance with this duty, the State must act: in a reasonable time-frame and with due diligence; with appropriate gender and ethnic perspectives; permitting the broad participation of both women, without causing further victimization; and under secure conditions. This last requirement is fundamental, given that the security of both women has been threatened during the development of the investigations, which has motivated the same Inter-American Tribunal to grant provisional protection measures to the women and their families.

The submission of the cases to civilian jurisdiction does not terminate Mexico's obligations as determined by the Inter-American Court; rather it creates the conditions for the investigations to be conducted without the inherent defects present under military jurisdiction. For this reason, the action represents a fundamental precedent that all cases involving human rights violations committed by military personnel be transferred to civilian courts, something that would undoubtedly contribute to the strengthening of civilian control over the Armed Forces. Nevertheless, this would depend on the extent to which the federal PGR can demonstrate its effectiveness in prosecuting these offenses.

It is indispensable that Attorney General Marisela Morales guarantee an investigation in accordance with the parameters established by the Inter-American Court, which is what will be demanded and evaluated by the organizations who have accompanied Inés and Valentina throughout their nine year search for justice.