

Moakley Talking Points

Against Broomfield

1. The Broomfield proposal doesn't require anything that the President cannot already do -- and yet has failed to do -- since he came to office. If you truly believe that military aid to El Salvador should be reduced by 25% if El Salvador fails to make progress in judicial and military reform -- then why hasn't the President already suspended 25% of the aid? He doesn't need legislative authority to do that. The Jesuit case is a mess, the case involving military officers in the San Francisco massacre is crumbling, the case involving military officers in the kidnapping for profit ring is falling apart... It's been 10 years since we first started demanding major reforms in El Salvador. If after 10 years, and countless atrocities the President won't get tough with the Salvadoran military, why should any of us be confident that in 6 months anything will be different?

2. The impression I get from reading the Broomfield proposal is that you're trying to avoid getting tough with the military; you're trying to avoid holding the military accountable for its failure to make progress in areas we have stressed are important.

The Jesuit Case

1. On May 15, the Jesuit Provincial of Central America, Father Jose Maria Tojiera, stated publicly that the investigation stopped in January. He stated, "...that is as far as it goes. This situation reflects the interests of someone more powerful than the case not go any further... They are attempting to blame the judicial system, but more powerful forces are responsible. Without pressure from the United States, the case will stop here." (TV 6, 12 in San Salvador).

2. **Missing Evidence:** a) the log book where exits and entries to the Military School are noted is still missing. The Salvadoran military informed the court that the book had been "misplaced." Without this book, the Judge cannot accurately identify who was at the military school the night of the murders. As you know, the operation to murder the priests began at the military school.

b) Benavides diary is still missing. The Salvadoran government's public relations firm is insisting that there is no credible evidence to suggest that a diary existed. However, a number of Salvadoran officials and US officials have acknowledged during the past several months that the diary exists. As you know, most officers keep diaries and it would be highly unusual for Benavides not to have kept one. On May 8, the Salvadoran newspaper El Mundo ran a piece citing an un-named source at the court who said that Benavides mentioned his personal diary in his extrajudicial statement, but denied it when he gave his statement to the Judge.

c) There is still much confusion surrounding the cadets that were supposedly transferred to the U.S. in order to avoid questioning. Judge Zamora asked Lt. Col Rivas, the head of the SIU, for the names of those cadets who were on duty at the Military School the night of the murders. Rivas provided the Judge with the four names mentioned in the NY Times story that he received apparently from authorities at the Military School. When the Judge formally cited them, it was discovered that they were out of the country. They did return and did testify. **However, the cadets claim they are the wrong men.** The Salvadoran newspaper, Diario Latino on May 15, says the cadets found it "strange" that they were called to testify, since they were not on duty that night. The Judge now is apparently investigating whether he was given false information. Obviously, someone is playing games.

3. While I am no big fan of the judge in this case, it is important to recognize that he isn't the only problem. The Attorney General and the head of the Special Investigations Unit all have the authority to investigate this case. They must share some of the responsibility. And, quite frankly, if I were the judge, I'd be a little nervous. You may recall that the judge who was moving ahead with prosecutions on the kidnapping for profit case, which involved members of the military, was murdered in May of 1988.

4. It has been asserted by some that Col. Ponce, the Army Chief of Staff, has appeared before Judge Zamora twice. There is no indication in the court record that this is so. In fact, to my knowledge, Ponce has only submitted a written statement to the judge with names of soldiers. It is my understanding that the Judge has never formally questioned Ponce.

Other Failed Cases

1. The San Francisco (San Sebastian) massacre case, in which 10 peasants were murdered, is hardly a success story as some have asserted. Many in the Salvadoran government and in the United States Embassy are extremely upset. This was supposedly a test case and was to signal a new attitude by the Salvadoran military in prosecuting others in the military guilty of human rights abuses. The charges were recently dropped against 11 of the 12 Army defendants in the massacre. Charges still remain against a major involved in ordering the killings. However, according to US Ambassador William Walker, "how are they going to convict a major for ordering soldiers if the judge has already ruled that the soldiers didn't kill the people?"

2. The kidnapping for profit case, in which soldiers were kidnapping rich businessmen for ransom and blaming the FMLN -- is also falling apart. Several Judges, fearing for their lives, have withdrawn from the case. Recently, a judge dropped the charges against the defendants -- except two. And only one is in custody.

Why this bill as a vehicle?

1. The question shouldn't be why the supplemental authorization bill -- it should be why not? This is a bill dealing with emerging democracies in Central America. Would it be more appropriate to deal with this issue on a bill dealing with emerging democracies in Asia? Obviously, the Republican leadership thinks this bill is an appropriate vehicle; since they are offering a substitute and not just a "motion to strike."

You may recall that there were no amendments made in order on the issue of El Salvador to the Supplemental Appropriations Bill -- because the Secretary of State said he wanted to work out a bipartisan consensus on this issue. Well, that was 7 or 8 weeks ago. And despite my deep respect for the Secretary, to my knowledge, none of us have received even so much as one sheet of paper on this issue from the Administration. Should we wait another 8 weeks?

The bottom line is that to some of us El Salvador is important. The murder of six Jesuits is an outrage and the lack of progress on bringing those responsible is an outrage. I know some of my colleagues want us to delay action on this issue until we all forget about the Jesuits, but, to me that's unacceptable.

Why did you not allow a McCurdy amendment?

1. I was never personally asked to make a McCurdy amendment in order. The Rules Committee has no formal request for such an amendment. Yes, I knew that Mr. McCurdy had a plan floating around -- but so did some of my other colleagues. It is not my job to beg people to offer amendments to bills.

Furthermore, I believe that I, along with several of my colleagues, entered into good faith discussions with Mr. McCurdy. I am sorry they didn't work out. I hope we can get together on something in the future.