



March 2, 2011

The Honorable Barack Obama
President of the United States
The White House
Washington DC 20500

Dear President Obama:

I write in advance of your meeting with President Calderón of Mexico at a time when there are many issues of shared concern. ***Amnesty International (AI) strongly urges you to put human rights at the top of your priority list to discuss with President Calderón, as they are integral to all other issues of mutual concern.*** This visit is a historic opportunity for the United States and Mexico to further deepen bilateral relations and work together to promote human rights within domestic and foreign policies as well as regional security strategies. There are several outstanding human rights concerns that if approached collaboratively will greatly strengthen the partnership between Mexico and the US and draw upon the shared responsibility both countries have for the protection of the individuals present within the boundaries of both countries.

AI urges the US to work with Mexico to ensure that:

- Effective measures are implemented in Mexico to prevent and punish violence against women;
- Comprehensive measures are passed to fully protect human rights defenders and irregular migrants; and
- Legislation is passed in Mexico that would require military personnel implicated in human rights violations to be held accountable by civilian courts. Given the current debates in Mexico, we believe this visit to be a key opportunity to press President Calderón to enact legislation that would ensure *all* human rights violations committed by military personnel be investigated, prosecuted and tried in civilian courts—in line with recent binding judgments made by the Inter-American Court of Human Rights and one of the Merida Initiative requirements.

The implementation of effective measures to prevent and punish violence against women

Many women in Mexico continue to face violence in their homes, workplaces, communities or schools. Positive legislation introduced in recent years to combat gender violence has not been implemented effectively, and violence against women remains endemic in most parts of the country. Indigenous women are particularly affected by harassment, rape and other forms of gender-based violence.

We therefore urge you to press president Calderón to effectively implement the range of measures ordered by the Inter-American Court of Human Rights (IACHR) in the “Cotton Field” case to tackle the abduction and murder of women in Ciudad Juárez since 1993 and ensure the implementation of legislation that would combat gender violence and discrimination.

In May of 2006 during a police operation in response to protests by a local peasant organization in San Salvador Atenco, more than 45 women were arrested without explanation. Dozens of them were subjected to physical, psychological and sexual violence by the police officers who arrested them.

We further urge you to raise the case of the Women of Atenco with President Calderón as an emblematic case of the sexual violence women are subjected to in Mexico and the high level of impunity the perpetrators enjoy.

The comprehensive protection of human rights defenders and irregular migrants

AI, the UN High Commissioner for Human Rights and the Mexican National Human Rights Commission (CNDH) have all, throughout the past year, expressed grave concern over the threats and attacks on human rights defenders in Mexico. Those campaigning for environmental issues, rights of indigenous people, women’s rights and migrants’ rights; or highlighting the involvement of the military in human rights violations are at particular risk of threats and attacks. Some activists have been killed due to their human rights work. Both federal and state authorities have been implicated in falsely incriminating human rights defenders on fabricated criminal charges in reprisal for their legitimate work. In other cases, abuses against human

rights defenders are perpetrated by unidentified individuals or non-state actors. State and federal authorities rarely conduct effective investigations into these cases, further compounding the abuses against and vulnerability of human rights defenders. The seriousness of attacks on human rights defenders in Mexico calls for urgent action by federal, state and municipal authorities. It is vital that the human rights defenders protection mechanism, promised but not established by the Mexican government, include clear measures to guarantee protection and ensure effective investigation of attacks and threats against human rights defenders.

The federal government often argues that it does not have the authority to intervene in state jurisdictions to ensure protection. Closing this gap and ensuring that measures adopted at the federal level are effectively implemented at the municipal and state levels are vital for the effective protection of human rights defenders. The establishment of a protection program for journalists at risk announced by the Mexican government at the end of 2010 is welcome and highly necessary. The government has made, so far, unfulfilled commitments to establish a similar program for human rights defenders, who are equally at risk in many parts of the country.

We therefore urge you to review the proposal drafted by seven Mexican nongovernmental organizations for a human rights defenders protection mechanism that would include preventative, protective and investigative functions. The proposal was presented at a hearing of the IACHR in October of 2010 and to the Mexican government in December of 2010. Any such protection mechanism that is to be created should fully include human rights organizations in the design, implementation and monitoring components of the mechanism, with particular attention to the experiences of individuals and groups of individuals who have experienced past threats and attacks.

Additionally, we urge you to press President Calderón to ensure that any measures to comprehensively protect human rights defenders adopted at the federal level are effectively implemented at the municipal and state level.

Another key issue facing both countries is the plight of irregular migrants. Every year, thousands of irregular migrants, including women and children, crossing Mexico toward the US border suffer beatings, kidnapping, rape and murder. In most of the cases the attacks are carried out by criminal gangs, but public officials are often complicit or acquiescent. The authorities usually fail to carry out effective investigations and those responsible are rarely brought to justice. The plight of migrants is portrayed in the film “The Invisibles”, produced in November 2010 in collaboration between Amnesty International and Mexican actor Gael Garcia Bernal. The massacre of 72 migrants reported in Tamaulipas state in August 2010 brought to the public’s attention the systematic scale of abuses against vulnerable irregular migrants.

Despite commitments by the Mexican government to improve prevention, protection and investigation of attacks, thousands continue to occur each month with impunity. The new migration bill advancing through the Mexican Congress does not address the issue directly.

We therefore ask you to work with President Calderón to take concerted action to ensure that Mexico’s Migration Service (Instituto Nacional de Migración), Federal Police (Policía Federal), Federal Attorney General’s Office (Procuraduría General de Justicia) and state governments are effectively working together under clear leadership in a joint strategy to protect migrants’ rights. It is also vital that these agencies gather and publish data on abuses committed against migrants and measures taken to bring those responsible to account in order to assess the impact of government policy.

Holding military personnel implicated in human rights violations accountable in civilian courts

The timing of the meeting between both Heads of State this week coincides with a debate currently occurring in Mexico and is particularly relevant to both the US and Mexico because it directly corresponds to one of the requirements of the Merida Initiative regional security assistance package.

Currently, many parts of Mexico, including areas bordering the US, are witnessing extremely high levels of criminal violence. President Calderón has stated his government is committed to protecting human rights when combating drug trafficking and other criminal gangs. However, Amnesty International and other organizations, including Mexico’s National Human Rights Commission, have documented scores of serious human rights violations committed by the armed forces deployed in policing functions. These violations include but are not limited to: unlawful killings, enforced disappearances and torture. To date, all

of these cases are investigated within the military justice system, whose lack of independence, impartiality and transparency has resulted in impunity and documented cover-ups. The impunity enjoyed by perpetrators undermines the credibility of President Calderón's human rights commitments and does nothing to build public trust in Mexico's institutions.

Limiting the role of military jurisdiction is a key issue facing the executive, legislature and judiciary of Mexico right now. In 2009 and 2010, the Inter-American Court of Human Rights issued four separate judgments against Mexico in relation to impunity for human rights violations committed by military personnel (see the cases of: Radilla Pacheco, Valentina Rosendo, Inés Fernández and Rodolfo Montiel/Teodoro Cabrera). These binding judgments require Mexico to ensure that all allegations of human rights violations committed by military personnel against civilians are dealt with by the civilian justice system, *not* the military justice system, which has been instrumental in preventing those responsible from facing real justice for their actions. The Mexican government has announced that it will comply with the rulings but has yet to take the required actions.

As mentioned above, this issue also correlates directly with one of the human rights requirements of the Merida Initiative. As you are aware, the Merida Initiative is a US-financed, regional security assistance package with the release of 15% of select funds tied to the fulfillment of specific human rights requirements. The aforementioned condition requires the Mexican government to ensure "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..."

During her January 2011 visit to Mexico, Secretary of State Clinton made some very strong statements about the need to end the role of military jurisdiction in cases of human rights violations—in particular, recognizing the need to ensure that "any human rights violations committed by the military against civilians are tried in civilian courts."

Amnesty International welcomes Secretary Clinton's comments, and we look forward to more public statements of support from the US Government for practical measures to improve human rights in both Mexico and the US.

In October 2010, President Calderón presented a bill to the Mexican Senate to reform the Mexican Military Code of Justice. This proposal, which has yet to be debated, would only exclude three human rights violations—rape, torture, and enforced disappearance-- from military jurisdiction, and would leave the military in charge of deciding whether human rights violations had been committed and thus which jurisdiction should handle the case. As a result, the proposal will have little impact on the application of military justice and the denial of justice to the victims and relatives. The IACHR has already noted that the proposal does not meet the requirements of the Court, and the proposal clearly falls short of the observations made by Secretary Clinton on behalf of the US Government.

Amnesty International urges you to ensure that human rights are a priority in your discussions with President Calderón this week. In particular, we ask that you press President Calderón to bring the reforms made to the Mexican Military Code of Justice in line with the Merida Initiative human rights requirements. Any alleged abuses committed by the military should be investigated, prosecuted and tried by the civilian justice system in accordance with international human rights law, recent judgments made by the Inter-American Court of Human Rights and Secretary Clinton's remarks on behalf of the US Government.

Please let me know how we can support you in fulfilling this request.

Sincerely,



Larry Cox
Executive Director
Amnesty International, USA