

HUMAN RIGHTS WATCH

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Washington DC, December 11, 2012

Enrique Peña Nieto
President of Mexico
Los Pinos
Mexico City
MEXICO

Dear President Peña Nieto:

On behalf of Human Rights Watch, I wish to congratulate you on your inauguration as president. You have assumed leadership of a country whose recent human rights record is appalling. Addressing the abuses committed during the tenure of your predecessor and preventing them in the future will require immediate attention at the highest levels of your administration. I write to urge you to rapidly set out a concrete, detailed plan to address these serious problems.

During the term of President Felipe Calderón, Human Rights Watch documented compelling evidence that members of the military and police systematically used **torture** to obtain confessions and information from detainees in five states, and committed scores of **enforced disappearances and executions**. Virtually none of these crimes have been adequately investigated and prosecuted, despite ample evidence showing the involvement of officials. The patterns of violations that emerge in the accounts of victims and witnesses—together with official data and interviews with law enforcement, justice and human rights officials—demonstrates that these abuses are not isolated acts. Rather, they are examples of abusive practices endemic to the efforts of Mexican security forces to combat organized crime.

While these crimes were committed during the administration of President Calderón, the responsibility to ensure that they are adequately investigated did not end with his term. As you know—according to binding international treaties signed and ratified by Mexico, such as the International Convention for the Protection of All Persons from Enforced Disappearance and Inter-American Convention on Forced Disappearance of Persons—an **enforced disappearance is a *continuous* crime**. It persists, and indeed continues to inflict suffering on the victim's family, for as long as the fate of the missing person remains unknown.

For example, the families of Jehú Abraham Sepúlveda, who was disappeared in December 2010 in Nuevo León, and of Francis Alejandro García Orozco, Vladimir Pita Barrera, Sergio Menes Landa, Olimpo Hernández Villa, Andrés Antonio Orduña Vázquez, and Zozimo Chacón Jiménez, who were disappeared together in Guerrero in March of the same year, continue to search for their loved ones. Human Rights Watch assembled compelling evidence—including surveillance camera footage,



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witness testimony, and police and military reports—that the military and police arbitrarily detained these men shortly before they disappeared, and provided this evidence to prosecutors. Yet authorities continue to deny their involvement in the disappearances, and no officials have been pursued for criminal responsibility for these crimes. Meanwhile, relatives are forced to endure day after day without answers as to what happened to their sons, husbands, brothers and fathers.

These families and their missing relatives are among the scores of victims of enforced disappearances documented by Human Rights Watch, none of whose cases have been adequately investigated, much less prosecuted. And those scores of victims are just a tiny fraction of the approximately **25,000 people** who have disappeared since December 2006, according to a list compiled by the Federal Prosecutor's Office, as reported by the *Washington Post* on November 29, 2012. Indeed, if corroborated, the scale of these numbers would place the recent wave of disappearances in Mexico among the worst in the history of Latin America.

As the number of people who have disappeared continues to mount, Human Rights Watch has repeatedly called on the government to set up a **national database of the disappeared**. A comprehensive, accurate registry of the disappeared—complete with useful information such as the DNA of victims' relatives—is a crucial tool for searching for these people at a national level. For example, the names in the database could be checked against the records of hospitals, morgues, prisons, and border crossings around the country. Such a database would be particularly useful if paired with a complementary national registry of unidentified bodies. According to the National Human Rights Commission, more than 6,000 unidentified remains were recovered from January 2007 to December 2011, many of them in mass graves. However, while the Calderon administration proved it was capable of setting up national databases of stolen cars and of police officers with criminal records, it failed to set up similar registries for the disappeared or unidentified bodies. As a result, thousands of families continue to be deprived the possibility of knowing the fate of their loved ones through a simple match.

In addition to disappearances being a continuous crime, another reason it is essential that cases from the previous administration be investigated and prosecuted is because some **individuals forced to confess under torture continue to be imprisoned for crimes they did not commit**. Your newly appointed attorney general, Jesús Murillo Karam, rightfully recognized the government's responsibility to address these kinds of cases when he declared: "Absolute and unbending firmness to be able to carry out investigations of whoever is guilty, and to try to avoid a formula that I find perverse: there should not be innocent people in prisons."

Human Rights Watch has strong evidence of innocent people being imprisoned today on the grounds of fabricated evidence obtained through coercion. These include four men from Baja California—Ramiro Ramírez Martínez, Rodrigo Ramírez Martínez, Orlando Santaolaya and Ramiro López Vázquez—who were arbitrarily detained in June 2009 and taken to an Army base, where members of the military applied electric charges to their genitals, asphyxiated them, pulled out their toenails and beat them in front of one another for four days. The torture stopped only after the men, while blindfolded, signed confessions that had been written by their tormentors. The four men are being held in the federal prison in Tepic,

Nayarit, where—three and a half years after being arbitrarily detained and tortured—they are still awaiting a ruling for the charges against them. Meanwhile, despite numerous official complaints filed by their families; evidence compiled by Human Rights Watch of the victims' injuries and of the Army base where the abuses occurred; and the acceptance of the case in June 2012 by the UN Committee Against Torture; no members of the military have been charged for their torture. In order to comply with the declaration of Attorney General Murillo Karam, it is critical that the review of cases like these be granted the administration's highest priority.

Mr. President, we welcome the pledge in your inauguration speech to “transform into reality the human rights enshrined in [Mexico's] Constitution,” and to come up with a “strategy” for improving human rights, “with real and efficient coordination between the branches of government, to combat impunity and ensure that justice and peace prevail.” In addition, we recognize the effort to establish the broad outlines of such a strategy in the “Pact for Mexico,” which you put forward and gathered support for, and which includes important commitments such as making respect for human rights an official “state policy” (*política de Estado*) and strengthening the legal framework for preventing and prosecuting torture and enforced disappearances.

As you know, President Calderón pledged to address many of the same problems, even employing some of the same language, such as calling respect for human rights official “state policy” (*política de Estado*). Yet he never proposed a plan to turn his rhetoric into reality, let alone ensured that such a plan was implemented, revealing that he did not take seriously his responsibility to address these abuses. Indeed, the last minute nature of his public pledges and his lack of follow through suggests that he was more concerned with protecting his legacy and countering accusations of his personal liability than he was with addressing some of the worst human rights violations in Mexico's history. Calderón's failure to deliver on his commitments is one of the main reasons Mexico finds itself in such a deep human rights crisis today.

Therefore, we urge you to develop a **comprehensive plan** of concrete, detailed public policy solutions to address these serious problems. Among the critical issues that the plan should address are:

- What your administration will do with the Federal Prosecutor's Office's list of approximately 25,000 people who went missing during the Calderón administration, and who remain missing to date; and how you will use this information to assemble a comprehensive, accurate database of the disappeared, complete with data to identify missing persons such as DNA from family members.
- How your administration will develop standard protocols for justice and law enforcement officials for investigating disappearances and searching for missing people from the moment their disappearances are reported.

- What your administration's plan is for assembling a federal registry of unidentified bodies, and how will you ensure that the data in this registry can be crosschecked against the information in the database of the disappeared.
- What steps you will take to ensure that the prohibition on evidence obtained through torture—which is guaranteed by Article 20 of Mexico's Constitution, yet continues to be flouted—is enforced in practice; and how your administration, working with the Federal Prosecutor's Office, will systematically review cases in which evidence strongly suggests that people are currently being imprisoned on basis of such illicit evidence.
- When your administration will propose a reform to the Code of Military Justice that complies with the four binding rulings of the Inter-American Court of Human Rights and recent decisions of Mexico's Supreme Court to ensure that all alleged human rights violations committed by soldiers against civilians are investigated and prosecuted in the civilian justice system.

In order to develop an effective plan that tackles these and other critical issues, I strongly recommend that your administration review our report, *Neither Rights Nor Security*, which provides an in-depth analysis of abuses by security and justice officials, as well as targeted recommendations for how to address them. We presented the findings of that report to President Calderón and key members of his cabinet on November 9, 2011. In response, the president pledged to investigate not only all of the individual cases documented in the report, but also the patterns of abuse they reflected, and proposed creating a **joint commission with Human Rights Watch** to follow through on this pledge.

Human Rights Watch met repeatedly with the commission in 2011 and 2012, which was led by Interior Minister Alejandro Poiré, and provided extensive documentation of every one of the more than 230 cases included in our report. However, even with all of this evidence on hand, the Calderón administration still failed in the subsequent year to demonstrate any meaningful progress in the investigation and prosecution of these cases. And—with a few exceptions, such as passing protocols for the federal police and the military on the use of force—the administration failed to meet its commitments to implement broader reforms, which would have helped prevent new cases of disappearances, torture, and executions.

Mr. President, we recognize that Mexico is afflicted by very powerful organized crime groups, which have committed horrific crimes against their rivals, security forces, and innocent civilians. We also understand that the government has a duty to take measures to ensure the safety of its citizens, as well as to provide an effective remedy when Mexicans are the victims of such crime. Nevertheless, as we have argued before, security forces that commit widespread human rights violations are counterproductive to dismantling criminal networks and reducing violence, and they undermine efforts to build the public confidence in institutions that is critical to building effective policing efforts.

Mexico needs a clear, intelligent plan to address the very serious human rights problems you have inherited. A plan that will translate your important declarations of respect for human rights into a reality. We hope you will put forward such a plan publicly and swiftly, and give it the resources and the political support it needs to succeed. In its absence, the climate of abuse and rampant impunity that has thrived over the past six years will only worsen.

A handwritten signature in black ink, appearing to read 'José Miguel Vivanco', with a horizontal line underneath.

José Miguel Vivanco
Human Rights Watch

CC:

Miguel Ángel Osorio Chong, Minister of the Interior

José Antonio Meade Kuribreña, Minister of Foreign Affairs

Jesús Murillo Karam, Attorney General

Arturo Sarukhan, Ambassador of Mexico to the United States