

HUMAN RIGHTS WATCH

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Washington, D.C., April 29, 2013

The Honorable Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Ave, NW
Washington, D.C.

Dear President Obama,

I am writing to you to express our concern regarding the negative impact that the public security approach pursued in recent years in Mexico has had upon human rights. When you meet with Mexican President Enrique Peña Nieto this week in Mexico, public security will be one of the main issues on the agenda. The visit offers a critically important opportunity to evaluate the public security crisis that continues to afflict Mexico, with extremely powerful cartels, endemic corruption of police forces, and virtually zero accountability for those who commit crimes.

The public security strategy pursued in recent years by President Peña Nieto's predecessor, Felipe Calderón—with the full support and cooperation of your administration—not only failed to adequately address these serious problems, but also failed to halt the dramatic rise in violence they have helped produce. More than 70,000 people were killed in drug-related violence during Calderón's term, rising from over 2,500 in 2007 (his first year in office) to a peak of nearly 17,000 in 2011. Some 26,100 more people went missing or were "disappeared," according to statistics recently made public by the Peña Nieto administration.

Statistics recently published by the Mexican government also reveal the ineffectiveness of public security operations in prosecuting members of organized crime, and underscore Human Rights Watch's finding that security forces carried out wide-ranging arbitrary arrests. Out of the roughly 620,000 people who were detained in counternarcotics operations during the Calderón administration, nearly 500,000 (roughly 80 percent) were released for lack of evidence or on bail, according to the Attorney General's office. In México, people charged with organized crime or other serious offenses cannot be released on bail, meaning that those granted bail could only have been charged with minor crimes, not connected to organized crime. Less than 1 percent of those detained are

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suspected of belonging to criminal groups, the office said.

The strategy—which then-President Calderón called a “war on drugs”—also led to widespread and, in the case of torture, systematic, human rights violations committed by Mexican security forces. For example, complaints to Mexico’s National Human Rights Commission of torture and cruel, inhuman, or degrading treatment increased dramatically with each year of Calderón’s “war on drugs,” growing from 395 in 2007 to 1,662 in 2012, and totaling more than 6,500 complaints during his term.

One of the main reasons that chronic abuses have increased is that they are not punished. In the case of torture, for instance, not a single federal official was convicted for torture in federal courts during Calderón’s term in office. Meanwhile, abuses committed by members of the military are placed under the jurisdiction of military courts which, in addition to ensuring impunity, lack basic safeguards to ensure independence and impartiality. Among the problems of the military justice system, the secretary of defense wields both executive and judicial power over the Armed Forces, military judges lack security of tenure, and the system is almost completely opaque. While some 5,000 investigations were allegedly opened by military prosecutors during the Calderón administration into human rights violations, in only four of these cases were members of the military convicted (two of which are under appeal).

Despite the fact that evidence clearly showed a dramatic increase in human rights violations, virtually none of which were investigated, then-President Calderón spent virtually his entire presidency vigorously denying that they were occurring, and claimed that nearly all of the victims of drug-related violence were criminals. While in his final year in office he reluctantly conceded that abuses had occurred, he insisted—contrary to strong evidence showing they were widespread—that they were isolated acts, and did not put in place policies to ensure that those responsible were brought to justice.

Confronted with one of the most serious human rights crises in the hemisphere and a president who, for the most part, denied it existed, your administration consistently offered uncritical support for Calderón’s policies. On multiple occasions, you expressed admiration for then-President Calderón’s “bravery” in confronting cartels, without once expressing concern publicly about the widespread abuses being committed by Mexican security forces, or for Calderón’s dangerous rhetoric blaming the victims of abuse.

Your administration also chose, year after year, not to enforce the human rights requirements included in the Merida Initiative, a joint US-Mexico effort to combat organized crime. The US has channeled approximately \$2 billion in Merida funding to Mexico since 2007, a significant part of which has gone to training and equipping

Mexican security forces. Fifteen percent of that assistance is supposed to be conditioned annually to Mexico's ability to meet a set of basic human rights requirements, which include barring the use of confessions obtained through torture and ensuring that military personnel who commit abuses are investigated in civilian courts. Yet despite unequivocal evidence—including cases documented in the State Department's own reports—that Mexico has failed to meet the requirements, your administration has repeatedly allowed the funds to be released. As justification, your administration has argued that Mexico has demonstrated progress toward meeting the requirements as well as greater engagement which, while positive, are not the standards set by the law, nor do they reflect the reality in Mexico. The only frank questioning of whether these requirements have been met has come from members of Congress, who have rightly asked what the purpose is of the US establishing human rights requirements if the government is not going to enforce them.

Unlike its predecessor, the Peña Nieto administration has demonstrated a willingness from its outset to recognize some of the serious human rights abuses committed by security forces in the “war on drugs” and, more broadly, the need to change the counternarcotics strategy. In an op-ed in the Washington Post days before his first meeting with you in November 2012, then-President-elect Peña Nieto wrote of his approach to organized crime: “I will continue the efforts begun by President Felipe Calderón, but the strategy must necessarily change.” In addition, President Peña Nieto has stated that respect for human rights must be viewed as an essential part of—rather than an obstacle to—effective crime-fighting. He has set out “synchronizing the plan for security and justice with the plan for human rights” as a goal of his government. Nevertheless, Peña Nieto has yet to put forward a new public security strategy or concrete proposals for how to achieve these goals.

Key members of President Peña Nieto's cabinet have publicly acknowledged the failures of former President Calderón's “war on drugs” and advocated its overhaul. Home Minister Miguel Ángel Osorio Chong Home Ministry—the second highest-ranking authority in Mexico after the president—accepted that while spending on public security had more than doubled during the previous administration, crime had increased significantly. “The rate of growth in homicides,” he said, “places us among the highest in the world.” And Osorio acknowledged that, “only one in every 100 crimes is punished.” Attorney General Jesús Murillo Karam has repeatedly asserted that the practice of arraigo—which was passed into law in 2008, and by which individuals can be detained for up to 80 days before they have been charged with any crime—was used excessively during the Calderón years, and resulted in “frequently violating fundamental rights.” (The practice of arraigo remains on the books, however.)

Mr. President, your administration has shown leadership by recognizing that the United States, as the main supplier of illicit weapons and the main destination for the drugs trafficked through Mexico, has a shared responsibility for addressing

Mexico's organized-crime problem. Yet, as you yourself have time and again pointed out, part of sharing responsibility and being a good partner is recognizing when policies don't work and then working to fix them. Unfortunately, while the Peña Nieto government has taken the first step of recognizing the crisis at hand and the need to change strategies, your administration has been noticeably silent.

This visit provides an ideal opportunity to break that silence by demonstrating the US government's concern for Mexico's human rights problems and its commitment to supporting a new approach. It is particularly timely given the fact that, while the Peña Nieto administration has spoken to some of the flaws of the "war on drugs" and laid out alternative goals from its predecessor, it has yet to propose a plan for how it will achieve them. And it is especially important given the grave abuses that have been committed by Mexican security forces.

It is critical that you seize this opportunity by supporting the efforts of the Mexican government to prosecute those responsible for the worst crimes of the past six years, including serious human rights violations, which is the best way to prevent them from being repeated in the future. And more broadly, it is past time to make the case publicly—together with the new Mexican government—that respecting human rights is a fundamental part of, rather than an obstacle to, improving public security. That means sending a clear message that the only way to dismantle Mexico's powerful cartels is not through arbitrary arrests and torture, but rather through comprehensive investigations, which lay the groundwork for prosecuting vast, sophisticated, and extremely violent criminal networks. In order to effectively carry out such investigations, Mexico needs to build professional security forces, who understand that cutting corners on basic rights will only exacerbate the climate of lawlessness in which cartels thrive, weaken eventual prosecutions, and further undermine the public trust that is crucial for successful law-enforcement efforts.

Not only will such a shift in strategy reflect the shared values of the United States and Mexico, but it will also advance the immediate goal of improving security while curbing abuses, which is in both countries' interest.

Sincerely,

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

José Miguel Vivanco
Human Rights Watch