

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Dear Mr. President Calderon:

We are writing to express our concern regarding your conflicting messages on the need to protect human rights in Mexico. We respectfully urge you to affirm that respecting human rights is an integral part of your government's public security efforts, and support this rhetoric by strengthening the laws, institutions and practices that protect these rights.

We agree with your assessment, made publicly in August, that Mexico is in the midst of a severe public security crisis, which until now "has not been adequately resolved." Powerful networks of organized crime are committing shocking violence to target anyone perceived as an enemy—from government officials who attempt to rein in their efforts, to journalists who report on their illicit activities. The competition among and fighting within these cartels, together with shootouts with law enforcement agents, has claimed the lives of more than 28,000 people during your administration, according to the government's Center for Investigation and National Security (CISEN).

This violence threatens the security and well-being of the general population. It harms the ability of citizens to express themselves openly, to move about freely, and to participate democratically in society, among many other fundamental freedoms. In times of extreme violence, the government has an obligation to reinforce the fundamental rights of the population, rather than set them aside under the pretext of restoring security. This means upholding freedom of expression, ensuring the security of human rights defenders, respecting the impartiality and independence of the judicial branch, and strengthening the rule of law.

Unfortunately, since your administration deployed tens of thousands of soldiers to combat drug-related violence, the number of serious human rights violations has increased dramatically. Mexico's National Human Rights Commission (CNDH) has found the military responsible for grave human rights abuses in nearly 60 cases during your administration, including unlawful killings, rape and torture. In that same period, the Commission has received more than 4,000 complaints of abuses by the army alone. Distressingly, the numbers of both complaints and comprehensive reports of human rights violations committed by members of the military have grown significantly with each year of your presidency.

#### Contradictory Messages About Human Rights

In light of this alarming increase in abuses by security forces, it is especially disappointing to see contradictory messages on human rights from your administration.

Human rights concerns are typically excluded altogether from your discussion of the government's public security strategy. You recently initiated a series of public "dialogues" to develop a more effective approach to confront organized crime, the first part of which was with "civil society." When you initiated the national dialogue, you expressed a "total openness" to "listen to all proposals that genuinely seek to contribute to the solution to this [public security] problem." However, over more than four days of sessions with civil society, you did not once mention human rights in any of your nine addresses, nor did you invite any nongovernmental human rights organizations to participate. Mexican human rights organizations have taken on a critical role in documenting human rights violations during this violent period, and possess a unique understanding of the challenges that come with protecting basic rights and promoting public security. Not inviting them to the table was a missed opportunity for the government and a significant loss for the dialogue.

In exceptional cases, you have spoken to the central role that human rights should play in the efforts to confront organized crime. For example, when, in a subsequent dialogue on August 19 with members of Congress, you were confronted with the widespread human rights abuses committed during your administration, you responded by affirming, "the belief of the executive branch that the protection of human rights is the central premise in this combat [with organized crime]." We were greatly encouraged by this statement.

However, the power of this statement, and a few other assertions like it, has been undermined by conflicting statements questioning whether human rights violations have even been committed. Only a week after speaking to legislators in the dialogue mentioned above, you said in a radio interview: "Here [in Mexico], people often come to talk about the human rights violations of the army and make a series of complaints that are starting to get tiring-[complaints] that are not true-because the dignity of criminals is respected. [Criminals] are put before a judge and everything."

These self-contradictory statements on human rights followed a similar pattern in a news conference last year in Guadalajara together with the president of the United States, Barack Obama. Asked about increasing human rights abuses by security forces, you affirmed that your government had an "absolute and categorical commitment to human rights." Then you proceeded to call on critics to prove "any case, just one case, where the proper authority has not acted in a correct way, that the competent authorities have not punished anyone who has abused their authority, whether they be police officers or soldiers or anyone else." Saying the government is committed to human rights carries little weight when coupled with allegations that complaints of human rights violations "are not true," or that authorities simply do not commit abuses.

### **Protecting Human Rights Strengthens Public Security Efforts**

Human Rights Watch respectfully suggests that you make protecting human rights a central part of your efforts to improve public security, in rhetoric and in practice. Mexico has an obligation to protect and promote human rights under its Constitution and international law. And, as you have argued, adherence to basic rights will give Mexico the "moral high ground" over the violent criminal gangs it faces.

Furthermore, respecting human rights will also significantly strengthen the effectiveness of security forces, because building the trust of the population is vital to gaining the community support that is needed to identify criminal activity, violent cartel members, and corrupt and abusive officials. Curtailing abuses and protecting rights is not in conflict with a strong public security policy, but rather is a necessary element.

With that end in mind, and responding to your call for cooperation and dialogue, we respectfully offer the following measures to support this rhetoric with concrete action:

### **Prosecute Members of the Military Accused of Committing Human Rights Abuses in the Civilian Justice System**

As noted above, human rights violations by the military have increased dramatically during your administration. An important reason military abuses persist is that they go unpunished. And they go unpunished in significant part because most cases end up being investigated and prosecuted by the military justice system, which has demonstrated a lack of independence and impartiality in handling these cases.

The failure of Mexico's military justice system to hold soldiers accountable for abuses is apparent from the lack of soldiers sentenced for serious abuses. According to the most recent figures provided by the Secretary of Defense (SEDENA), military courts have only sentenced one officer for committing a human rights violation during your administration.

As you know, in the November 2009 decision in the case of *Radilla-Pacheco v. Mexico*, the Inter-American Court of Human Rights ordered Mexico to modify its Code of Military Justice to comply with its obligations under international law. The decision explicitly states that in cases where the military violates the human rights of civilians, "the military jurisdiction cannot operate in any circumstances."

Your administration has repeatedly stated its commitment to comply fully with the court's decision. We urge you to fulfill this pledge by sending a proposal to Congress as swiftly as possible that will modify the Military Code of Justice to ensure that all cases of human rights violations against civilians are investigated and prosecuted in the civilian justice system.

### **Denounce Government Officials Who Attack Journalists and Human Rights Defenders**

In the previously mentioned public dialogue, you repeatedly called on civil society to take a "more active, permanent role in the discussion and monitoring of security policies." In particular, you asked journalists to dedicate in-depth coverage to the fight against organized crime, and to create spaces for citizens to discuss public security issues.

We share your view that journalists, together with human rights defenders and other elements of civil society, play a critical role in monitoring public security efforts and building a vibrant democracy. In order to foster the ongoing participation of these groups, government officials should ensure that their members receive protection when they are at risk.

It is therefore deeply troubling to hear public statements by members of your administration criticizing the media and human rights groups for doing their job. In an event commemorating the international Day Against Torture and speaking to an audience of human rights defenders from across the country, including Dr. Ral Plascencia Villanueva, President of the National Human Rights Commission, then Interior Minister Fernando Francisco Gomez Mont Urueta warned human rights advocates not to allow themselves to become "useful idiots" manipulated by drug trafficking organizations. In a press conference weeks earlier in Ciudad Juarez, following a horrific wave of killings, Dr. Gomez Mont blamed the media's coverage of violence for generating divisions between the public and the government. Similarly, the then secretary of tourism, Rodolfo Elizondo, accused the press last year of damaging Mexico's image abroad by "attaching great significance to everything that happens related to organized crime in the country."

Rather than fostering a climate of "dialogue," such statements undermine the efforts of journalists and human rights defenders, and call into question without basis their legitimacy. However, in none of these instances did you refute these criticisms. Therefore, we would request that, in the future, you press your administration to refrain from making such damaging statements towards civil society, and defend the importance of the work of journalists and human rights advocates. And when officials in your administration make such comments, we ask that you challenge them.

## **Protect Journalists, Human Rights Defenders, and Other Civil Society Members**

Being supportive of the role of civil society is especially important in a climate where journalists and human rights defenders are increasingly the target of threats and attacks. The recent killing of a photojournalist in Ciudad Juarez, bombings of news outlets in Sinaloa and Tamaulipas, and the shooting of an indigenous community leader in Guerrero are just the most recent illustrations of the risks journalists and human rights defenders face. Thirty-four journalists and eight human rights defenders have been killed during your administration, according to the National Human Rights Commission, and eight additional journalists are missing and are feared dead. And during a recent visit, the special rapporteurs on freedom of the press of the United Nations and the Organization of American States noted the persistent failure of Mexican authorities to implement policies of prevention and protection in the face of considerable violence against journalists.

However, in spite of increasing threats and attacks, the government has routinely failed to protect those who face serious risk. For example, despite repeated death threats and constant calls for protection from the Inter-American Commission on Human Rights and nongovernmental organizations such as Human Rights Watch, your government never took adequate steps to provide security for two human rights defenders from Tijuana. Their lives at risk, the defenders eventually had to flee Tijuana, and to this day have been unable to return. The combination of persistent threats and lack of government protection experienced by the Tijuana defenders has been shared by many journalists and human rights defenders in Tamaulipas, Coahuila, Sinaloa, Guerrero, Chiapas, as well as in various other states around the country.

You recently announced the creation of an early warning system to prevent and attend to threats, harassment, and attacks against members of the press. We believe that this is a profoundly important commitment. We look forward to more details about how this system will improve upon the poor record of the Special Prosecutor for Crimes against the Press, which up to now has thoroughly failed to investigate and prosecute such cases.

While we welcome the creation of this early warning system for journalists as a positive step, we would recommend you initiate another dialogue-this time with journalists, human rights defenders, and other members of national and international civil society-to formulate a comprehensive federal strategy to effectively protect all actors who are at risk.

Among the crucial components of this system, we recommend that you establish an independent body that can receive complaints from journalists, human rights defenders, and other civil society actors under threat; act swiftly to evaluate the risk they face; possess the adequate resources and independence to protect such individuals when it is deemed necessary; and allow input and evaluation from civil society organizations.

## **Fast Track the Visit of the UN Special Rapporteur on Extrajudicial Executions**

It is deeply unfortunate that your government did not authorize a visit to Mexico by Professor Philip Alston, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, before his mandate ended in July 2010. Therefore, it would be advisable that your government attempt to arrange a visit from the new rapporteur on extrajudicial executions as soon as possible, ideally before the end of the current year.

## **Tijuana Is Not a Model of Public Security**

In July 2010, you appointed Jos Francisco Blake Mora, former interior minister in the state of Baja California, to be your new interior minister. In announcing his qualifications and experience, you repeatedly cited his "fundamental role in confronting in a resolute fashion the problem of violence and organized crime in Baja California." These comments were consistent with earlier statements you had made holding up Tijuana as a model of how the government's counter-narcotics strategy-and particularly the deployment of the military-had produced concrete security gains.

However, Human Rights Watch's research shows that Tijuana is anything but a model for an effective public security operation. In April, we conducted a fact-finding mission to Tijuana during which we found credible allegations of the systematic use of torture by the army, including more than 100 cases since 2009 of individuals who alleged they were arbitrarily detained, transported to military bases, and tortured to obtain false confessions. The torture tactics they described fit a pattern: according to victims and their family members, their interrogators blindfolded them, beat them, applied electric shocks to their genitals, threatened to kill them and their families, and asphyxiated them by putting plastic bags over their heads. During detention and interrogation, the authorities did not inform the families of detainees that they were being held. In several cases, victims alleged the collaboration of civilian authorities in abuses, such as police assisting the military in arbitrary arrests, or members of the state prosecutor's office being present when they were forced to sign confessions under torture.

The State Human Rights Commission of Baja California has documented similar patterns of abuse. For example, in an in-depth report released in August, the commission concluded that police officers arbitrarily detained, held incommunicado, tortured, and planted false evidence on five individuals in August 2009. The report found that the chief of the municipal police was not only present when the torture was carried out, but himself personally asphyxiated one of the victims by placing a plastic bag over his head and punching him repeatedly. Instead of using these findings to address the problem, the chief of police dismissed the commission's findings, saying that "shadow interests" were behind the inquiry. Meanwhile, the mayor of Tijuana warned that "institutions for protecting human rights should not be used by criminals who disturb the peace of the general public."

Nor has the deployment of the military in Tijuana succeeded in reducing the number of killings. According to information provided by the state government, during 2007, 337 homicides were registered; in 2008, 884; and in 2009, 664. From the beginning of the year to August 28, 531 people were killed in Tijuana-putting 2010 on track to be one of the most violent years of your administration.

We offer these recommendations with sincere belief that, if implemented, they will not only protect the fundamental rights of the Mexican people, but also strengthen the country's efforts to tackle organized crime. We sincerely hope you will take them into account as you evaluate reforms to the security strategy of your government going forward.

Jos Miguel Vivanco  
Americas Director  
Human Rights Watch

CC: Ministry of the Interior; Ministry of Foreign Affairs; Arturo Sarukhan, Ambassador of Mexico in the United States; Carlos Pascual, Ambassador of the United States in Mexico

Cubas Systematic Repression of July 2021 Demonstrators

Harassment and Detention of Opponents, Rights Defenders and Journalists Ahead of Elections in Nicaragua

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