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**AMNESTY
INTERNATIONAL**



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Dear President Peña Nieto

I am writing to thank you again for the opportunity to meet with you and other senior representatives of your government during my visit in February 2014 to discuss the critical human rights situation in Mexico.

Amnesty International welcomes the willingness of your government to engage in this important dialogue to advance a comprehensive human rights agenda. I hope that the memorandum I presented to you, which set out Amnesty International's concerns and recommendations to address a number of priority human rights issues, will serve as a guide to identify and implement actions to prevent and punish human rights violations.

We acknowledge that Mexico often plays an important role in promoting human rights initiatives at regional and international fora, as well as in facilitating the access of international and regional human rights organizations and experts to the country. However, this commitment must be matched by action at the national level to protect and promote human rights and to hold those responsible for human rights violations to account.

It is vital that effective long-lasting measures are taken to address ongoing patterns of disappearances, torture, arbitrary detentions as well as routine attacks on human rights defenders, journalists, migrants and women - regardless of whether the perpetrators are state officials or not. Ending the constant cycle of impunity that has fomented these abuses is vital if there is to be real progress.

A crucially important action is your government's determination to ensure that security forces and other public officials implicated in grave human rights violations, such as enforced disappearances and torture, are promptly brought to justice and victims receive reparations. As you are aware, such outcomes are the exception not the norm.

Amnesty International has repeatedly documented how impunity in Mexico is entrenched due to the lack of government response to reports of human rights violations. There is a consistent pattern of ignoring the complaints of victims or dismissing them as unsubstantiated, rather than ensuring full and impartial investigations to prevent and punish abuses. If your government is serious in its commitment to human rights, this demands a radical change in the response to complaints by alleged victims of abuses and violations. The authorities must provide a full and public account of the steps taken to investigate such abuses against the benchmarks established in international and regional human rights norms and mechanisms.

MEXICO'S RESPONSE TO THE UNIVERSAL PERIODIC REVIEW

Mexico's appearance on 20 March 2014 before the UN Human Rights Council to respond to the 176

recommendations made by members of the Council as part of the Universal Periodic Review process provided a relatively encouraging expression of the government's commitment to adopt measures to address the grave human rights situation.

The acceptance of all but eight of the recommendations is positive, but we recall that in 2009, as a result of Mexico's last examination by the Human Rights Council, the previous government also agreed to implement the majority of measures. Nevertheless, what followed was a steep deterioration in the human rights situation due to the government's failure to take seriously its responsibility and implement the measures effectively. For this reason it is vital that your government promptly sets out the concrete and comprehensive programme of measures it will implement to comply with the 168 recommendations it agreed to.

The Mexican government's response to the Human Rights Council also contained some worrying signs. This include the continuing refusal to eliminate pre-charge detentions, *arraigo*, at all levels. We are aware of the National Supreme Court's recent decision to limit its application to organized crime offences in the federal jurisdiction, and the reported reduction in the number of people detained under federal *arraigo* orders in the last year. However, as international human rights mechanisms have consistently observed, *arraigo* detention violates the right to liberty, presumption of innocence and fair trial and makes the detainee vulnerable to torture and other ill-treatment. It is time for your government to recognize that *arraigo* not only results in serious human rights violations, but is also an obstacle to the development of criminal investigations which do not rely on such violations. We urge you to reconsider the refusal to comply with the recommendation of the Human Rights Council and international human rights mechanisms that have called for its elimination.

Amnesty International welcomes the long awaited reform of the Code of Military Justice approved by Congress on 24 April 2014 to ensure allegations of human rights violations committed by members of the Armed Forces are investigated, prosecuted and tried by the civilian justice system. However, the reform does not fully comply with the judgements issued by the Inter American Court of Human Rights, as military personnel who are themselves victims of human rights violations committed by armed forces will remain under the jurisdiction of military justice and as such will be denied effective legal recourse and the equal protection of the law. Nevertheless, Amnesty International believes the reform is an important advance for civilian victims of human rights violations, but subsequent reforms of the Code of Military Justice must correct these ongoing flaws.

In the meantime, it is vital that your government takes decisive steps to ensure that the civilian justice system fully, promptly and impartially investigates all allegations of human rights violations committed by members of the Armed Forces in order to bring those responsible to justice and for victims to receive reparations in line with international standards. This is perhaps one of the greatest challenges facing your government and it will only be achieved if you place your personal credibility behind the investigations into alleged abuses. The reform itself is not sufficient to end impunity and overcome the reluctance to hold military personnel accountable for human rights violations.

MECHANISMS FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS AND JOURNALISTS

As I stressed during our meeting in February 2014, Amnesty International remains concerned about the continued attacks, threats, intimidation and abduction and killing that human rights defenders and journalists face in reprisal for their legitimate and vital work. We welcomed the establishment of the Mechanism for the Protection of Human Rights Defenders and Journalists in June 2012, however, to date many defenders and journalists at risk who have sought protection have not received a timely or effective response, creating frustration, insecurity and disillusion. In February 2014 the Interior Ministry acknowledged that it had received 152 requests for protection, of which 22 were not accepted. However, only 41 of the remaining 130 accepted cases received any protection while a further 89 cases were waiting for a response. Despite the government's claims that the mechanism is working effectively, recent incidents indicate serious underlying problems. These include the resignation of the director of the Human Rights unit and the sudden departure of at least four other key staff which has left the mechanism without trained personnel to meet the security needs of scores of threatened human rights defenders and journalists. Amnesty International is concerned that the new leadership of the mechanism is lacking of the experience and political commitment to ensure it

functions effectively and strategically.

We have learned of the concerns expressed by the civil society members of the Executive Committee (*Junta de Gobierno*) of the Mechanism, which demonstrate the profound crisis of credibility and the failure to establish adequate management, work plans and political support for the Mechanism in order for it to achieve its mission. Amnesty International understands the decision of the civil society representatives to withdraw from the Executive Committee. We urge your government to address their demands and ensure effective leadership of the mechanism to rapidly deliver an action plan to address the many problems facing the Mechanism. It is vital that the Minister of Interior take this opportunity to re-establish the credibility of the mechanism with human rights defenders and journalists and to put in place measures to prevent attacks and hold those responsible to account.

The crisis in the protection mechanism demonstrates the hollowness of some of the Mexican government's responses to the Human Rights Council, which suggested ongoing legislative and administrative measures already amount to compliance with many recommendations. This approach ignores the victims of human rights violations, such as human rights defenders under threat or relatives of the disappeared and victims of torture whose experiences daily confirm the ineffectiveness of many of these measures presented to the Human Rights Council.

If your government is to achieve real and lasting improvements in the human rights situation and finally break the cycle of impunity, it must ensure that the measures it takes are determined and evaluated according to their impact on victims and rights holders. For that reason, it is vital that the Mexican government works with civil society to identify, deliver and evaluate steps to tackle the critical human rights situation.

As stated in our memorandum to you, Amnesty International urges your government to show real advances by taking specific and immediate actions on a number of key issues:

- Issue a presidential statement that any federal official failing to report or investigate information relating to alleged enforced disappearances, extrajudicial killings, torture or other ill-treatment and other human rights violations will be prosecuted in line with international human rights standards.
- Ensure full implementation of the reformed Code of Military Justice to ensure all military personnel implicated in past and present human rights violations against civilians are investigated, prosecuted and tried by the civilian justice system.
- Overhaul procedures for responding to and investigating complaints and reports of torture or other ill-treatment in full accordance with the Istanbul Protocol, including reform of special procedures applied by the PGR as well as medical protocols for the initial examination of all detainees and ensure alleged victims have immediate access to independent medical experts.
- Make a clear political and financial commitment to implement preliminary recommendations of UN Special Rapporteur on Torture and establish an independent monitoring mechanism with civil society to assess implementation.
- Abolish *arraigo* and establish an accessible national database recording all detentions.
- Publish revised database of 26,000 people reported missing (*no localizado*) or disappeared and establish rapid search mechanisms, prompt access to mobile phone and other personal data of missing persons, dedicated investigation units, protocols for exhumations of suspected human remains and a credible national missing persons database.
- Guarantee a full proactive investigation of all persons reported disappeared and ensure that all leads are fully explored, including those suggested by relatives and where public officials may be implicated, in order to establish truth, justice and reparations. Ensure binding protocols to keep

relatives updated with detailed information on investigations. Reform national legislation on enforced disappearance in conformity with international standards.

- Respond to the demands of civil society representatives on the Executive Council of the Mechanism for the protection of Human Rights Defenders and Journalists, in particular to ensure there are sufficient trained staff in the mechanism, that workplans and resources are sufficient to meet protection needs, that leadership of the mechanism enjoys the confidence of defenders and journalists. Ensure that other federal agencies as well as state and municipal governments fully comply with protection measures and officials who fail to comply are held to account. Establish dedicated police and prosecutor units working to specific agreed protocols to investigate attacks and threats against human rights defenders and journalists.
- Demonstrate substantial advances in the prevention and punishment all abuses committed against irregular migrants in transit, regardless of whether committed by public officials or criminal gangs.

We saw with interest the unannounced publication of the National Human Rights Program (PNDH), part of the National Development Plan, in the Official Gazette on 30 of April 2014. The PNDH provides a valuable diagnostic of the critical human rights situation, but appears to be only a guide for the Federal Public Administration rather than a dynamic human rights action plan necessary to address in detail many of the key issues identified. For this the PNDH must be transformed into a coherent and comprehensive action plan. This can only be achieved with full involvement of civil society, high-level political support, the commitment and agreement of all branches and levels of the state and the necessary financial resources to ensure its effective implementation.

It is vital that the recommendations made by the Human Rights Council are incorporated into the PNDH and put into effect. We hope that the specific actions proposed in this letter are implemented as soon as possible as part of this program and action plan. Amnesty International will monitor your government's progress implementing these and other measures identified in our memorandum in order to assess improvements in the protection of human rights and ending impunity.

Amnesty International welcomes the opportunity to continue the dialogue with your government. Since our meeting in February we note that your government has been reluctant to make clear public commitments on human rights. We hope with the development of the PNDH you will now come out strongly in support a comprehensive human rights agenda.

I look forward to your response to this letter, which we will make public in the spirit of transparency and your openness to dialogue.

Sincerely,

Salil Shetty
Secretary General

CC. Miguel Ángel Osorio Chong, Minister of Interior
Jesús Murillo Karam, Federal Attorney General
José Antonio Meade Kuribreña, Foreign Minister
Diego Gómez Pickering, Mexico's Ambassador to the United Kingdom