



17 March 2016

OPEN LETTER FROM AMNESTY INTERNATIONAL TO USA PRESIDENT BARACK OBAMA, CUBAN PRESIDENT RAUL CASTRO, AND ARGENTINE PRESIDENT MAURICIO MACRI.

On the occasion of President Barack Obama's upcoming historic visit to Cuba, followed by a two-day visit to Argentina, Amnesty International would like to take this opportunity to highlight to the three Presidents a number of major human rights concerns which we hope will be prioritized as part of your discussions.

UNITED STATES OF AMERICA

Detentions at Guantánamo Bay

While we recognize the current administration's commitment to end the detentions in the US naval base at Guantánamo Bay, the fact that dozens of detainees remain there more than six years after President Obama's original deadline for closure of the detention facility is a cause for huge international concern. We reiterate that any Guantánamo detainee the USA does not intend to charge for prosecution in proceedings that fully comply with international fair trial standards should be immediately released.

We regret that the government's plan for closure submitted to the US Congress on 23 February 2016 fails to address resolution of the detentions as a human rights issue. The plan for closure makes no reference to the USA's obligation to ensure accountability for human rights violations, including crimes under international law of torture and enforced disappearance that have occurred at the base and elsewhere. The result is a proposal to relocate some individuals for indefinite detention without charge or trial to the US mainland. We have consistently argued that closure of the Guantánamo detention facility must not result in the transfer of human rights violations elsewhere. This proposal would fail this test, as would the retention of military commissions for selected prosecutions. The commissions do not meet international fair trials standards and should be abandoned in favour of trials in the ordinary criminal justice system.

The US economic embargo on Cuba

For too long, the US economic embargo has undermined human rights in Cuba, particularly economic, social and cultural rights. Amnesty International has consistently called for lifting of the embargo and documented how it denies ordinary Cubans access to medication and other basic commodities. We welcome the government's efforts to re-establish diplomatic relations with Cuba. We call on the US Congress to pass the following bipartisan bills: The Freedom to Travel to Cuba Act of 2015, The Cuba Trade Act of 2015, and The Cuba Digital and Telecommunications Advancement Act.

Migrants and refugees

On this first visit to Latin America in 2016, we urge President Obama to not only consider the human rights situations in Cuba and Argentina but also to address the situation faced by thousands of migrants and asylum seekers in the USA and ensure his government fully complies with international standards regarding those seeking to enter the country. Nearly 40,000 unaccompanied children and an additional 40,000 families were apprehended crossing the southern border in 2015, many fleeing violence and insecurity in El Salvador, Honduras, Guatemala, and Mexico. Families and unaccompanied children were detained for months while pursuing claims to remain in the country, many held in facilities that did not provide proper access to medical care, food and water, and access to legal counsel. The US government announced expansion of the current refugee resettlement program for migrants fleeing from El Salvador, Guatemala, and Honduras, and this is a step in the right direction, but it still is a far cry from the measures that need to be taken internationally towards resettling those displaced. This is an issue that cannot be left aside in any discussion pertaining the human rights situation of the Americas.



CUBA

International scrutiny

Independent human rights organizations and mechanisms, including Special Rapporteurs of the UN and the Inter-American Commission on Human Rights, have not had access to Cuba for decades. Cuba is the only country in the Americas which Amnesty International does not have permission from authorities to access.

In the interest of transparency and to facilitate independent and objective monitoring and reporting on a range of human rights issues in Cuba, independent human rights organizations should be able to enter the country. While we welcome the new dialogue between Cuba and the international community, we urge that this dialogue includes international human rights actors, as a way to advance the protection and promotion of the human rights of the Cuban people. Working with human rights systems, Cuba could also send a message to the world that it welcomes accountability and transparency, and that it is willing to be held to the same degree of scrutiny as its peers across the Americas.

Arbitrary arrests and restrictions on freedom of expression, association and assembly

In recent years there have been constant reports of harassment and short-term arbitrary arrests of peaceful protestors, political dissidents, and human rights defenders in Cuba. On 10 December 2015, International Human Rights Day, Amnesty International received reports of dissidents and journalists placed under house arrest by state agents in order to prevent their participation in peaceful activities. Amnesty International is seriously concerned that provisions of the Cuban Criminal Code, such as contempt of a public official (“desacato”), resistance to public officials carrying out their duties (“resistencia”) and public disorder (“*desórdenes públicos*”) are used to stifle free speech, assembly and association. In line with international standards, Cuba must amend provisions of the Criminal Code that lend themselves to abuse by state officials and the judiciary to restrict freedom of expression.

ARGENTINA

Access to Justice and the end to Impunity

Forty years have passed since the 1976 coup in Argentina and substantial progress has been made in investigating and bringing the serious human rights violations that took place during that period to trial.

Challenges still remain, however, such as the need for efficient organization of all cases, including the legal and paralegal work with witnesses. New challenges have also emerged such as the civilian participation in the dictatorship and bringing sexual crimes to justice. Argentina must continue its efforts to bring those responsible for the human rights violations committed during the military dictatorship to trial without unnecessary delay, and to protect the security and physical integrity of the witnesses in these cases.

Rights of Indigenous Peoples

Argentina’s Constitution and the international human rights law already recognize the right of Indigenous peoples. However, for decades, Indigenous peoples in Argentina have been treated like second class citizens, subjected to violence, intimidation and discrimination with their human rights ignored. In recent years, their claims and demands have started to gain traction on the political and social agenda in Argentina.

Over the last decade state and private interests, especially those of the agribusiness and extractive industries, have built up enormous barriers between Argentina’s Indigenous people and their rights to their traditional lands. International bodies, including the UN Special Rapporteur on Indigenous Peoples, have criticised the lack of consultation with the communities that may be affected by development projects and exploitation of natural resources.



Argentina must make progress with regard to the legal recognition of communal property by discussing and consulting a special law with the Indigenous Peoples, and must advance their rights through the practice and implementation of standards.

Freedom of expression and right to peaceful assembly

The way in which the political authorities and security forces tackle social protest in Argentina has experienced both progress and setbacks in recent years. In February 2016, the Ministry of Security published its “Protocol for Action of the State’s Security Forces in Public Demonstrations” instructing the security forces to put a stop to social protests and take criminal action against those participating. In our opinion, this places serious limitations on freedom of expression and the right of all people to demonstrate peacefully, whilst also representing an improper use of the justice system to criminalize protestors.

In closing, we wish you productive and human rights-focused discussions as part of your upcoming meetings. Amnesty International stands ready to furnish the three governments with further information about some of the most pressing human rights challenges facing the countries and our specific recommendations for addressing these.