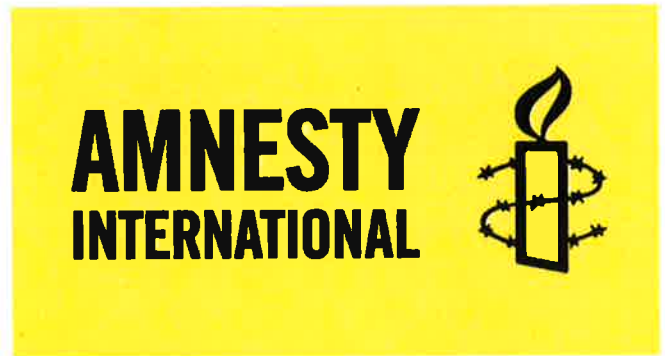


President Enrique Peña Nieto
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President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500



25 April 2013

Dear President Enrique Peña Nieto and President Barack Obama,

As you prepare for your summit meeting, we write to urge you to put human rights at the top of your agenda. Your meeting offers an historic opportunity to forge a joint action plan that puts human rights at the heart of your approach to public security, migration, and other issues of mutual concern.

In relation to Mexico, Amnesty International welcomes the commitment in the "Pact for Mexico" to "defend human rights as a state policy." However, it is vital that this commitment be backed with concrete measures to address the legacy of grave human rights violations committed during previous administrations. Unlawful killings, disappearances, and torture must be stopped and those responsible brought to justice. A reformed civilian justice system must ensure the right to truth, justice, and reparations for victims and guarantee respect for the rights of the accused.

The current Mexican administration has so far maintained the military deployments initiated by President Felipe Calderón. Amnesty International continues to receive reports of serious human rights violations committed by security forces. The United States provided largely unfettered support to the previous administration via the Merida Initiative and failed effectively to raise credible reports of grave human rights violations or encourage remedial action, including within the parameters established by human rights requirements in the Merida Initiative. These mistakes must not be repeated.

Effective action begins with ending impunity for past human rights abuses, sending a clear message that abuses will not be tolerated. Your summit occurs on the eve of the 7th anniversary of the Atenco operations. On 3 and 4 May 2006, federal, state and municipal police participated in an operation to end protests in Texcoco and San Salvador Atenco, State of Mexico, making more than 200 arrests and resulting in two deaths. All 47 women arrested suffered ill treatment, and 26 filed complaints with the Mexican National Human Rights Commission against state police for acts of sexual violence, including rape. Despite investigations by the State of Mexico Attorney General's Office, the Federal Attorney General's Office and the Mexican Supreme Court, those responsible have not been held to account. The "Women of Atenco" have recently turned to the Inter-American Commission of Human Rights in their quest for justice.

President Peña Nieto, you have said you "...will not tolerate impunity for murder, kidnappings, injury, threats." We call on you to deliver justice for the Women of Atenco. We also call on Mexico's *civilian* justice system to investigate the more than 7,000 complaints filed with the Mexico's National Human Rights Commission alleging human rights violations by members of the Armed Forces.

Impunity and excessive use of force are also problems north of the border, as demonstrated by the case of Anastasio Hernández Rojas. In June 2010, Anastasio, a Mexican national aged 32, died days after being shocked with a Taser and beaten with batons by US Customs and Border Patrol (CBP) officers attempting to deport him to Mexico at the San Ysidro crossing in San Diego, California. In a video recording of the incident, Anastasio can be heard crying in pain while bystanders express concern to the officers that Anastasio was not resisting. Anastasio stopped breathing at the scene and was removed from a life-support machine on 31 May. An investigation into Anastasio's case is still pending nearly three years after his death.

President Obama, you said in 2010, "We [the US] are a country of immigrants. We're also a country of laws". We call on you to deliver justice for Anastasio and ensure public investigation and effective prosecution of other cases in which individuals have been unlawfully injured or killed in the custody of US agents. There must also be full accountability for any other human rights violations that have occurred. This includes bringing to justice those responsible for crimes under international law of torture and enforced disappearance committed in the context of the US's secret detention, interrogation and rendition programs operated by the Central Intelligence Agency between September 2001 and January 2009. Genuine access to meaningful remedy must be provided to the victims of such human rights crimes.

In addition to ending impunity, Mexico and the USA must take further steps to advance human rights along the border. First, both nations must ensure that efforts to strengthen border security are developed in close consultation with Indigenous Peoples, whose traditional territories and cultural communities span the border and are oftentimes overlooked. Indigenous Peoples cross the border frequently to maintain contact with members of their communities and visit cultural and religious sites. The failure to protect the border crossing rights of these communities has left them at risk of discrimination and abuse by US CBP agents operating on Tribal lands and by Mexican forces operating south of the border.

Second, we urge the US government to guarantee foreign nationals arrested in the US prompt access to consular assistance, as required by international law, specifically the Vienna Convention on Consular Relations (VCCR). Both Mexico and the US must respect the right of each other's citizens arrested to receive consular assistance "without delay". In March, 2004, the International Court of Justice (ICJ) ruled in *Mexico v. the United States of America*, formally *Avena and Other Mexican Nationals*, that the US had breached its obligations under VCCR, resulting in 54 Mexican nationals being arrested, tried and sentenced to death without access to consular support. Two of these Mexican nationals have been executed in violation of international law and the ICJ order. The US must without further delay fully comply with the ICJ's order in the *Avena* case

Finally, we note that human rights defenders in Mexico are standing up to support the victims of abuse and their relatives in their struggle for truth and justice, and urge the Mexican authorities not to downplay or ignore the life-threatening challenges they face. We commend the government of Mexico for taking some important steps to strengthen the safety of defenders and journalists, and encourage you both to meet and show solidarity with such brave individuals during your summit.

Now is the time for Mexico and the US to make common cause to protect human rights and ensure justice in their shared border regions and throughout both countries. We urge you to make the following commitments at your summit.

For President Peña Nieto:

- Reinforce measures to prohibit the use of torture and ensure that evidence obtained using torture or ill-treatment is not admissible in judicial proceedings;
- Implement measures in agreement with human rights organizations to prevent, investigate and punish all credible cases of enforced disappearances;

- Fulfill the commitment to reform the Military Code of Justice to ensure that members of the military accused of human rights abuses are investigated, prosecuted and tried by the civilian judicial system, as called for by the Inter-American Court of Human Rights and Mexico's Supreme Court;
- Consistent with the UN Declaration on Human Rights Defenders, publicly recognize the life-saving work of defenders and allocate sufficient resources to implement Mexico's mechanism to protect human rights defenders and journalists; and
- Effectively combat the abduction, killing and other abuses committed against irregular migrants in transit in Mexico by implementing federally lead and coordinated preventative measures such as improved security on transit routes, and establish and implement protocols for investigations of any such crimes.

For President Obama:

- Order a review of CBP policies on the use of force, and promptly investigate allegations of abuse;
- Ensure that any foreign national arrested in the US is promptly informed of their rights to seek consular assistance, in line with international obligations established under the VCCR;
- Impose an immediate moratorium on federal executions with a view to working for abolition of the federal death penalty and more broadly across the country, and to work with Congress to ensure the US's full compliance with the International Court of Justice's order on the *Avena* case.
- Ensure that those responsible for crimes under international law such as torture and enforced disappearance, committed in the context of the US's secret detention, interrogation and rendition programs operated by the CIA, are brought to justice and that genuine access to remedy is provided to victims of such human rights violations.

For both Presidents:

- Work together fully to meet Mexico's human rights benchmarks associated with the receipt of US assistance, specifically as it relates to the Merida Initiative;
- Consult with Indigenous Peoples and migrant communities when developing border security policies and ensure that all immigration laws, policies and practices respect their human rights and the rights of migrants and Indigenous Peoples in adherence to international human rights standards ; and
- Meet with Mexican human rights defenders during your summit meeting, take their recommendations into account whilst developing a joint action plan, and issue a public declaration reaffirming your support for their lifesaving work.

The human rights challenges in Mexico and the US, including the border region, have grown over time and will not be solved in a day. However, you have an historic opportunity to tackle some of the more pressing issues raised in this letter. If you do what you have promised, progress can be made on ending impunity and ensuring respect for human rights of the people of both our countries.

We look forward to your response and to the outcome of your meeting.

Sincerely,



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