



WOLA and LAWG Statement
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Keep the Rule of Law and Human Rights on the Binational Agenda with Mexico

Priority issues to address in the November 27 meeting between President Obama and president-elect Peña Nieto

As Mexican president-elect Enrique Peña Nieto and President Obama prepare to meet in Washington, DC on November 27, strengthening the rule of law and citizen security in Mexico should be central issues in the discussion about the future of the relationship between the two countries. While Peña Nieto has expressed his desire to [shift the focus of the bilateral relationship](#) away from the fight against drug trafficking and organized crime in order to place more emphasis on economic issues such as investment, trade, and energy, a dramatic shift in the focus of the U.S.-Mexico relationship seems unlikely.

Since 2008, the United States has allocated [almost US\\$2 billion in security assistance](#) for Mexico through the Merida Initiative, including around \$800 million still in the pipeline. This funding and ongoing security concerns, including the recent charges brought against [14 Mexican federal police](#) officers for the attempted murder of two CIA agents and a Mexican marine in an August shooting outside of Mexico City, make it clear that addressing security challenges will continue to be top priorities in the bilateral agenda. As Obama and Peña Nieto prepare to meet and discuss the future of bilateral cooperation, the question of how the following three issues will be advanced must be on the table: **full implementation of justice sector reform at the federal and state level; strengthening of mechanisms to hold the police accountable for their actions; and support for reforms of Mexico's Military Code of Justice to ensure that human rights violations committed by soldiers are investigated and prosecuted in civilian, not military, jurisdiction.**

"Peña Nieto needs to step up efforts to create effective and rights-respecting institutions that Mexicans can trust. The United States should continue to support Mexico's process of building accountable institution."

-Maureen Meyer, WOLA Senior Associate for Mexico and Central America

The failure to move forward in these areas would represent a significant setback in creating rights-respecting institutions that Mexican citizens can trust and risks undermining the millions of dollars that the United States has invested to support Mexico's institutional reform efforts in the past five years.

1. Full implementation of justice sector reform at the federal and state level.

The ability to investigate, prosecute, and sanction effectively those who commit crimes is an essential element to ensure the rule of law. However, it is estimated that fewer than 25 percent of crimes in Mexico are reported to authorities and that [only two percent of those crimes result in a sentence](#). In 2008, Mexico passed a landmark reform to transform its justice system to an adversarial judicial model with the prosecution and defense presenting competing arguments and evidence in open court. In theory, these reforms should reduce the possibility of testimony obtained through torture being admitted in legal proceedings, which continues to be a widespread practice in Mexico. Complaints of torture and cruel treatment presented to Mexico's National Human Rights Commission (*Comisión Nacional de los*

Derechos Humanos, CNDH) have increased over 400 percent in the past six years.

The deadline for the full implementation of the justice sector reform was set for 2016. Now halfway through the implementation period, progress has lagged. **Of Mexico's 32 states (including the Federal District), only three states are fully operating under the new justice system and nine additional states are only partially operational.** It wasn't until September 2011, over three years after the reform was passed, that President Calderon submitted a proposal to the Mexican Congress to reform the federal criminal penal code. This proposal did not pass and it is now up to president-elect Peña Nieto to present a new proposal and push for its approval.

As a candidate, president-elect Peña Nieto stated that he would [implement the justice reform 100 percent](#) at the state and federal level. **A clear commitment to advance the implementation of the justice sector reform, including safeguards to ensure that confessions obtained through torture are not admitted as evidence in any circumstance, will be important to create the effective justice system that Mexico needs.** Through the Merida Initiative, the United States has supported these reform efforts, including training over 9,000 federal and state justice sector personnel on topics including litigation, witness protection, and case development and management. The United States should continue this robust support as a necessary step to strengthen the rule of law and end the cycle of impunity in the country.

2. Strengthen mechanisms to hold the police accountable for their actions.

President-elect Peña Nieto's ambitious plans to [scale up and restructure the federal police](#) forces along with the long-standing weaknesses of state and local police departments mean that a commitment to police accountability is critical to improve both respect for human rights and the effectiveness of Mexican security forces.

While the Mexican government has invested greater resources in training the newly reconstituted federal police and the [United States has provided important support for these efforts](#), violations documented by the CNDH raise serious concerns about police performance. In 2011, the CNDH received 767 complaints of human rights violations by the federal police, up from 595 complaints in 2010 and 141 complaints in 2009. In-depth investigations by the CNDH have determined federal police officers have been responsible for serious crimes, including shooting unarmed protestors and arbitrarily detaining, torturing, and killing civilians.

"Now is a historic moment in which Peña Nieto and Obama can come together to build a bilateral security agenda for their upcoming administrations that bolsters human rights and addresses root causes of violence."

-Jennifer Johnson, LAWG Senior Associate for Mexico and Border Policy

One of the signature elements of President Calderon's police reform efforts was the creation of trust control centers (*centros de control de confianza*) that carry out annual reviews of police performance by utilizing a five-part evaluation to determine if officers are fit for duty. To date, approximately 65 percent of Mexican law enforcement bodies have been evaluated and of these, 15 percent failed the exams. Alarming, roughly [80 percent of the police who have failed their evaluation](#) remain in service, pointing to ongoing problems with the vetting process in the country.

Enhanced training and professionalization of Mexico's police forces are undoubtedly important, but these efforts will fail to be effective unless the officers also know that abuse and criminal acts will be investigated and sanctioned. Transparency and accountability, including internal and external controls to investigate corruption and abuse, should be priorities for the incoming Mexican government to prevent human rights violations and other abuses by its police forces. The United States should deepen its support for these efforts.

3. Support reforms of Mexico's Military Code of Justice to ensure that human rights violations committed by soldiers are investigated and prosecuted in civilian, not military, jurisdiction.

Impunity for widespread human rights abuses committed by security forces remains the norm in Mexico. Not a single one of the [7,337 complaints of human rights violations](#) filed against the military during the Calderon administration—including cases of torture, rape, extrajudicial executions, arbitrary detention, and forced disappearance—[has led to a conviction in civilian court](#). A September 2012 report issued by the Mexican military states that since 2006, military courts have only sentenced 38 soldiers for human right abuses; of these cases, eleven are for incidents that occurred before President Calderon took office in December 2006.

Since 2009, the Inter-American Court of Human Rights has issued four rulings obligating the government of Mexico to undertake reforms to ensure that human rights abuses committed by the military against civilians are heard in the civilian, not military, justice system. To date, both the legislature and executive have failed to pass a reform of Mexico's Military Code of Justice. Although the absence of such a reform is not a legitimate legal impediment to having cases be prosecuted in civilian jurisdiction, the Mexican Ministry of Defense (*Secretaría de la Defensa Nacional*, SEDENA) has made clear that [it will not actively transfer cases](#) of alleged human rights violations committed by soldiers to civilian jurisdiction until the Military Code of Justice is reformed.

During her January 2011 visit to Mexico, [Secretary of State Clinton](#) stated that Mexico should “make sure that any human rights violations committed by the military against civilians are tried in civilian courts.” President Obama should clearly convey this message to president-elect Enrique Peña Nieto and press for progress in the investigation and sanction of members of the military who are found responsible for human rights violations. Now is a historic moment in which Peña Nieto's leadership and political will is required to create more accountable, effective security forces that have the trust of the citizenry. Concrete progress towards holding soldiers accountable for human rights abuses in civilian jurisdiction is an essential component of gaining that trust.

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