



“TREATED WITH INDOLENCE”

THE STATE’S RESPONSE
TO DISAPPEARANCES IN
MEXICO

AMNESTY
INTERNATIONAL



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Cover photo: Relatives of the disappeared students of Ayotzinapa holding portraits of the victims. Telesur, 2014.

Back cover photo: Amnesty International members demonstrating against disappearances in Mexico. Kenia Salas (Laboratorio de Arte Documental), 2014.

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EXECUTIVE SUMMARY

Since 2006, national and international civil society organizations have warned of an increase in the number of disappearances in Mexico. According to official figures, at the time of writing there were more than 27,000 people whose whereabouts were unknown. However, it was not clear how many of these were the victims of enforced disappearance (that is, state agents were involved), how many had disappeared at the hands of non-state actors and how many had left home of their own accord.

In 2013, Amnesty International published a report, *Confronting a nightmare: Disappearances in Mexico*.¹ Little has changed since then. However, the efforts of various groups of victims and relatives, civil society organizations and international bodies have succeeded in putting the issue on the public agenda. This has led the Mexican authorities to announce measures to address this crisis.

In this report, Amnesty International looks at cases of disappearance in two areas of Mexico: the enforced disappearance of 43 teacher training students of the Escuela Normal in Ayotzinapa and the crisis of disappearances in Ciudad Cuauhtémoc in the State of Chihuahua. These cases were selected because they highlight various aspects of the problem: the scale that enforced disappearances can reach in Mexico, the reactions of the Mexican state to this type of crime and the impact on victims' human rights. The report also gives a brief overview of the various kinds of organizations that the relatives of the disappeared have created in order to search for their loved ones.

In Mexico, whether a case of disappearance is high profile or remains in obscurity, the authorities seem equally unable to give a coherent response at the institutional level aimed at discovering the truth and ensuring justice. The Mexican state must fulfil its obligation to undertake a thorough search for the disappeared, carry out an investigation, bring those responsible to justice and ensure comprehensive and appropriate reparations for the victims of these serious human rights violations. It should also develop a public policy to prevent disappearances.

Amnesty International has found that searches for victims of disappearance are flawed and delayed. For example, in the case of the 43 students from Ayotzinapa, the search was hampered by serious flaws that have yet to be rectified. In Cuauhtémoc, the authorities usually failed to conduct a search for the victims. In those cases where human remains were found, these were chance discoveries rather than the result of a deliberate search plan on the part of the authorities.

In most cases, investigations do not appear to be aimed at uncovering the truth about what happened. The authorities responses are limited to carrying out actions that contribute little to the inquiry. This type of investigation appears to consist of merely going through the motions and appears to be destined from the outset to lead nowhere. In the Cuauhtémoc

¹ Amnesty International, *Confronting a nightmare: Disappearances in Mexico* (Index: AMR 41/025/2013).

cases highlighted, almost all the relevant information uncovered during the investigation was provided by the families and their legal representatives. This unfairly transfers the responsibility for pursuing inquiries onto the families. In the case of the Ayotzinapa students, the investigation was flawed and the authorities have been reluctant to adopt all the recommendations of the Interdisciplinary Group of Independent Experts (GIEI), appointed by the Inter-American Commission on Human Rights to conduct a technical analysis of the lines of investigation into the case.

Disappearances (whether they are perpetrated by state agents or non-state actors) give rise to a series of violations of the rights of the victim and their relatives. Disappearances inflict serious harm on relatives and their right to humane treatment which constitutes a form of torture and other cruel, inhuman or degrading treatment or punishment. The impact of the disappearance of a loved one is profound and evident and there is no reason to think that the suffering is any less if those responsible are non-state actors. Both situations should be recognized by the state and victims should receive full reparation, which restores – as far as possible – the enjoyment of those rights that have been violated.

The testimonies gathered by Amnesty International, show that the behaviour of officials responsible for investigations towards the families has been inadequate and hurtful and displayed a profound lack of interest in the cases. One of the mothers interviewed summed up officials' treatment of families with the phrase that gave this report its title: "We were treated with indolence. They treated us as if we were just another piece of paper. Because for them, that's what a disappeared person is: just another piece of paper to be filed."

In addition to the violation of their right to humane treatment, when a person disappears, the families left behind face serious material difficulties. They have to make a series of changes in their way of life, including taking on new tasks or getting other jobs in order to get by. They may have to leave their jobs or other employment so that they can dedicate time to searching for their disappeared relative. They may even be forced to move home for fear of reprisals from those suspected of carrying out the disappearance.

The debts left behind when a person disappears and the new debts the family need to take on to deal with the situation have an impact on relatives' way of life of particular concern. The families of the disappeared live in constant fear that they will lose their property, including their home. Current legislation does not guarantee that their rights will be protected in these circumstances.

The authorities have announced that they will introduce a General Law on Disappearances that will set out how all Mexican officials (federal, state and municipal) should respond to disappearances. The new law must take into account the complexity of the issue and provide for responses that go beyond criminal sanction. The General Law should provide for measures including, assistance to families, a declaration that the person is missing to protect the disappeared person and their family and comprehensive reparations. In 2015, the Federal Attorney General created a special Public Prosecutor's Office for disappearances. However, the resources have not been made available to ensure its effectiveness and regular reporting by officials on the actions they have taken.

MAIN RECOMMENDATIONS

- Establish, in accordance with international standards, enforced disappearances and disappearances carried out by non-state actors as separate offences in the General Law on Disappearances. Ensure that all reports of disappearance are investigated thoroughly, regardless of who the alleged perpetrator is. Ensure that the crime of enforced disappearance is investigated and punished when there is evidence that it was carried out with state agents' authorization, support or acquiescence.
- Recognize the state's obligation to initiate without delay a search for those reported disappeared, in accordance with a procedure developed in consultation with experts, civil society organizations and the families of the disappeared. There should be specific mechanisms for ensuring the fastest possible response within the first 72 hours of the disappearance and the search should continue until the victim's fate or whereabouts have been fully established.
- Investigate all cases of disappearance and enforced disappearance in the country promptly, thoroughly and impartially and, where appropriate, bring those responsible to justice in trials that meet international fair trial standards.
- Acknowledge and allow the participation of relatives of the disappeared in investigations, providing them with up-to-date and accurate information on progress, and ensure that they are able to contribute information, suggest lines of inquiry and ask for evidence. The authorities should not transfer responsibility for investigating the case to the family.
- Adopt detailed legal provisions regarding declarations that a person is missing and extend the rights of the disappeared. These should clearly set out the protection of the legal status and other rights of the disappeared person and of their property rights and those of their family. Once the missing person declaration has been initiated, the individual's responsibilities, including interest on any debts they may have incurred, should be suspended. The law should ensure that the process and all the related proceedings are simple, accessible and free of charge.
- Ensure comprehensive reparations to victims, based on international standards, and consider the individual needs of the victim, including restitution, rehabilitation, satisfaction, guarantees of non-repetition and the right to the truth and historical memory. Reparations must not be conditional on the perpetrators being subject to criminal proceedings.

AMNESTY INTERNATIONAL'S KEY RECOMMENDATIONS



Make enforced disappearances and disappearances by non-state actors as separate crimes, in line with international standards



Set up a mandatory mechanism to ensure prompt, thorough searches for those reported as disappeared, with the participation of experts, civil society and relatives.



Investigate thoroughly, impartially and promptly current cases of disappearance and bring those responsible to justice.



Recognize the right of relatives of the disappeared to fully participate in the investigations.



Adopt detailed legal provisions to enable victims of disappearance to be declared missing.



Ensure comprehensive reparations for the victims of disappearance and their families.

2. METHODOLOGY AND ACKNOWLEDGEMENTS

In this report, Amnesty International documents two emblematic cases of disappearances in Mexico. The cases detailed are, firstly, the enforced disappearance of 43 students from the Escuela Normal in Ayotzinapa, State of Guerrero, and secondly, the crisis of disappearances in Ciudad Cuauhtémoc, State of Chihuahua. These situations, which represent a tiny fraction of the more than 27,000 cases in the country, were selected because they highlight what happens in Mexico and the reactions of the state to these grave human rights violations.

The description of the situation in Ciudad Cuauhtémoc is drawn from interviews with academics, human rights defenders and relatives of people who disappeared in 22 cases that occurred between 2009 and 2014. The description of the case of the enforced disappearance of 43 students from Ayotzinapa is based on the findings of the GIEI and reports from civil society organizations representing the families. In addition, Amnesty International interviewed relatives of the disappeared students, their representatives and other students who gave additional information on the case.

Amnesty International requested specific information on both cases from Mexican authorities, including the governments of the States of Guerrero and Chihuahua. However, at the time of writing, no response had been received. In the case of the 43 students, Amnesty International has been in constant contact with the Mexican authorities since hours after the events of 26 and 27 September 2014. The organization also contacted various civil society organizations, victims' groups and human rights defenders while planning and carrying out the research on which this report is based.

Amnesty International would like to thank relatives of victims, students, civil society organizations, the Mexican authorities and others who provided information and documentation for this report.

3. THE CRISIS OF DISAPPEARANCES IN MEXICO

Disappearances in Mexico, including enforced disappearances, continue to be a source of particular concern. To date, the significant structural changes needed to ensure access to truth, justice and reparation for the harm caused, to put an end to these abuses and to guarantee non-repetition have yet to be introduced. Thanks to the efforts in recent years of various groups, notably victims' groups, and civil society organizations and international bodies, the issue has been placed on the public agenda. As a result, the state has taken at least some steps, but they are not sufficient and they have not yet yielded concrete results. For example, 46.5% of reported cases have occurred under the current presidential administration, 3,425 of them in 2015 alone.

Enforced disappearance is a crime under international law and one of the most serious violations of human rights. The International Convention for the Protection of all Persons from Enforced Disappearance (International Convention), which Mexico ratified in 2008, defines enforced disappearance as "the arrest, detention, abduction or any other form of deprivation of liberty which are work of agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the disappeared person removing it from the protection of the law."

Article 3 of the International Convention sets out the obligation of state parties to investigate such crimes, even if they are committed by non-state actors without participation of state agents, and to bring those responsible to justice.

In this report, the term *enforced disappearance* is used in cases where there is sufficient evidence to suspect that state agents were involved. The term *disappearance* is used when such evidence of state involvement is not available or when the evidence suggests that the crime was committed solely by non-state actors. The use of the term disappearance in this report should not be taken as a statement by Amnesty International that state agents were not involved; further evidence may emerge in future that sheds greater light on these cases.

As Article 24 of the International Convention states: "any individual who has suffered harm as the direct result of an enforced disappearance" is also considered to be a victim. Disappearance violates the right to personal liberty, to humane treatment, to life and to the acknowledgment of juridical personality.² The relatives of the disappeared are also victims, but on many occasions, as the cases highlighted below show, the behaviour of the state authorities inflicts further human rights violations on them.

² Inter-American Court of Human Rights, *Case of Radilla Pacheco v. Mexico*, Preliminary Objections, Merits, Reparations, and Costs, Judgment of November 23, 2009, Series C No. 209, paras 152-157.

Since 2006, civil society organizations have noted an alarming increase in the number of disappearances. The initial wave of disappearances was much more marked in the northern states of Mexico. However, gradually more and more cases have emerged throughout the country. Official statistics issued by the National Register of Missing or Disappeared Persons indicate that there have been reports involving at least 27,600 people whom the authorities classify as "whereabouts unknown".³

These figures should be treated with caution given that they do not indicate how many of those people are presumed to be victims of disappearances by non-state actors, how many are thought to be victims of enforced disappearance and how many left of their own accord. On the other hand, in Mexico most crimes are not reported⁴ so that which means it is difficult to gauge the real scale of the problem and the official figure may underestimate the gravity of the situation. Nevertheless, a list of thousands of potential victims should trigger a serious response from the authorities.

The almost total impunity enjoyed by perpetrators acts as a strong incentive to commit more such crimes.

Even when a complaint is lodged with the authorities, cases are rarely clarified and those responsible are almost never brought to justice. The almost total impunity enjoyed by perpetrators acts as a strong incentive to commit more such crimes. Better legal and technical capabilities, for example appropriate investigation protocols, rapid response search mechanisms and scientific investigation resources are essential if impunity is to be ended. However, this will only happen if there is the political will to tackle the issue.

The Mexican authorities have announced a number of reforms to address the problem. To date, the authorities have yet to put in place adequate basic technical mechanisms, such as for example, a detailed register of disappearances, which is useful both for investigations and to inform public policies, and a register of detainees, which would allow anyone deprived of their liberty to be located and help to prevent further enforced disappearances.

³ According to the complaints registered, 27,638 people are disappeared. This figure comprises 20,203 men (73.1%) and 7,435 women (26.9%). Executive Secretariat of the National Public Security System. Registro Nacional de Datos de Personas Extraviadas o Desaparecidas, available at <http://secretariadoejecutivo.gob.mx/rnped/consulta-publica.php> (visited 5 January 2016).

⁴ The so-called "black figure" is the number of crimes that are not reported or that are reported but do not result in an investigation. The "black figure" for 2014 in Mexico was 92.8%, compared to 93.8% in 2013. INEGI, Encuesta nacional de victimización y percepción sobre seguridad pública: boletín de prensa (ENVIPE), 2015, p 2, available at http://www.inegi.org.mx/saladeprensa/boletines/2015/especiales/especiales2015_09_7.pdf (visited 15 November 2015).

One of the measures needed to address this crisis, is a general law – that is, a law that is applicable both at the federal and state levels – that sets out, in accordance with international standards, a definition of the crime and the sanctions it incurs. The law should also establish measures for investigating, preventing and providing redress for these crimes and set out clear guidelines for the development of public policy on the issue, including measures aimed at preventing disappearances. On 10 December 2015, the Mexican President submitted a bill to Congress. Earlier, Amnesty International had informed the Mexican government of its concerns about the bill, which had been drafted by the Ministry of the Interior. Some of the organization's comments were partially addressed in the latest version of the bill sent to Congress.

This report analyses the situation, illustrating it primarily through two emblematic cases, in order to propose concrete measures that the Mexican government should take to deal with the crisis.



VIOLATIONS AND IMPACT ON THE HUMAN RIGHTS OF THE DISAPPEARED AND THEIR FAMILIES

VIOLATIONS OF THE HUMAN RIGHTS OF THE VICTIMS OF DISAPPEARANCE.



Right to
personal liberty.



Right to
personal integrity.



Right to life.



Right to
acknowledgment
of juridical personality.

VIOLATIONS OF THE HUMAN RIGHTS OF THE RELATIVES OF THE DISAPPEARED.



Right to
personal integrity.



Right to
the truth.



Right of
access to justice.

IMPACT ON THE HUMAN RIGHTS OF THE FAMILIES OF THE DISAPPEARED



Access to education
is limited or
interrupted.



Health problems
are aggravated or
treatment can no longer
be accessed.



Loss of the
family home
or inability to
find a home.



Adequate
alimentation
is compromised.



Families face
economic difficulties.

4. DISAPPEARANCES IN CUAUHTÉMOC, CHIHUAHUA

“We were treated with indolence. They treated us as if we were just another piece of paper. Because for them, that’s what a disappeared person is: just another piece of paper to be filed.”

Martha Arana, mother of Alfredo Quezada Arana who disappeared on 23 February 2010

BACKGROUND

Hundreds of people have disappeared in Cuauhtémoc, Chihuahua, since 2007. Investigations into these cases have been marked by inefficiency and a lack of diligence on the part of the authorities and in almost all cases the victims remain disappeared. A few have been found dead; hardly any have returned home. Official figures indicate that 1,698 people are currently missing in the State of Chihuahua.⁵ In the municipality of Cuauhtémoc alone, the government reported that 351 people were disappeared.

Cuauhtémoc is located in the western part of the State of Chihuahua, in northern Mexico. It is one of 67 municipalities in the state. Its municipal capital, Ciudad Cuauhtémoc, is a town of 114,000 inhabitants.⁶ It is an important economic centre in the state thanks to its commercial activities and the trade in agricultural produce and livestock.

In addition to its economic significance, the Cuauhtémoc municipality sits on the frontier between the vast desert plains and the complex mountain range of the Sierra Madre Occidental. Its peculiar geographical position makes it a crossroads for drug-trafficking routes connecting north-western Mexico and southern USA. This is a major source of violence.

The persistently high level of disappearances in this area of the country has been of particular concern to Amnesty International. For this report, the organization interviewed the families of 38 people who disappeared in 22 incidents in Ciudad Cuauhtémoc and the surrounding area between 2009 and 2014.

⁵ Executive Secretariat of the National Public Security System, Registro Nacional de Datos de Personas Extraviadas o Desaparecidas, available at <http://secretariadoejecutivo.gob.mx/rnped/consulta-publica.php> (visited 5 January 2016).

⁶ National Institute of Statistics and Geography (Mexico), Censo de población y vivienda 2010: principales resultados por localidad. (Consultado 21 October 2015)., available at http://www.inegi.org.mx/sistemas/consulta_resultados/iter2010.aspx http://www.inegi.org.mx/sistemas/consulta_resultados/iter2010.aspx (visited 21 October 2015).

THE DISAPPEARANCE OF EUDOR OSIRIS JAUREGUI PÉREZ



Eudor Osiris disappeared on 20 November 2013. That day he went with a male friend and several women friends to the opening of a dance hall in the town of San Juanito, municipality of Cuauhtémoc. When they arrived, they had an argument with other people in the parking lot and decided to leave, but the people they had argued with followed them. The two men went to Ciudad Guerrero, where they were detained by unidentified armed men who mentioned the incident in San Juanito and beat and handcuffed Eudor and his male friend. The attackers took the two to the town of Santo Tomás and separated Eudor and his friend from the rest of the group. The two men were led behind a church; then shots were heard. The attackers asked a police patrol from Ciudad Guerrero to take the rest of the women back to San Juanito and warned them not to talk about what had happened.

Eudor Osiris' family and their legal representatives told Amnesty International that there was no serious attempt by the authorities to find the two young men. For example, they did not look for evidence in the places mentioned by witnesses, nor was any effort made by the police to identify the other men involved.

REPORTING DISAPPEARANCES IN A CONTEXT OF FEAR

In most of the cases studied by Amnesty International, the families of those who disappeared approached the authorities very quickly, usually in a matter of hours, to report what had happened and ask that a search be initiated for their relatives. However, in several cases documented by the organization, staff of the Chihuahua State Prosecutor's Office informed families that they would have to wait 72 hours before their complaint could be registered, despite the fact that this is not required by law. In one case, a desperate family reportedly had to go back the next day as officials stated that it was too late to receive complaints.

In Cuauhtémoc some families do not report disappearances, mainly because of the fear that prevails in the community. This is the result of the widespread influence of organized crime in the area and a belief among the population that public officials are colluding with criminal gangs.

This fear also affects the authorities. The family of one disappeared person stated that an official from the Public Prosecutor's Office assigned to their case had shown them his payslip and said: "I'm not going to risk my life for that kind of money." In another similar case, members of the Chihuahua State Prosecutor's Office reportedly refused to carry out an investigation in a certain part of the state, stating: "We are afraid, we cannot go there." In many cases, the families and their representatives suspect that it is the fact that officials are colluding with organized criminal gangs, rather than fear, that blocks investigations.

While the majority of the families interviewed for this report have not suffered direct attacks in retaliation for their demand for justice, several have been the target of various forms of harassment and threats. Most involve threatening phone calls, being followed by unknown men and officials strongly urging them to give up their search. One of the people actively searching for their relatives was held against her will for several hours by gunmen who demanded that she stop her investigation.

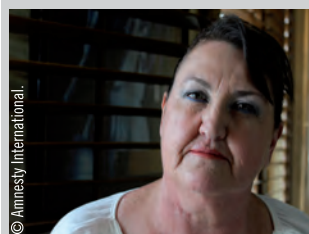
Artemisa Ibarra and Martha Loya, two women searching for their disappeared relatives in Cuauhtémoc, were themselves victims of disappearance in 2011 and 2013 respectively. The circumstances of their disappearances suggest they were directly linked to their efforts to find their loved ones. The fate or whereabouts of the women remain unknown.

THE SEARCH FOR VICTIMS AND INVESTIGATIONS

The right to know the truth is a fundamental part of the right of access to justice. Knowing the truth is both a form of reparation for family members and a way of preventing similar acts for the benefit of society as a whole.⁷ Therefore, investigations must be carried out effectively and diligently, using all the necessary legal means, such as logistical resources, access to information and scientific evidence.

DISAPPEARANCE OF LUIS CARLOS HERNÁNDEZ SÁNCHEZ

**"I started to see that hundreds of people had been taken and nothing had been done".
Leticia Sánchez Villalobos, mother of Luis Carlos**



Luis Carlos Hernández Sánchez, who lived with his family in Ciudad Cuauhtémoc, was 18 years old when he disappeared. On 22 May 2010, Luis Carlos and several friends were on the streets of his neighbourhood when several vans carrying armed men arrived. Apparently the men were looking for a boy who was not there. Whatever their reason for being there, they took Luis Carlos and seven others. In the face of the authorities' lack of response, his mother began to publicly demand justice. Gradually the bodies of the other young people were discovered, but not her son. She believes that this could be a cruel reprisal for having spoken out. Months later, a ninth young man disappeared when he was with his mother on the way to his brother's funeral; the brother had been one of the original eight victims whose body had been identified.

Searches should be initiated immediately, as soon as officials are first made aware that someone may have disappeared. The first 72 hours following someone's disappearance are crucial if the victim's rights are to be protected.⁸ However, according to the information received, in all the cases analysed for this report the State Prosecutor's Office reportedly failed to initiate an immediate and effective search for those reported disappeared.

In most cases, the authorities merely received the report of disappearance; issued orders for an investigation, which were not acted on or followed by concrete useful actions; and then wrote to other officials asking if they had any information about the victim. In investigations of this kind, officials appear to be merely going through the motions and the investigation is doomed from the outset to fail. This breaches the state's international obligations to launch effective investigations into human rights violations.⁹

⁷ Inter-American Court of Human Rights, *Case of Gómez Palomino v. Peru*, Merits, Reparations, and Costs, Judgment of 22 November 2005, Series C No. 136, para 78.

⁸ Working Group on Enforced or Involuntary Disappearances, *Mission to Mexico*, 20 December 2011 (A/HRC/19/58/Add.2), para 47. Interdisciplinary Group of Independent Experts (GIEI), *Report on Ayotzinapa: killings and initial conclusions of the disappearances and homicides of the normalistas from Ayotzinapa*, September 2015, p 223.

⁹ The Inter-American Court of Human Rights has established that the state has a legal duty to investigate and that this must not be reduced to a mere formality condemned from the outset to failure or to the management of special interests. Nor should it rely on victims or families to initiate the process or provide privately obtained evidence. *Case of Radilla Pacheco v. Mexico*, para 233.

The authorities frequently fail to check the telephone, banking and financial records of victims or suspects, to search for the geolocation signal of mobile phones or to review data from security cameras footage in the area where the person disappeared. On many occasions, by the time officials finally request this information, it is no longer available.

In at least one case highlighted by the Women's Human Rights Centre (Centro de Derechos Humanos de las Mujeres, A.C., CEDEHM), investigating officials reportedly tampered with video recordings that could have contained evidence. The public official implicated is currently being prosecuted for unlawful exercise of public duties. However, judicial authorities in Chihuahua have refused to bind him over for trial. An investigation needs to be conducted into the reasons for his actions, including, possible collusion with the perpetrators, in order to bring all those responsible to justice and to ensure that the necessary measures are put in place to prevent such actions in future.

This lack of diligence has led families to take searches into their own hands and to pursue investigations themselves. On several occasions, relatives have undertaken investigation tasks that the authorities have failed to carry out and using their own resources have uncovered and delivered information that could be useful to the inquiry. One mother told Amnesty International: "What is in my daughter's folder is what I have handed in, nothing else." This seems to be the case in most investigations.

Carrying out a search for their loved ones can put families at serious risk and they are limited to the resources that each family can call on. Those with greater resources and stronger social support networks can initiate and sustain private searches, something that other more disadvantaged families cannot do.

Usually the information families provide serves to increase the size of the case file, but it is rarely carefully studied by the authorities in order to determine new lines of inquiry and follow up on all the available leads.

DISAPPEARANCE OF JOSÉ ROSARIO HERNÁNDEZ



On 23 October 2011, José Rosario Hernández left home in the afternoon to visit his sister. He was travelling in his car with two friends. As they were driving through Ciudad Cuauhtémoc, they were stopped by a municipal police patrol and a highway patrol unit. The highway patrol officer detained José Rosario; his family has not seen him since. On the day of his disappearance and the days following, his family was given no information by the authorities. Officials in the highway patrol and municipal police offices even denied that he had been detained, despite

the fact that José Rosario's car had been removed by a crane on the orders of the authorities and there had been witnesses to his arrest.

The family was able to identify the officer who had arrested José Rosario and challenged him to say what had happened, but he refused. The officer who was reportedly directly involved was eventually arrested, thanks to the efforts and repeated requests of the family and their legal representatives. His trial is due to start in January 2016. However, the investigation has not been thorough and information that could help reveal the whereabouts of José Rosario has not been pursued.

A combination of delays in the registering complaints, the lack of immediate and serious efforts to find victims, as well as flaws in the early stages of investigations has seriously affected the chances of these cases being clarified and those responsible being brought to justice.

The bodies of several disappeared people have been found in Cuauhtémoc and the surrounding area, including those of nine people who disappeared in three cases researched by Amnesty International in preparing this report. The identification of these victims was the result of chance events rather than any investigative work on the part of the Prosecutor's Office. Usually, bodies are accidentally discovered by someone who alerts the authorities. This is not surprising given that there is no clearly defined plan for searching for victims or investigating these cases.

"Read the case file. If you don't know about my son's case, please read the file."

Martha Arana Baray, mother of Alfredo Quezada Arana who disappeared on 23 February 2010, speaking to officials about the disappearance of her son

The Chihuahua State Prosecutor's Office seems to rely disproportionately on information coming from the victim's family. Amnesty International was told time and again that investigators ask the family for any information that might be available about the case. These requests for information intensify shortly before meetings with civil society organizations, families and the officials from the Prosecutor's Office. The authorities have a duty to conduct inquiries and collect the relevant information; they should not put the responsibility for gathering information onto victims' families.

The workload of officials from the Prosecutor's Office has an impact on investigations as they usually have more cases on their hands than they could reasonably deal with efficiently. In addition, staff turnover is high so that cases are passed to new people who do not have a detailed knowledge of them, resulting in further flaws and delays in the investigation. One mother searching for her son, expressed her exasperation at being asked a series of very basic questions by a Public Prosecutor's Office official: "Read the case file. If you don't know about my son's case, please read the file."

In many cases, the authorities seem to have no interest in pursuing investigations into alleged perpetrators and have focused instead on gathering information about the private life of the victim. This has sometimes led to the victims themselves being criminalized by suggestions that they had links with organized crime. This in turn re-victimizes their relatives. While it is true that knowledge about the victim and their close circle is relevant to the investigation, a disproportionate amount of effort should not be devoted to this compared to that directed at finding the victim or exhausting other avenues of inquiry. This information contributes relatively little to the investigation and focusing on this aspect of the case does not seem consistent with a genuine effort to take the inquiry forward. Rather it suggests a strategy of blaming the victim in order to evade the authorities' obligation to investigate the facts.

The treatment of families by officials responsible for carrying out the investigation is wholly inadequate. In general, families feel that officials have no interest at all in their cases. One mother summed up their attitude: "We were treated with indolence. They treated us as if we were just another piece of paper. Because for them, that's what a disappeared person is: just another piece of paper to be filed".

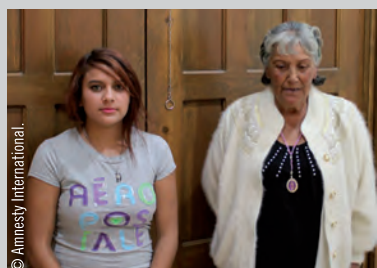
Access to the case file is important for families looking for their loved ones. It provides a link to the disappeared person and it is where the results of efforts to find them and to ensure justice are gathered together. Despite this, in many cases families were not given access to case files until civil society organizations, such as CEDEHM, became involved.

When families do get to read case files, they do not always find what they expected. Often files contain no relevant information beyond that provided by the family or their representatives or essential information is missing. In other cases, the file is full of general forms such as those ordering an investigation, but no concrete outcome is recorded or else general information is included that has no direct bearing on the case, such as for example reports of searching areas or finding human remains that have no clear link with the case. One of the families interviewed described the case file as "a huge stack of useless sheets of paper".

BRENDA KARINA RAMÍREZ GONZÁLEZ

"Now, we don't want to know what happened. We just want to know where she is."

Gloria Alicia Ramírez González, mother of Brenda Karina



Twenty-two-year-old Brenda Karina Ramírez González was at the home of relatives in Ciudad Cuauhtémoc when someone arrived and asked for her. When she went out to see who it was, several armed men grabbed her and took her away in a van. Her family has heard no further news of her fate and the authorities have failed to mount an effective investigation into the case. At the time of her disappearance, Brenda's daughter was five years old. Brenda's mother is only now at the point of completing the process to gain permanent custody of the child.

The economic and social impact on the family of their search for Brenda has been even greater than that caused by the disappearance in terms of working days lost and reduced household income. Lack of financial resources meant that Brenda's siblings could not continue their studies. Her sister, for example, gained a place at a nursing school, but the family could not afford the monthly tuition fee of US\$65. Brenda's daughter is at primary school, but it is not at all certain that the family will be able to help her continue her studies.

THE IMPACT OF DISAPPEARANCES

THE RIGHT TO HUMANE TREATMENT

Disappearance leaves the relatives, both close family members and more distant relatives involved in the search for truth and justice, in a state of profound uncertainty. This seriously undermines the right to humane treatment and constitutes a violation of the right not to be subjected to torture or other cruel, inhuman or degrading treatment. When the authorities

fail to act or obstruct efforts to resolve the case, this heightens the suffering of families and increases the likelihood that those responsible will not be brought to justice.

The Inter-American Court of Human Rights has stated that: “the violation of the right to psychological and moral integrity of the victim’s next of kin is a direct consequence of the enforced disappearance. This circumstances surrounding the enforced disappearance cause suffering and distress, as well as feelings of insecurity, frustration and helplessness in the face of the failure of the public authorities to investigate the facts of the case.”¹⁰ The impact of the disappearance of a loved one is so profound and so clear that there is no reason to suppose that the suffering is any the less if those responsible are non-state actors.

“I do not know if he is alive or dead, I don’t know anything. A very sad way to live.”

Francisca Esperanza Gutiérrez Calderón, mother of Manuel Elías Mendoza Gutiérrez who disappeared on 31 March 2014

In addition to the violation of the right to humane treatment, disappearances have other effects on people’s lives that the state should take into account when ensuring comprehensive reparations for victims.

For example, breakdowns in family and social relationships are common following a disappearance. In many cases, relatives, friends and acquaintances have ended their relationship with the disappeared person’s relatives in part because of the stigma associated with disappearance. Such attitudes are reinforced by the prevailing atmosphere of fear in the community and by the way that the authorities criminalize victims, making unfounded accusations that they are criminals.

Isolation intensifies the impact on people’s wellbeing and also reduces their capacity to interact with others in order to pursue the case and to meet their specific needs. It also undermines their ability to join with others in the pursuit of justice. Families often overcome this by cooperating with and supporting other families in a similar situation and civil society organizations.

Sometimes their acute economic situation, or particular family circumstances – for example the need to care for young children or the elderly – or illness means that relatives are unable to participate in the search for their loved ones. This can be one more cause of suffering for relatives, who feel guilty about not being able to devote more time to the disappeared person.

OTHER FORMS OF IMPACT AND HARM

Relatives of the disappeared are affected in other ways and experience other forms of harm. The lack of a proper investigation into disappearances directly causes some negative consequences and exacerbates others. The state must take all such harms into account in the devising and implementing public policies to assist victims and relatives. In particular they must address the following situations and ensure the following rights:

¹⁰ Inter-American Court of Human Rights, Case of Radilla Pacheco v. Mexico, para. 161. (Unofficial translation by Amnesty International of the original Spanish.)

Right to education: the stigmatization of victims of disappearance extends to their family members, who may suffer abuse and harassment at school. Amnesty International has received information about cases where children had to leave school temporarily because of this. In other families, children are unable to continue their studies because they cannot pay school fees or cannot afford school materials or transport costs. In Chihuahua, the state government has created the Fund for the Care of the Children of Victims of the Fight Against Crime (Fondo de Atención a Niños y Niñas Hijos de las Víctimas de la Lucha Contra el Crimen, FANVI). This trust fund, set up in 2010, aims to provide educational, medical and welfare support to children who are the indirect victims of crime. However, the quality and frequency of the support provided fall short of the aims of the trust. For example, school uniforms and equipment are of poor quality and delivered late in the school year.

Right to health: for some people access to public health services in the Mexican Social Security Institute or other public institutions is dependent on the employment of the disappeared relative. Such benefits are lost when the person disappears and so families have to cover health service costs themselves. The state offers some alternatives, such as the low cost health care system known as the Seguro Popular. However, this usually involves some level of payment and does not cover all conditions.

Right to food: the economic situation in which many families find themselves puts them at risk of not being able to exercise their right to food. Families can get help from FANVI. However, several families reported that supplies of food are often incomplete and in poor condition and that deliveries are usually months late.

Debt and general economic circumstances: getting access to the disappeared person's assets can cause a number of difficulties for relatives. If the victim is the owner, their family's ability to use or dispose of their assets, for example using or selling a car or a building, is limited. This creates administrative problems that leave families in a state of uncertainty. In cases where the house is mortgaged or linked to other debts, this is particularly worrying and can even result in the family losing their home.

“It’s really distressing -- they don’t do anything for us”

Graciela Domínguez Terrazas, mother of Heber Iván Arias Domínguez who disappeared on 23 September 2011

Among the economic impacts of disappearance is the fact that the person usually had debts of various kinds, for example, bank loans credit cards or store cards. These debts continue to accrue interest and the family has no way of protecting their assets, which may also be in the name of the disappeared person, because the current legislation does not allow for debts to be frozen when someone is the victim of disappearance.

Disappearances cause serious material difficulties for people. Often the person who disappeared was the breadwinner and their absence means the relatives left behind have to make changes in the way they live. This may mean finding new sources of income or taking on new jobs to get by. It can also mean quitting their jobs or stopping other income-generating work to search for the disappeared person. Some families have even had to move house for fear of reprisals from those who carried out the disappearance.

DISAPPEARANCE OF ALFREDO QUEZADA ARANA

"I thought the authorities would take action, that they would investigate, that they would start searching." Martha Arana, Alfredo's mother



Alfredo Quezada, a 36-year-old rancher and farmer, disappeared in Ciudad Cuauhtémoc on 23 February 2010. He had gone there to pick up a dog that he had been given as a present. His family has had no further news of him since. The authorities did not look for him, so his family, with the help of friends, tried to find him. They searched all over the city, in hospitals and detention centres and in the surrounding area.

For a long time the family had no access to the case file. When they were able to read it, they realized that there had been no genuine attempt to investigate the case. His mother told Amnesty International that all the authorities had done was issue requests for assistance to other states. She said that the Chihuahua State Prosecutor's Office had not requested information from security cameras located along the route Alfredo had taken, analysed information from his telephone in time, or looked for the truck he was travelling in.

Alfredo had debts when he disappeared. His family has managed to deal with some of them, but has faced serious difficulties in doing so because legally both the debts and assets are in Alfredo's name and the family is not free to manage them as they would wish.



“[The Prosecutor’s Office] started investigating my brother before he disappeared.”



Carla Portillo, sister of Victor Hugo Portillo Morales, who disappeared on 9 July 2011 in Ciudad Cuauhtémoc. © Amnesty International



Mother of one of the disappeared taking part in the second National March for Dignity "Mothers seeking their sons and daughters and seeking justice" in Mexico City on Mothers' Day in May 2013.
© Amnesty International / Ricardo Ramírez Arriola



Norma Villareal. Her son, José Luis Esparza Villareal, was one of those who disappeared on 16 June 2011 from the rehabilitation centre where he worked in Ciudad Cuauhtémoc.
© Amnesty International







Activists involved in a protest on 24 October 2014, a month after the events of 26 September when 43 teacher training students disappeared following attacks by the police in Iguala.
© Amnesty International Mexico / Alonso Garibay



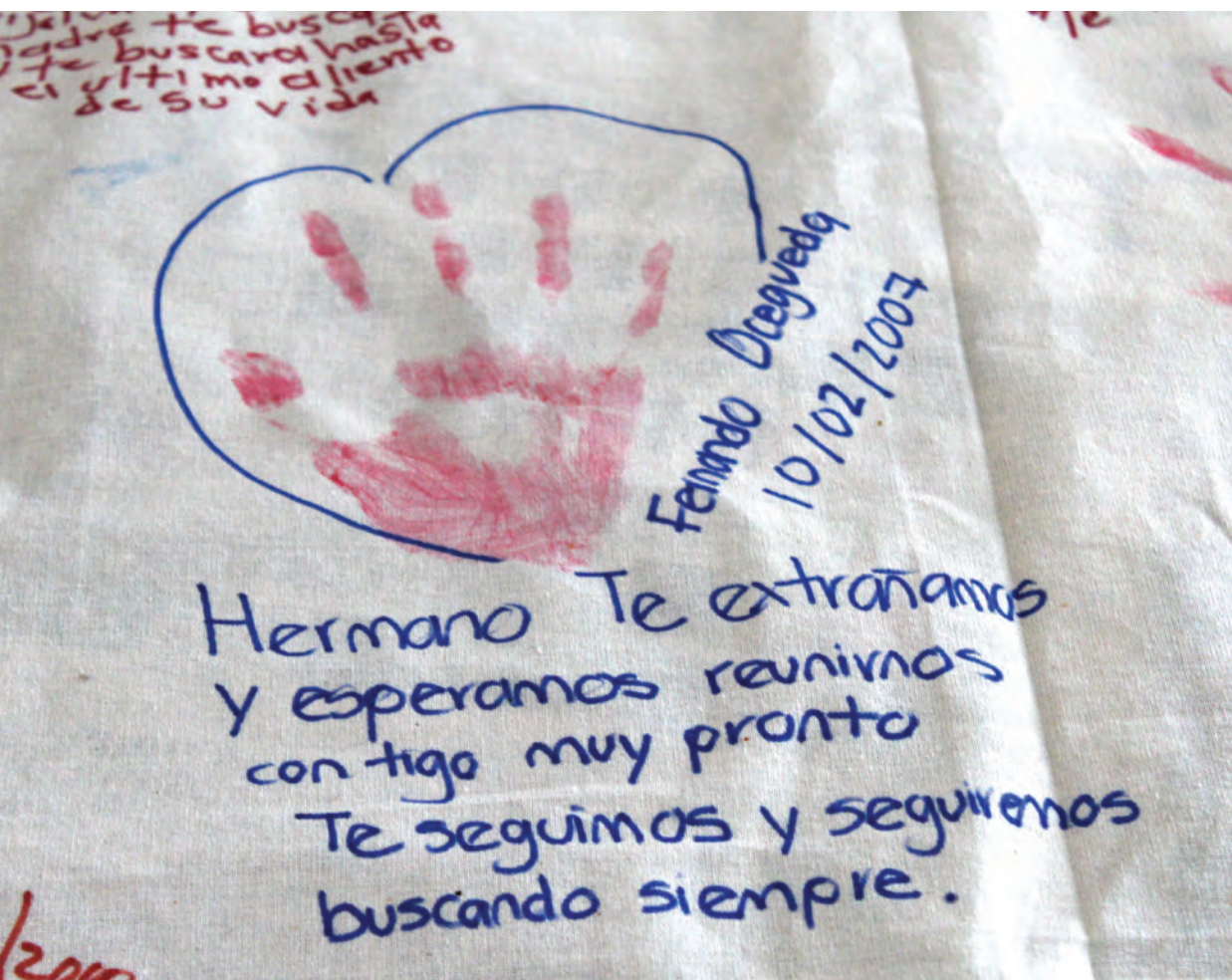
The central courtyard of the Escuela Normal Rural Raúl Isidro Burgos "Ayotzinapa", State of Guerrero. The courtyard, which was used for various activities, has been turned into a classroom by fellow students awaiting the return of the 43 students who disappeared on 26 September 2014.
© Amnesty International / Sergio Ortiz Borbolla



A miniature replica of the desk of Carlos Lorenzo Hernández Muñoz in the Escuela Normal Rural Raúl Isidro Burgos. Carlos was one of the 43 teacher training students who were forcibly disappeared.
© Amnesty International / Sergio Ortiz Borbolla







Message for Fernando Ocegueda, who disappeared in 2007 in Tijuana, State of Baja California. The message is part of a blanket made collectively during a meeting of relatives of the disappeared in Northern Mexico. Chihuahua, Mexico, August 2015.
© Amnesty International

Consuelo Prado is still searching for her husband Mario Lozano Arévalo, who disappeared on 1 April 2011 in Ciudad Cuauhtémoc.
© Amnesty International

5. ENFORCED DISAPPEARANCE OF 43 STUDENTS FROM AYOTZINAPA

“The municipal, state and federal authorities had close to real-time awareness of what was happening as the crimes were being committed.”

Interdisciplinary Group of Independent Experts

BACKGROUND

The Escuela Normal Rural Raúl Isidro Burgos, a teacher training school, was founded in 1926 in the town of Tixtla, Guerrero. A few years later it moved to the grounds of a former estate in Ayotzinapa. It is located in the State of Guerrero in southern Mexico, one of the poorest states in the country.¹¹

In Mexico, this type of school normally trains teachers who will work mainly in primary schools in agricultural and Indigenous communities. This type of school was created in Mexico in the first half of the 20th century in order to implement the national development policy. The Mexican Revolution had gained much of its popular support because of its promise of radical reform in rural living conditions. This included access to education, which for centuries had been denied to large sections of the agricultural and Indigenous population. As a result, in the immediate post-revolutionary period of the 1930s various types of schools and development cooperatives came together to create rural schools like the one in Ayotzinapa.

A large element of the training of rural teachers involves teaching practice and community support, such as literacy campaigns, support work in the fields and helping in negotiations with government authorities. This social approach, which reaches even quite isolated parts of the country, has secured a broad base of support for rural teachers and has also served to attract new generations to these schools. Usually, a rural teacher acts as a community organizer and spokesperson in meetings with the authorities in addition to fulfilling their teaching functions.

Ayotzinapa students enrol at the school for various reasons, including an interest in teaching and the wish to teach in marginalized communities. It is also a way of earning a living as for many people, becoming a rural teacher is one of the few areas of professional development open to them. As one of the Ayotzinapa students told Amnesty International: “Necessity is what drives you to come; it’s a means of making a living in the coming years.”

¹¹ According to official data, in 2014, 65.2% of the population in the State of Guerrero was living in poverty. See http://www.coneval.gob.mx/Medicion/MP/Paginas/Pobreza_2014.aspx.

The country's rural schools in general have gradually been undermined as institutions. For example, the number of students that they can accept has been reduced year on year, their decision-making autonomy has been eroded, they have had their budgets cut and they face obstacles in preserving their models of study and ways of working with the community.

The school in Ayotzinapa has been the target of several repressive measures. On 12 December 2011, students protesting on the highway connecting Mexico City with the tourist resort of Acapulco were attacked by the security forces. Students were blocking traffic in protest at the appointment of a school director that students felt was not right for the school and at the State Governor's refusal to meet them. The authorities responded by deploying state and federal police who used excessive force and opened fire on the unarmed protesters. Two students who were shot died as a result of their wounds. A man working at a nearby petrol station also died while trying to put out a fire in his workplace. To date, there has been no proper investigation into how the fire started and those responsible have not been brought to justice. During these events, several students involved in the protest were arbitrarily detained by the Guerrero state authorities. Some were reportedly tortured to try to get them to confess to being involved in the deaths of their fellow protesters.¹² The allegations of torture and other human rights violations have not been investigated and no one has been brought to justice for these crimes.

ATTACK OF 26 AND 27 SEPTEMBER 2014

The description of the events that took place in Iguala on 26 and 27 September 2014 and the subsequent investigation into the case is based on the report, *Ayotzinapa Report: research and initial conclusions of the disappearances and homicides of the normalistas from Ayotzinapa*, published in September 2015 by the GIEI, appointed by the Inter-American Commission on Human Rights.

Rural school students had planned to take part in a demonstration in Mexico City that is held every year to commemorate the anniversary of the student massacre of 2 October 1968. On this occasion, the country's rural schools had designated Ayotzinapa as the meeting point. Students were preparing for the arrival of representatives from other schools for whom they were providing accommodation and transport. They decided to go to Chilpancingo, capital of the State of Guerrero, in order to get hold of some buses. When this turned out not to be possible, they decided to go to the nearby city of Iguala.

The students were traveling in two buses and decided that one would wait on the road, while the other approached the tollbooth. The first group of students was able to get on a vehicle in the road and agree with the driver that they would go to the Iguala bus station so that passengers could get off. At that point, some students boarded the bus. When they got to the bus station, the driver left the students locked in the bus, so they asked their fellow students for help. Other students arrived in the two buses that they had originally been travelling in. They left the bus in which the driver had left the students and took three others. At approximately 21:20, five vehicles left the Iguala central bus station heading for the Ayotzinapa school, but took different routes.

¹² Amnesty International, *Known abusers, but victims ignored: Torture and ill-treatment in Mexico* (Index: AMR 41/063/2012) and *Out of control: Torture and other ill-treatment in Mexico* (Index: AMR 41/020/2014).

The five buses were stopped by local police at different times during the night. Several students were shot and injured in what the GIEI said appeared to be a coordinated attack involving state officials and unidentified individuals, who may have been linked to organized criminal gangs.

A prolonged attack on three buses started at approximately 22:00; the buses had been stopped by police close to the city centre. Municipal police fired directly at the buses while they were moving and with students on board. When students got off the buses to try to move a patrol car that was blocking their road, the attack continued. One of the students, Aldo Gutiérrez, was shot in the head as he stepped out of the bus; he remains in a vegetative state. Several other students were also injured. A number of students were detained and subjected to enforced disappearance.

Another bus was stopped at 22:00 at one of the exits to the city, opposite the local courthouse. The municipal police allegedly broke the bus windows and threw tear gas inside to force the students to get off. All the students travelling in that bus were subjected to enforced disappearance.

In total, that night 43 students were forcibly disappeared by Mexican state officials.

Another bus was stopped in this same place at around 22:15. Students travelling on it were able to run away as the police gave chase and shot at them. The students spent the night hiding in various places nearby while their attackers continued to search for them.

A youth football team, "Los Avispones" ("The Hornets"), was travelling towards Chilpancingo after playing a match in Iguala. At approximately 23:30, their bus was stopped on the road and attacked; the perpetrators opened fire on the bus. One of the players died at the scene. The driver died shortly after of his injuries, and many other players were injured, some seriously. The attackers also fired at passing cars. A woman passenger travelling in a taxi in the area died as a result. In total, three people were killed in this incident.

The students who survived the first attack near Iguala Central Square, along with others who had arrived to support them, held a small impromptu press conference at the scene of the attack. Shortly after midnight, in front of local reporters and others people gathered there, three armed masked men got out of their cars and opened fire at close range at the students, killing two: Daniel Solís Gallardo and Julio César Ramírez Nava. In the face of this attack, those present fled. That was the last time witnesses saw Julio César Mondragón Fontes alive. His body was found the following day bearing injuries consistent with torture.

Several survivors, accompanied by a teacher, arrived at a local health clinic local to ask for help for a seriously wounded student who had not received medical attention. Several members of the Mexican army arrived at the clinic subjected the students to hostile questioning. One of them was reportedly told to give their real names and warned: "otherwise you won't be found". The military left and soon after so did the students, who were able to get emergency medical care at a nearby hospital.

Various security and intelligence agencies, in particular the Mexican army, knew what was happening while the students were on their way to Iguala and during the attacks on them. Members of military intelligence wrote reports on what happened and took photographs

of the events. During the days that followed, they followed the movements of parents and fellow students as they searched the city for the disappeared. The GIEI has stated that the municipal, state and federal authorities had close to real-time awareness of what was happening almost as the crimes were being committed.¹³ Despite this, they failed to take steps to stop the attacks or to prevent the disappearance of students.

To date, more than a year after these events occurred, the authorities have failed to conduct an impartial, independent and effective investigation into the authorities' failure to act and protect students from attacks of which they were well aware. The investigation has been equally lacking in terms of clarifying chain-of-command responsibilities (at any level of government) among those bodies who knew, or should have known, that these crimes were being, or were about to be, committed and did nothing to prevent them.

INVESTIGATIONS

To date, the Mexican state has not fulfilled its international obligations to properly investigate violations of human rights and crimes under international law committed on its territory or within its jurisdiction. The families of the students and their legal representatives¹⁴ succeeded in involving the Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense, EAAF), with its technical expertise, in the investigation. In addition, in November 2014 the Mexican State, signed an agreement before the Inter-American Commission on Human Rights for the creation of an Interdisciplinary Group of Independent Experts to oversee the investigation. Both teams have contributed technical and forensic expertise and their analysis has helped clarify what happened in the city of Iguala and provide a better understanding of the case. They have also issued recommendations to the Mexican government on how to improve the investigation.

The investigation was seriously flawed. As the GIEI explained in its report of September 2015, the investigation was seriously flawed in a number of ways. Crime scenes were not protected or properly filmed or photographed. The bodies were not photographed in colour nor were the degree and location of coagulation of blood (livor mortis) or the onset of rigor mortis established. No plaster casts were taken of tyre tracks or footprints and no blood, hair, fibre and thread samples were collected from the key scenes. Ballistics evidence was gathered, but was not examined for traces of blood or fingerprints and evidence was incorrectly processed. Some crime scenes were not examined at all.

There is also concern that the UN Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (the Minnesota Protocol) was not adhered to. This gives detailed guidance on how to investigate suspected extrajudicial executions. Adherence to this Protocol, particularly in the light of the six killings and 43 were enforced disappearance in incidents in which police personnel were directly involved, is essential to ensure a prompt, effective and impartial investigation.

¹³ GIEI, *Report on Ayotzinapa*, September 2015, p 162. (Unofficial translation by Amnesty International of the Spanish original.)

¹⁴ Miguel Agustín Pro Juárez Centre for Human Rights (Centro de Derechos Humanos Miguel Agustín Pro Juárez), Centre for Human Rights Tlachinollan (Centro de Derechos Humanos de la Montaña Tlachinollan) and the José María Morelos y Pavón Regional Human Centre for the Defence of Human Rights (Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón).

On 5 October 2014, the Federal Attorney General's Office (Procuraduría General de la República, PGR) initiated a parallel investigation to that undertaken by the Guerrero State Prosecutor's Office. However, a full investigation was not solicited until 18 October 2014 and all the files on the student disappearances were not received until 10 November 2015.

There were serious flaws in the PGR's investigation of the case. Most notably the PGR failed to obtain footage from surveillance cameras that might have contained information relevant to the case. This was only retrieved following the recommendation of the GIEI, but by that time, some footage was no longer available. For example, footage from the security cameras outside the courthouse in the city of Iguala was wiped by state court officials before investigators were able to analyse it. In addition, the homes of suspects were not searched and private communications that could have shed light on the case were not accessed.

Many testimonies were collected, but the Attorney General's Office failed to interview key witnesses. For example, the two drivers of the buses in which the students were travelling on that day were not questioned until April 2015 and then only at the request of the GIEI. The Attorney General's Office found clothing and other items belonging to students on one of the buses. Although this was collected in mid-November 2014, the authorities only began to process it in July 2015 when this was suggested by the GIEI.

The PGR did not include information on one of the five buses in its investigation. This was omitted from the official report despite evidence, including the testimonies of survivors, clearly indicating that a fifth bus had been involved. The GIEI has suggested that this fifth bus could be key in clarifying why the students were attacked and has urged the Mexican government to properly investigate what happened to it. The GIEI stated that, given that buses had previously been used to transport drugs from Iguala to the USA, it is possible that the students unwittingly took a bus carrying illegal drugs and that this could explain what triggered this massive attack.

The Mexican authorities maintain that all the students forcibly disappeared were handed over by municipal police to an organized criminal gang, who took them to a rubbish dump in the municipality of Cocula where they killed the students, burned their bodies and dumped the remains in the nearby San Juan River. Specialists who have had access to the case file, however, have stated that the authorities reached these conclusions prematurely and that they were based on a biased analysis of the available evidence.¹⁵

The 43 students were not incinerated at the Cocula municipal waste dump"

Interdisciplinary Group of Independent Experts

¹⁵ Argentine Forensic Anthropology Team, Documento inicial sobre investigaciones en el basurero De Cocula y río San Juan, available at http://www.eaaf.org/files/comunicado-eaaf_7feb2015.pdf (visited 1 November 2015). Amnesty International, Mexico: Recent forensic evidence challenges governmental theory on the 43 disappeared students (Index: AMR 41/004/2015).

In its report on the investigation of the case, the GIEI concluded this could not have happened this way. The GIEI requested an expert study on the fire at the dump and said: "The GIEI is convinced that the 43 students were not incinerated in the Cocula municipal waste dump. The confessions made by the alleged perpetrators on this point do not correspond to the reality of the evidence presented in this study."¹⁶ In addition, the GIEI announced in December 2015 that the available technical data indicated that there was no fire in Cocula on the date indicated by the PGR.¹⁷

To date, the only remains that have been identified are those of one student Alexander Mora Venancio. The EAAF has confirmed the identification, but expressed concern about the origin of the bone fragment on which it was based. The PGR claimed to have found the fragment in a bag in the San Juan River, but has repeatedly failed to provide information about the handling of the evidence that would enable this to be confirmed, given that the EAAF was not present at the time the fragment was discovered. The Argentine team has expressed concern about the lack of scientific evidence linking the evidence found in the river with that found at the dump.¹⁸

The Mexican authorities have an obligation to undertake genuine, independent and effective investigations aimed at fully establishing the fate or whereabouts of the victims. Even in cases where the state has grounds for assuming that the victims are dead, enforced disappearance is a continuing act and a continuing crime until such time as the remains are found and identified.¹⁹

The Mexican government has so far arrested more than 100 people believed to be linked to the case who are currently being prosecuted. These including municipal police officers and suspected members of organized criminal gangs. However, at the time of writing, none of these people has been charged with the crime of enforced disappearance; they are being prosecuted for other crimes. By bringing charges for crimes that do not adequately describe enforced disappearance - for example charging some detainees with kidnapping - or charges that somehow mitigate the state's involvement, via his agents, in the crime, Mexico is violating its obligations under international law. The Inter-American Court of Human Rights in a case brought against the Mexican government stressed the importance of using the crime of enforced disappearance, since in this type of crime "existing legislation does not offer sufficient protection against offences such as abduction or kidnapping, torture, or homicide."²⁰

¹⁶ GIEI, *Report on Ayotzinapa*, September 2015, p 156

¹⁷ GIEI, Press release: *Experts Present Initial Advances in the Second Phase of Their Mandate* 7 December 2015, p 2.

¹⁸ EAAF, Identificación de uno de los 43 normalistas desaparecidos de Ayotzinapa, 7 December 2014, Mexico City, available at http://www.eaaf.org/files/comunicado-de-prensa_eaaf_07diciembre2014.pdf, visited 31 October 2015.

¹⁹ Inter-American Court of Human Rights, *Case of Gudiel Álvarez et al ("Diario Militar") v. Guatemala*. Merits, Reparations, and Costs, Judgment of November 20, 2012, Series C No. 253, para 207 and Inter-American Court of Human Rights *Case of Gudiel Álvarez et al ("Diario Militar") v. Guatemala*. Interpretation of the Judgment of Merits, Reparations and Costs, Judgment of August 19, 2013, Series C No. 262, para 64.

²⁰ Inter-American Court of Human Rights *Case of Radilla Pacheco v. Mexico*, para 238. (Unofficial translation by Amnesty International of original Spanish.)

THE IMPACT OF THE ENFORCED DISAPPEARANCES

VICTIMS' FAMILIES

As stated earlier, the relatives of people subjected to disappearance and enforced disappearance suffer harm so severe that it can constitute a violation of the right not to be subjected to torture and other ill-treatment. As one relative of a student forcibly disappeared told Amnesty International:

"It was a terribly sad day. When my brother called me, I went directly to the school. We thought that the [43 students] had been arrested or were in hiding. We were sure we were going to find them. But the days passed and here we are, almost a year later and we still do not know where they are. This is torture."

Melitón Ortega, uncle of Mauricio Ortega, one of the disappeared students

The emotional impact on families and other indirect victims in the case of the enforced disappearance of 43 students has been intensified by various actions of the Mexican government. In particular, they have suffered a further violation of their right to humane treatment as a result of the way the public information about the case has been managed. In many cases the Federal Attorney General has given information to the media without first contacting relatives or so soon after contacting them that victims could not process the information before it was publicly known.

*"It is not the *normalistas* or their relatives who are responsible for the enforced disappearances or the armed attacks and killings, or the torture inflicted. Those responsible are those who carried out these acts of violence or who could have prevented them and did nothing."*

Interdisciplinary Group of Independent Experts

Public statements by various Mexican government officials have contributed to creating or perpetuating a perception that the students may have been involved in organized crime, creating yet more anxiety for their families. The PGR has carelessly repeated versions of events given by some detainees alleging that some students may have been linked to organized crime. This seeks to criminalize the victims and make them responsible for the crimes they have suffered, which re-victimizes their relatives. As the GIEI stated: "It is not the *normalistas* or their relatives who are responsible for the enforced disappearances or the armed attacks and killings, or the torture inflicted. Those responsible are those who carried out these acts of violence or who could have prevented them and did nothing."²¹

²¹ GIEI, *Report on Ayotzinapa*, September 2015, p 287.

These enforced disappearances have also had an impact on the enjoyment of other human rights by the students' families. For example, family members have suffered various medical conditions resulting from the case and the search for their loved ones. Despite this, the response of the Mexican authorities has been inadequate and has failed to provide quality and culturally appropriate medical care for these victims.

Efforts to find their loved ones and to access justice has also had negative financial effects on families. Several families lost income because they were absent from work or could not continue to cultivate their land. All these effects must be taken into consideration and addressed by the Mexican government through comprehensive measures to redress the harm caused.

MEMBERS OF THE STUDENT COMMUNITY OF AYOTZINAPA

The enforced disappearance of their classmates has had a profound impact on the student community in Ayotzinapa. Students who survived the attacks are direct victims of various human rights violations, but the impact extends to indirect victims such as students who were not present in Iguala that night but whose personal and student lives have been disrupted and those who joined the rural school after the attacks and who have been affected in a number of ways.

The Mexican government must recognize these people as victims and establish comprehensive reparation measures that take into account the needs and special nature of the Escuela Normal in Ayotzinapa and its social and educational project.

“Most of our peers’ parents are afraid for them, they fear for their children’s safety... there are peers whose parents would not even let them come and take the exam.”

José Antonio, a student at the Escuela Normal Ayotzinapa

Student life in Ayotzinapa remains vibrant and students continue to take classes and prepare themselves to become teachers. However, they have had to devote a substantial portion of their time to the search for truth, justice and reparation (such as getting assurances that such crimes will not be repeated). This involves developing strategies to improve the safety of their group and ensure the school's continued future. One of the Ayotzinapa students summed up the situation: “From the first moment we decided to come here, we prepared ourselves mentally. We know we will be the target of government harassment. We know that we will have to take to the streets to defend our school.”

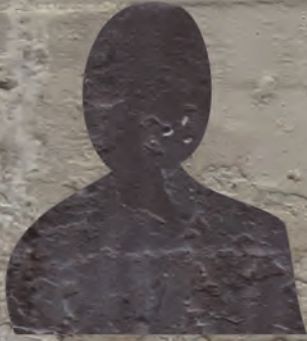
Following the attacks of 26 and 27 September, several students dropped out of the Escuela Normal. The places left vacant by the departure of first graders were filled by new students. However, the places of the 43 missing students were not filled. They remain on the register as current students and their desks are on display in the central courtyard of the school in tribute and a respectful symbol of the victims, and preserving their memory in the student community.

Enrolments for the first grade in the new academic year in August 2015 reached the school's capacity of 140 students. This shows that despite the risks involved just in going to this particular Escuela Normal, the school is still fulfilling a need and continuing to serve young people from marginalized communities. However, the number of applications has gone down, which may be due to fear among potential candidates and their families that if they were to be admitted they could be targeted for new attacks in future. One student told Amnesty that: "Most of our peers' parents are afraid for them, they fear for their children's safety... there are peers whose parents would not even let them come and take the exam."

Timeline: the case of the 43 disappeared students in Ayotzinapa

VIVOS SE LOS LLEVARON

ANTONIO



¿DÓNDE ESTÁ?

September 2014

26 - Local police violently attack Ayotzinapa students in Iguala, State of Guerrero. The state and federal police, as well as the army, witness the attacks but do not protect the students. Three students and three passers-by are extrajudicially executed. Forty-three students are victims of enforced disappearance.

27 - the body of Julio César Mondragón Fontes, a 22-year-old student, is found bearing injuries consistent with torture.

28 - Local officials blame the crimes on members of a drug cartel, Guerreros Unidos (Warriors United) and detain 22 Iguala police officers.

ALEXANDER



¿DÓNDE ESTÁ?

October 2014

1 - The Mayor of Iguala, José Luis Abarca, flees and goes into hiding.

5 - An investigation into the students' disappearance is opened by the Federal Attorney General; this is a parallel investigation to that already being carried out by the Guerrero state authorities.

At the request of the victims' families, the Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense, EAAF) becomes involved in the forensic investigation.

8 - Thousands of people take part in a demonstration in Mexico City to demand that the students be found.

10 - The Attorney General, Jesús Murillo Karam, reports that four people have been arrested in connection with the disappearance of students and that four mass graves have been found in Iguala. In the days that follow, more clandestine graves are reportedly found, but none contain the remains of the students.

17 - The Attorney General reports that 36 municipal police officers from the towns of Iguala and Cocula in the State of Guerrero have been arrested so far, along with 17 members of criminal gangs and that three more mass graves have been found in Iguala.

22 - Jesús Murillo Karam declares that the Mayor of Iguala, José Luis Abarca, and his wife ordered the attack on the students.

23 - The Governor of the State of Guerrero, Ángel Aguirre, resigns.

29 - The families of the disappeared students meet President Enrique Peña Nieto for the first time in Mexico City.

November 2014

4 - The Mayor of Iguala, José Luis Abarca, and his wife, María de los Ángeles de Pineda, are detained in Mexico City.

7 - The Mexican government declares that the students were killed by members of the local cartel, Guerreros Unidos, and that their bodies were burned in a local waste dump.

12 - Representatives of the Mexican government and relatives of the students sign an agreement empowering the Inter-American Commission on Human Rights to name an expert group to help with the investigations.

27 - President Peña Nieto announces a 10-point plan to reform the police and the judiciary. He proposes the creation of a general law on disappearances.

JOSE LUIS



¿DÓNDE ESTÁ?

December 2014

6 - The Argentine Forensic Anthropology Team confirms that a fragment of bone found in a mass grave belongs to one of the students, 19-year-old Alexander Mora Venancio.

7 - The Argentine forensic experts state that there is insufficient evidence to support the theory that the remains found in the San Juan River, close to Cocula, were incinerated at the local dump.

vivos los queremos

VIVOS SE LOS LLEVARON

January 2015

14 - The Mayor of Iguala is considered by the Attorney General to be the intellectual author of 26-27 September attacks. Tomas Zerón, who headed the investigation initiated by the Office of the Attorney General, says that all lines of investigation have been closed.

27 - Jesús Murillo Karam declares that all the students were killed and incinerated in a rubbish dump in Cocula.

MIGUEL ANGEL



¿DÓNDE ESTÁ?

February

2015

1 - A number of police officers and detained members of criminal gangs claim that they were tortured in order to make them confess to involvement in the disappearance of the students.

7 - The Argentine forensic experts refute the official explanation, stating that its conclusions were premature and based on a biased interpretation of the existing evidence.

27 - The Federal Attorney General, Jesús Murillo Karam, is replaced by Arely Gómez, a Senator belonging to the ruling PRI.



April 2015

15 - The group of experts appointed by the Inter-American Commission on Human Rights informs the Attorney General's Office of the existence of a fifth bus that has so far not been included in the investigation.

EMILIANO



¿DÓNDE ESTÁ?

¿DÓNDE ESTÁN?

September 2015

6 - A new report by the group of experts appointed by the Inter-American Commission on Human Rights to look into the students' disappearance refutes the theory that their bodies may have been incinerated at a rubbish dump, as claimed by the authorities. It highlights serious flaws in the investigation of the case, including serious errors in the handling of evidence. President Peña Nieto states that the investigation remains open.

JULIO CÉSAR



¿DÓNDE ESTÁ?

October 2015

28 - The Mexican government, the Inter-American Commission on Human Rights and the victims' families and their representatives agree to the renewal of the mandate of the Interdisciplinary Group of Independent Experts for a further six months.

November 2015

30 - The investigation into the case is passed to the Office of the Assistant Attorney General for Human Rights.

6. THOUSANDS OF FAMILIES ASK FOR TRUTH, JUSTICE AND REPARATION

Little by little, the families of the disappeared are gaining entry into government offices. They are becoming aware of demonstrations in support of the disappeared and that their case is part of a much broader picture. This is an issue that affects not only their family, but many people all over the country. The mother of one of the disappeared said: "I began to see that there were hundreds of people who had been taken and nothing had been done."

Families meet, coordinate and devise strategies for coping and for demanding truth, justice and reparation. The work of local human rights organizations who accompany many of the families and provide comprehensive care has played a crucial role in this. Amnesty International heard over and over again that the intervention of NGOs has been vital in securing improved treatment at the hands of the authorities, gaining access to information and case files and ensuring the little progress that has been made in investigations.

"I began to see that there were hundreds of people who had been taken and nothing had been done."

Leticia Sánchez Villalobos, the mother of Luis Carlos Hernández Sánchez who disappeared on 22 May 2010.

Families have acknowledged that working together, sharing the struggle and having the support of civil society organizations have given them encouragement in their struggle and helped them make sense of what happened and maintain their dignity. Amnesty International has witnessed how in various parts of the country, in the absence of an adequate response from the state to the crisis of disappearances in Mexico, it is human rights organizations who provide the only assistance available to the victims and their families.

In addition, the families themselves have formed groups or collectives who meet to coordinate their efforts to search for their relatives and demand their rights. There are at least 24 groups of relatives of disappeared people in Mexico and three in Central America. Together, they are searching for more than 4,800 people in 22 states in Mexico. There are also relatives who meet and have formed other types of organizations or undertaken other forms of collaboration and have not identified themselves as collectives, such as relatives of Guatemalan migrants who disappeared while travelling through Mexico, who have been supported by the Foundation for Justice and the Democratic Rule of Law (Fundación para la Justicia y el Estado Democrático de Derecho); or relatives of the disappeared in Chihuahua, supported by CEDEHM. These groups are an expression of the right to defend human rights and the Mexican state should ensure that they can carry out their work without fear of reprisal.²²

²² See the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* and Article 24.7 of the International Convention.

They have adopted this strategy as a response to government inaction in most of the more than 27,000 officially recognized cases of disappearance in which the whereabouts of the person has not been clarified. The distribution of cases that these collectives are pursuing helps give a picture of the scale and extent of the problem: in Mexico anyone can disappear anywhere.

The Mexican state must ensure that all these groups can continue to carry out their work in defence of human rights in a safe and supportive environment and that their right to truth, justice and reparation is effectively guaranteed.

GROUPS OF RELATIVES OF THE DISAPPEARED¹

Mexican groups

Women's organization for those Executed, Abducted and Disappeared in Nuevo León (Agrupación de Mujeres Organizadas por los Ejecutados, Secuestrados y Desaparecidos de Nuevo León, AMORES)
Association of the Relatives of Detainees, the Disappeared and Victims of Human Rights Violations in Mexico (Asociación de Familiares de Detenidos, Desaparecidos y Víctimas de Violaciones a los Derechos Humanos en México, AFADEM-FEDEFAM)
Association -- United for the Disappeared of Baja California (Asociación Unidos por los Desaparecidos de Baja California A.C.)
Committee of the Relatives of those Disappeared and Detained, Until They Are Found (Comité de Familiares de Detenidos Desaparecidos Hasta Encontrarlos)
Committee of the Relatives of People Detained and Disappeared in Mexico, "Raised Voices" (Comité de Familiares de Personas Detenidas Desaparecidas en México - COFADDEM - "Alzando Voces")
Committee of the Relatives and Friends of People Abducted, Disappeared and Killed in Guerrero (Comité de Familiares y Amigos de Secuestrados, Desaparecidos y Asesinados en Guerrero)
Justice for the Disappeared, Querétaro (Desaparecidos Justicia A.C. Querétaro)
Links State of Mexico (Eslabones Estado de México)
Links Morelos (Eslabones Morelos)
Links Nuevo León (Eslabones Nuevo León)
Links Veracruz (Eslabones Veracruz)
Relatives Searching, María Herrera (Familiares en Búsqueda María Herrera A.C.)
Families of Chiapas United Searching for our Migrants "Junax Ko'tantik" (Familias Unidas de Chiapas Buscando a Nuestros Migrantes "Junax Ko'tantik")
Families United to Search and Find the Disappeared (Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas A.C.)
Families United for our Disappeared, Jalisco, United Families Network (Familias Unidas por nuestros Desaparecidos Jalisco – FUNDEJ - Familias Unidas en Red)
United Forces for Our Disappeared in Mexico (Fuerzas Unidas por Nuestros Desaparecidos en México – FUNDEM)²
Action for Victims' Rights (Grupo V.I.D.A. - Víctimas por sus Derechos en Acción)
Children for Identity and Justice and against Silence and Forgetting, Mexico (Hijos por la Identidad y la Justicia contra el Olvido y el Silencio - H.I.J.O.S. México)
Justice and Hope (Justicia y Esperanza)
Women United (Mujeres de Pacto)
The Other Disappeared of Iguala (Los Otros Desaparecidos de Iguala)
Families' Network of Ciudad Juárez (Red de Familiares Ciudad Juárez)
Network of Links for Human Rights (Red Eslabones por los Derechos Humanos)
United Voices for Life (Voces Unidas por la Vida)

Central American groups

Committee of Relatives of El Salvadoran Dead and Disappeared Migrants (Asociación Comité de Familiares de Migrantes Fallecidos y Desaparecidos de El Salvador – COFAMIDE)
Committee of Relatives of Disappeared Central Honduran Migrants (Comité de Familiares de Migrantes desaparecidos del Centro de Honduras – COFAMICENH)
Committee of Relatives of Disappeared El Progreso Migrants (Comité de Familiares de Migrantes Desaparecidos de El Progreso – COFAMIPRO)

¹ This list has been prepared on the basis of information provided by the groups themselves. In this report, groups of relatives of victims of disappearance who have organized to demand truth, justice and reparation (or any of those elements) from a human rights perspective are included, regardless of whether or not they are legally registered associations.

² This group is made up of United Forces for Our Disappeared in Coahuila (Fuerzas Unidas por Nuestros Desaparecidos en Coahuila), United Forces for Our Disappeared in Nuevo León (Fuerzas Unidas por Nuestros Desaparecidos en Nuevo León) and United Forces for Our Disappeared in Mexico – Central Region (Fuerzas Unidas por Nuestros Desaparecidos en México – Región Centro).



7. CONCLUSIONS

As mentioned above, the cases of Ciudad Cuauhtémoc and the Ayotzinapa students are highlighted in this report because they are emblematic cases that show how the Mexican state's response to disappearances and enforced disappearances has at times been negligent and inadequate.

The enforced disappearance of the 43 Ayotzinapa students gained international attention and turned the spotlight on the human rights situation in Mexico. This has resulted not only in an intensification of the public's demand for truth, justice and reparation, but also in the allocation of more resources by the Mexican state, although these have not always been well targeted. However, in the case of Ciudad Cuauhtémoc, despite a large number of disappearances in the same area over several years, the situation has remained virtually unknown. The large number of disappearances in Ciudad Cuauhtémoc gives an insight into the reality of the thousands of cases of disappearance by non-state actors and enforced disappearance that are abandoned and ignored with impunity by the authorities.

Despite the different public profiles of these two cases, they share considerable similarities in the failure of the state to ensure that the rights of victims are respected. These include the failure to search for the victims of disappearance in order to determine their fate and whereabouts and, in particular, the rights to truth, justice and reparation. In both cases the search for the victims of disappearance was inadequate and badly organized. In both cases the authorities were irresponsible in the way they handled information on the cases, either by failing to ensure the information reached the relatives and representatives in an appropriate and timely manner or doing so only as part of a media strategy. Also, in both cases the authorities' treatment of relatives violated their right to humane treatment, causing further harm in addition to the disappearance itself. The Mexican government has failed to provide adequate support to help address the impact of disappearance on them, or has done so only in a partial and largely ineffective manner.

The authorities seem unable to respond in a coherent manner at the institution level in a way that respect the human rights of victims and their relatives. Drawing on the many cases of disappearances Amnesty International has researched in Mexico, the organization has been able to document the inadequacy of the state's response to enforced disappearances and disappearance carried out by non-state actors.

Mexico has taken some important steps to address the situation, in particular by acceding to the families and legal representatives' requests for the Argentine Forensic Anthropology Team to be involved in the case of the 43 Ayotzinapa students and agreeing that the case be reviewed by the Interdisciplinary Group of Independent Experts. However, these measures were short-term policy decisions prompted by a need to manage a situation that was extremely important in terms of public opinion and that had gained a significant international profile. They do not constitute coherent public policies to address the phenomenon of disappearance in Mexico.

The Mexican government must, as a matter of urgency, recognize the magnitude of the problem and fulfil its obligation to investigate all cases of disappearance and enforced disappearance in the country. It must also bring those responsible to justice in proceedings that guarantee the right to due process and ensure access to comprehensive reparations for all victims and their relatives. The state should also fulfil its general obligation to guarantee effective protection for people. This requires the development of a public policy aimed at preventing disappearances and enforced disappearances.

THE CRIMINAL LAW

The Mexican state is a federal system divided into 31 states and Mexico City or the Federal District. Each of these 32 entities has its own criminal code. In most, the definition of the crime of enforced disappearance does not meet the standards set out in Article 2 of the International Convention.²³ In the case of the Federal Criminal Code, the Inter-American Court of Human Rights and the UN Committee on Enforced Disappearances have stated that it does not meet international standards and called on Mexico to adopt the necessary legislative measures to address this.²⁴ The fact that criminal classifications are not consistent with the definition set out in the International Convention has hampered and impeded the imposition of appropriate sanctions for this crime under international law.

As happened in Ayotzinapa, in many cases the investigations and trials, though the latter are rare, are pursued for other crimes, such as kidnapping or deprivation of liberty. In addition, contrary to Article 3 of the International Convention, there is no proper legal definition of disappearances carried out by non-state actors where no state agents were involved.

THE SEARCH FOR VICTIMS AND INVESTIGATIONS

The state has an international obligation to undertake adequate, formal investigations and to search for those subjected to disappearance. This obligation derives both from the general obligation to ensure human rights and the obligation to punish and prevent enforced disappearances.²⁵

²³ The Mexican government has an obligation to ensure that enforced disappearance constitutes a crime in accordance with international standards, as set out in Article III of the Inter-American Convention on Forced Disappearance of Persons and Article 4 of the International Convention.

²⁴ Inter-American Court of Human Rights, *Case of Radilla Pacheco v. Mexico*, paras 343-344 and Operative Paragraphs, para 11; and Committee on Enforced Disappearances, Concluding observations on the report submitted by Mexico under article 29, paragraph 1, of the Convention, 5 March 2015, (CED/C/MEX/CO/1), para 20.

²⁵ Inter-American Court of Human Rights, *Case of Velásquez Rodríguez v. Honduras*. Merits, Judgment of July 29, 1988. Series C No. 4, para 177; Inter-American Court of Human Rights, *Case of the Miguel Castro-Castro Prison v. Peru*, Merits, Reparations, and Costs, Judgment of November 25, 2006, Series C No. 160, para 382; and Inter-American Court of Human Rights, *Case of the Pueblo Bello Massacre v. Colombia*, Judgment of January 31, 2006, Series C No. 140, para 143. See also Article I of the Inter-American Convention on Forced Disappearance of Persons and Article 3 of the International Convention.

As this report has documented, there is often a long delay before the Mexican authorities begin efforts to find the disappeared person and when a search is undertaken it is usually in the absence of a clear plan and limited to a few administrative procedures that are doomed to failure. On some occasions the authorities do not register the complaint until 72 hours after the disappearance, which affects the chances of finding the victim.

There are serious failures and omissions in the way the authorities conduct the first stages of the investigation. This is worrying because the actions taken at the beginning of an investigation are crucial in cases of disappearance. During the subsequent stages, it is not always possible to put right earlier mistakes and often the evidence has already been lost by the time the authorities decide to look for it. Sometimes, the authorities investigate the activities and private lives of victims as a way of justifying what has happened. Families are obliged to pursue investigations themselves and to put themselves at risk in order to uncover information about the case and share it with the authorities, who often merely file the new information instead of investigating it properly.

IMPACT ON RELATIVES

The International Convention recognizes the relatives of the disappeared as having themselves suffered harm as a direct consequence of the disappearance.²⁶ In addition, relatives indirectly suffer violations of their rights including their right to humane treatment,²⁷ which in turn can impact on other rights. For example, when a person is subjected to disappearance, family members have to address issues such as the management of the disappeared person's assets, the care or support of other family members, the family home and the place of residence, as well as dealing with procedures to obtain justice. The economic situation of the family is affected not only by the loss of income from the disappeared person, but also by the expenses incurred in searching for them and in the pursuit of justice because in order to carry out this work they have to end their normal employment. Their efforts can also put them at risk and result in them having to take measures such as moving house.

The disappearance also deprives relatives of the benefits they had enjoyed linked to the victim's employment and social security rights. Many families are no longer entitled to medical care from the Mexican Social Security Institute or other similar institutions, which puts them in a more vulnerable situation. The family's assets may also be put at risk as Mexican law does not provide for interest on debts incurred by the disappeared person to be frozen nor does it provide protection for relatives from proceedings to recover that debt, which puts even the family home at risk. This situation is in breach of Article 24.6 of the International Convention which sets out the state's obligation to take *"appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights."*

²⁶ As set out in Article 24 of the International Convention.

²⁷ Inter-American Court of Human Rights, *Case of Blake v. Guatemala*, Merits, Judgment of January 24, 1998, Series C No. 36, para 114.

SUPPORT AND REPARATIONS

Victims have the right to rehabilitation and adequate reparation as part of the state's obligation to protect human rights and the principle in international law that reparation must be afforded for harms caused by unlawful actions by states.²⁸ However, in Mexico, the systems that should provide protection and reparation to victims have failed to respond in a comprehensive and appropriate manner to the needs of those affected. The state must ensure that sufficient resources are provided to meet the needs of victims and that administrative processes do not become insurmountable obstacles to accessing reparations, humanitarian assistance and other measures.

The federal authorities must also ensure that victims are not left unprotected by legislative or administrative omissions in individual states, as is the case for example, in those states which have not created commissions to address the needs of victims, as required by the General Law on Victims. Meeting the financial costs of addressing the needs of victims is an important administrative issue, but this should not impact on the victims themselves. It is vital, therefore, that the federal government absorb all the costs that individual states are unable or unwilling to meet.

GENERAL LAW ON DISAPPEARANCES

The Mexican government has taken some positive steps to institutionalize public policy on disappearance that could help guarantee the rights to truth, justice and reparation in cases of enforced disappearance and disappearances carried out by non-state actors. For example, on 10 December 2015, President Enrique Peña Nieto submitted a draft General Law to Prevent and Punish the Crime of Disappearance; that is a law that sets out the obligations of the federal, state and municipal authorities and coordinates their efforts on the issue.²⁹

The law must contain provisions to adequately address disappearances and the state must also take other administrative and public policy measures to fulfil, implement and enforce the legal framework that Congress approves after extensive and genuine consultation with civil society, especially the families of the disappeared. Although the bill contains a number of positive measures, it falls short of international standards in a number of ways. Congress must take steps to address these flaws.

RECOMMENDATIONS

REGARDING THE GENERAL LAW ON DISAPPEARANCES AND CRIMINAL LAW

- Establish, in accordance with international standards, enforced disappearances and disappearances carried out by non-state actors as separate offences in the General Law on Disappearances. Ensure that all reports of disappearance are investigated thoroughly, regardless of who the alleged perpetrator is. Ensure that the crime of enforced disappearance

²⁸ Inter-American Court of Human Rights, *Case of Velásquez Rodríguez v. Honduras*, Reparations and Costs, Judgment of July 21, 1989, Series C No. 7, para 25. See also Article 24.5 of the International Convention.

²⁹ This law, if consistent with international standards, would help fulfil Mexico's obligation to take the legislative measures at its disposal to deal with this problem. The international obligation to adopt domestic legal measures to fulfil its international commitments is set out, inter alia, in Article 2 of the American Convention on Human Rights.

is investigated and punished when there is evidence that it was carried out with state agents' authorization, support or acquiescence.

- Recognize in law the permanent and continuous nature of the crimes of enforced disappearance and disappearance committed by non-state actors until the fate or whereabouts of the disappeared person are clarified. There must be no statute of limitations for these crimes which must be prosecuted ex officio and entail sanctions proportionate to their gravity. Those responsible must not benefit from immunity, amnesties, pardons or any similar measure.
- Furthermore, the law should recognize that enforced disappearance constitutes a crime against humanity when it is committed as part of a widespread or systematic attack against a civilian population.
- Establish in law, in accordance with international law, that there are no grounds for excluding criminal responsibility such as following orders or instructions received from superiors, nor may special circumstances, such as the suspension of constitutionally guaranteed rights or serious public order disturbances, be invoked as a justification for committing these crimes.
- Recognize the state's obligation to initiate without delay an official search for people reported as disappeared, in accordance with a procedure devised in consultation with experts, civil society organizations and the families of the disappeared. There should be specific mechanisms for ensuring the fastest possible response within the first 72 hours of the disappearance and the search should continue until the victim's fate or whereabouts have been fully established.
- Make appropriate provision for the criminal responsibility of superiors and public officials who are in any way involved in enforced disappearances, in accordance with international law.
- Reform the Code of Military Justice so that only the civilian justice system has the power to investigate, issue orders and prosecute all allegations of human rights violation committed by members of the armed forces, even if the victim is also a member of the military.

REGARDING THE SEARCH FOR VICTIMS OF DISAPPEARANCE AND INVESTIGATIONS

- Investigate all cases of disappearance and enforced disappearance in the country promptly, thoroughly and impartially and, where appropriate, bring those responsible to justice in trials that meet international fair trial standards.
- Acknowledge and allow the participation of relatives of the disappeared in investigations, providing them with up-to-date and accurate information on progress and ensure that they are able to contribute information, suggest lines of inquiry and ask for evidence. The authorities should not transfer responsibility for investigating the case to the family.
- Recover, process and preserve evidence appropriately, ensuring that it is not tampered with or lost. Establish robust chain-of-custody procedures and sanctions for those who breach these.
- Establish and regulate the duty of crime investigation officials to obtain, with prior judicial authorization and control, all the necessary information for the proper investigation of cases, including information about geographical location and details of telephone usage and footage from surveillance cameras and other similar sources.

- Ensure that public officials accused of not undertaking prompt, impartial and thorough investigations into allegations of disappearance and enforced disappearance are investigated and held accountable.
- Ensure by law that anyone suspected of committing the crime of enforced disappearance is removed from any position where they might be able to influence the investigations, exert pressure, intimidate or engage in reprisals on those who submitted the complaint, witnesses, relatives of the disappeared person and their legal representatives as well as on those involved in the investigation.

REGARDING THE IMPACT ON RELATIVES AND COMPREHENSIVE REHABILITATION AND REPARATION

- Adopt detailed legal provisions regarding declarations that a person is missing and extend the rights of the disappeared. These should clearly set out the protection of the legal status and other rights of the disappeared person and of their property rights and those of their family. Once the missing persons declaration has been initiated, the individual's responsibilities, including interest on any debts they may have incurred, should be suspended. The law should ensure that the process and all the related proceedings are simple, accessible and free of charge.
- Ensure comprehensive reparations for victims, based on international standards, and consider the individual needs of the victim, including restitution, rehabilitation, satisfaction, guarantees of non-repetition and the right to the truth and historical memory. Reparations must not be conditional on the perpetrators being subject to criminal proceedings.
- Ensure that the General Law on Victims is appropriately and fully implemented throughout the country. The federal authorities should ensure reparations and other measures in situations where states are effectively failing to do so.

OTHER PUBLIC POLICY MEASURES

- Set up a register of disappearances with sufficient relevant information, to record all incidents of disappearance and enforced disappearance – including those that occurred in past decades. This should serve as a tool for monitoring, assessing and designing strategies and policies on disappearances.
- Set up a register of arrests in which information about all detentions carried out by any Mexican official can be immediately and accurately recorded. Entries in this register must not be subject to removal and should reflect all changes in the situation of the detainee.
- Guarantee in law and in practice the effective protection from threats and attacks of the individual complainant, witnesses, relatives of the disappeared person and their legal representatives, as well as those involved in the investigation.
- Implement the recommendations issued to Mexico by both the UN Committee on Enforced Disappearances and the Working Group on enforced or involuntary disappearances.
- Recognize the competence of the UN Committee on Enforced Disappearances to consider cases of disappearance pursuant to Articles 31 and 32 of the International Convention for the Protection of all Persons from Enforced Disappearance and invite the Committee to visit Mexico.

WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, **AMNESTY INTERNATIONAL** CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

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1 Easton Street, London WC1X 0DW, United Kingdom

I WANT TO HELP





“TREATED WITH INDOLENCE”

THE STATE’S RESPONSE TO DISAPPEARANCES IN MEXICO

In Mexico, it makes no difference whether disappearances have a high profile internationally and nationally or remain in relative obscurity, nor whether those responsible are state agents or private individuals. Whatever the nature of the disappearance, the authorities seem equally unable to provide a coherent response at the institutional level aimed at uncovering the truth and ensuring justice and reparations for the more than 26,000 people who have disappeared.

Amnesty International has documented shortcomings in the authorities efforts to search for the disappeared and their failure to carry out effective investigations that result in victims being identified and those responsible punished.

In this report, Amnesty International examines the enforced disappearance of 43 students from Ayotzinapa and the crisis of disappearances in Ciudad Cuauhtémoc in the State of Chihuahua. These two cases are emblematic, reflecting the seriousness of the situation facing the country. This crisis has led to the creation of a large number of groups, including relatives of the disappeared, who are demanding truth, justice and reparation. In the face of state inaction, they have taken up the struggle and made enormous efforts to find their loved ones.

Amnesty International urges the Mexican authorities to take concrete steps to address this issue. In particular, it calls on them to ensure that the General Law on Disappearances, which is due to be introduced shortly, incorporates the highest international standards. The new legislation must take into account the experience and the needs of the thousands of victims seeking their loved ones. The law should also establish appropriate mechanisms to investigate and punish disappearances and develop a public policy aimed at preventing and ending enforced disappearances and disappearances carried out by non-state actors.