

CONFRONTING A NIGHTMARE

DISAPPEARANCES IN MEXICO

AMNESTY
INTERNATIONAL



“I thought it was just my problem, but now I see that there are many of us”

Mother of Pamela Leticia Portillo during a meeting of 70 families of the disappeared in Chihuahua state, November 2010. Pamela Leticia Portillo disappeared in July 2010 in Chihuahua City.



More than 26,000 people were reported missing or disappeared in Mexico between 2006 and 2012. It is unclear how many remain unaccounted for. Some are the victims of enforced disappearances in which public officials are implicated. Others have been abducted by private individuals or criminal gangs. Still others may simply have left home without telling anyone.

Despite the shocking numbers involved, the authorities have systematically failed to investigate and clarify the vast majority of cases, including the many hundreds of disappearances in which there is evidence of detention or abduction, whether by state agents or criminal gangs. The systematic failure of state and federal authorities to take seriously the mounting reports of disappearances has helped create a climate where such crimes are tolerated.

The escalation in disappearances has taken place in the context of an explosion of violent crime and human rights violations in Mexico. According to the National System for Public Security, since December 2006, more than 65,000 people have been

killed in violence by drug cartels and other criminal gangs, but also as a result of police and security force operations.

“The chronic pattern of impunity still exists in cases of enforced disappearance and sufficient efforts are not being made to determine the fate or whereabouts of persons who have disappeared, to punish those responsible and to guarantee the right to the truth and reparation.”

Report of the UN Working Group on Enforced or Involuntary Disappearances on its mission to Mexico, December 2011 (A/HRC/19/58/Add.2)

However, at long last, the determination of families to uncover the truth about what happened to their loved ones has started to bring about change. With the support of local human rights organizations, relatives, many of whom face isolation, economic hardship, emotional trauma as well as threats and harassment, have finally forced some authorities to take notice.

The governments of the states of Nuevo León and Coahuila were the first to sit down with relatives and human rights

organizations to discuss how to dismantle the wall of impunity, complicity and neglect that has allowed disappearances to flourish. Since coming to power in December 2012, the federal government of Enrique Peña Nieto has taken some welcome steps to recognize the scale of disappearances that occurred during the last administration and to implement some measures to improve the search for victims and investigate those responsible. However, the scale of involvement of state agents in enforced disappearance has still to be acknowledged.

This briefing looks at the scale and nature of different types of disappearances in Mexico, the steps taken so far to address these crimes, and the further urgent measures that the authorities must adopt to end these human rights abuses.

WHAT ARE DISAPPEARANCES AND ENFORCED DISAPPEARANCES?

The International Convention for the Protection of All Persons from Enforced Disappearance, which Mexico has ratified, defines **enforced disappearance** as “the



Left: Relatives of disappeared women, men and children in Chihuahua state participate in a national demonstration in Mexico City on Mothers' Day, May 2012.

Cover: Two mothers support each other as they tell Amnesty International about the circumstances in which their sons disappeared, Coahuila state, July 2011.

© Amnesty International (Photo: Ricardo Ramírez Arriola)

arrest, detention, abduction or any other form of deprivation of liberty by 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 by concealment of the fate or whereabouts of the disappeared person”.

In this briefing, the term **disappearances** is used to refer to those cases where there is evidence that the victim was abducted and their whereabouts remain unknown, but there is no evidence that state agents were involved either directly or indirectly. Under the Convention, states have an obligation to accept reports of enforced disappearances and undertake prompt, thorough and impartial investigations. In addition, states must also investigate all disappearances carried out by people acting without the authorization, support or acquiescence of the state. In other words, in cases of disappearances and enforced disappearances, the state has an obligation to establish the whereabouts of the victim; bring to justice the perpetrators; and ensure victims or their relatives receive reparations.

WHAT IS THE SCALE OF DISAPPEARANCES AND ENFORCED DISAPPEARANCES?

In February 2013, the Mexican government published sections of a database compiled from missing persons reports logged with the 32 state and the Federal District Attorney Generals' Offices and the Federal Attorney General's Office between December 2006 and December 2012 – the period of the former administration of President Felipe Calderón.

The published information, which included 26,121 entries, was an important first effort to bring together information from across the country. However, it had a number of shortcomings. The list included not only people who were believed to have been abducted, but also missing persons (*no localizados*) – people who may have voluntarily absented themselves and also those who could not remember their identities. People who had subsequently reappeared had not always been removed from the list, while many cases of disappearances and enforced disappearances documented by local

human rights organizations were not included. Nevertheless, although the data does not give a comprehensive overview of all cases, it does appear to confirm a pattern of systematic disappearances and enforced disappearances largely ignored by the previous administration.

The list demonstrated the woeful failure of the authorities to apply a clear methodology and procedures to gather reliable nationwide data on reported disappearances. This has not only obscured the true nature and scale of disappearances, but has also gravely undermined investigations into disappearances, including the capacity to locate and identify victims.

The new government has made a commitment to remove from the database records not relating to ongoing cases of disappearance, although the methodology to be applied remains unclear.



© Amnesty International
(Photo: Ricardo Ramirez Arriola)



© Amnesty International
(Photo: Ricardo Ramirez Arriola)

WHAT RESEARCH HAS AMNESTY INTERNATIONAL CARRIED OUT?

Amnesty International has interviewed relatives, witnesses and human rights organizations. It has reviewed case files that families have been able to access, scrutinized National Human Rights Commission recommendations and sought information from authorities. On the basis of this information, and during several visits to Mexico since 2010, Amnesty International has documented some 152 individual cases of disappearance in seven states. Amnesty International believes that, on the basis of the information available, in at least 85 cases there is sufficient evidence of the involvement of public officials for them to constitute crimes of enforced disappearance under international law.

In the vast majority of other cases, there was evidence of lack of due diligence by the authorities to locate the victim, to investigate the circumstances of the disappearance, and to respect the rights of relatives.

These illustrative cases exemplify the pattern of disappearance in those states where local human rights organizations

are working with relatives. For example, in Coahuila and Nuevo León, 297 and 369 disappearances have been documented respectively by the NGOs FUUNDEC (Fuerzas Unidas por Nuestros Desaparecidos y Desaparecidas en Coahuila) and CADHAC (Ciudadanos en Apoyo a los Derechos Humanos); the whereabouts of only a handful have been established. However, even in these states, these figures do not give an indication of the total numbers of disappearances as many relatives have been too scared to come forward, or are unaware of other families of victims or human rights organizations that can provide support.

Amnesty International has raised its concerns regarding cases of disappearance and the treatment of victims during several meetings with federal and state authorities.

WHEN DID ENFORCED DISAPPEARANCES START?

Mexico has more than 700 unsolved enforced disappearances dating from the era of the “dirty war” (1960s – 1980s). Victims were detained by the police or

security forces in the context of counter-insurgency operations against small armed groups in a number of states. These cases have never been clarified and those responsible have not been brought to justice.

The failure to investigate these gross human rights violations fully and effectively continues to send a clear message to today’s perpetrators of disappearances – whether they are state agents or criminal gangs – that disappearance is a crime without repercussions for the perpetrator.

In 2003 Amnesty International documented the decade-long pattern of disappearances and killings of women in Ciudad Juárez and Chihuahua City. In 2009 the Inter-American Court of Human Rights issued a judgement against Mexico for failing to prevent and punish the abduction and killing of three young women in the Cotton Field case. Despite some measures to prevent and punish gender violence, disappearances of women and girls continue and many perpetrators still enjoy impunity.



Far left: A father's day card by Brandon: "Dad, I want to tell you that I love you. Happy Fathers' Day."

Centre: Drawing by Brandon Acosta Herrera. It reads: "The best family in the world".

Below left: Lourdes Herrera Del Llano, whose eight-year-old son, Brandon, disappeared with his father and two uncles on 29 August 2009.

Below: Poster produced by Brandon's family.



WHERE DO DISAPPEARANCES AND ENFORCED DISAPPEARANCES OCCUR?

Information gathered by Amnesty International suggests most disappearances have taken place in states that in recent years have witnessed high levels of criminal violence and an intensified police and security force presence. These states include Tamaulipas, Chihuahua, Nuevo León, Coahuila, Michoacán and Guerrero.

However, the greater number of reported cases in these states may also in part reflect the presence of human rights and victims' organizations there to document cases and support families. In states where human rights organizations are weaker, relatives have faced even greater challenges to pursuing their cases. The official database of missing persons made public in February 2013 indicated that the majority of reports were filed in the Federal District, Mexico state; and in the states of Tamaulipas, Sinaloa, Jalisco and Coahuila.

One of the features of the explosion of disappearances has been the refusal of a range of authorities and institutions to take

up cases brought to them by relatives. For example, the network of state human rights commissions has routinely refused to assist families, particularly if they could not demonstrate the direct involvement of public officials, even though there is evidence that police and prosecutors have failed to fulfil their legal duties to conduct full investigations.

WHO ARE THE VICTIMS?

Anyone can be a victim of disappearance or enforced disappearance in Mexico.

The cases documented by Amnesty International indicate that victims come from a wide range of backgrounds and professions. The majority, but not all, of the victims are boys and men between the ages of 17 and 50. Many victims were on routine journeys when they were stopped by armed men or at security force checkpoints. Some had just left their homes briefly to go to a nearby store or to visit a friend, but never returned. Some happened to stumble across criminal activity, sometimes involving public officials. Some were themselves police officers and soldiers. Others were

stopped by traffic police for spurious traffic offences and handed over to criminal gangs or other security force agencies.

Eight-year-old Brandon Esteban Acosta Herrera was travelling in a car with his father and two uncles outside Saltillo, Coahuila state, when armed men abducted them on 29 August 2009. Some of the victims are women and young girls, like 20-year-old Guadalupe Jazmín Torres Rivera who was abducted from her neighbourhood in Apodaca, Nuevo León state, on 15 February 2010. Others, like Ricardo Peña Mejía and eight other telephone engineers who disappeared in Nuevo Laredo, Tamaulipas state, on 26 June 2009, appear to have been targeted because of their technical skills. Others were workers on business trips. Others were abducted while searching for relatives, employers or friends who had gone missing. Still others were Mexican and Central American migrants trying to reach the US border.

The fate of the victims is not known, but many families suspect some were forcibly recruited into criminal gangs, some operating with the collusion of police or



security forces. Some victims may have had criminal connections, but even if this is proved after a full investigation, it does not remove the state's obligation to conduct a full investigation to establish their whereabouts and to ensure the rights of the relatives to know the truth.

Many relatives have told Amnesty International that when they went to the authorities to report the abduction of their loved one, officials claimed that the victim must have been involved in criminal activity in order to be targeted by a criminal group. For example, the family of Alejandro Alfonso Moreno Baca, who disappeared between Monterrey and Nuevo Laredo on 27 January 2011, were told by representatives of the Nuevo León state human rights commission, without any investigation having been undertaken, that "he is working with the gangs". The mother of Armando Salas Ramírez – who disappeared with his uncle, Pedro Ramírez Ortiz, near Torreón, Saltillo state, on 12 May 2008 – was told: "They were involved in crime and you don't want to accept it". This presumption has consistently been used to justify not carrying out

investigations and to deter relatives from pressing for investigations.

WHO IS CARRYING OUT DISAPPEARANCES AND ENFORCED DISAPPEARANCES?

"Criminals took them, but at the very least the authorities were cooperating with them"

Relatives of Adrián Domínguez Rolón, a federal police officer who disappeared on 17 February 2011.

The failure to record cases adequately and to carry out basic investigations has meant that in the vast majority of cases those responsible have never been identified, let alone held to account.

Criminal gangs are frequently blamed, but this presumption is rarely based on a full investigation. In fact, criminal gangs have infiltrated the police and security forces and, as a result, many public officials have colluded in disappearances carried out by these gangs.

In its 2011 report on Mexico, the UN Working Group on Enforced or Involuntary Disappearances has stated that:

"disappearances cannot be attributed exclusively to organized crime without a full and proper criminal investigation".

The almost complete impunity enjoyed by those responsible for these crimes means the motives behind disappearances are not clear. Nevertheless, the available evidence suggests a range of possible motives, including: ransom, extortion, robbery, mistaken identity, inter-gang retaliation, reprisal for failing to cooperate with gangs, forced recruitment into gangs, people trafficking, the interrogation of suspects and the detention of anyone believed to have links to criminal gangs, and terrorizing communities to control neighbourhoods.

All too often, the official refusal or failure to investigate has forced families to conduct their own investigations, frequently at great personal risk.

"Stop looking or another one of your family will disappear."

Warning from state investigators to Laura María Orozco Medina, whose father and two brothers disappeared between 2009 and 2012 in Nuevo Zirosto, municipality of Uruapan, Michoacán state.



Far left: Mireya Villareal Salinas (*left*). Her sons, Lauro and Jorge Cantú Villareal, disappeared on 14 June 2010 in Torreón, Coahuila state. (*Right*) Human rights defender, Blanca Martínez.
Left: María del Carmen Ramírez Ortiz shows all the steps she and her family have taken to search for her brother, Pedro Ramírez Ortiz, and her son, Armando Salas Ramírez, both of whom disappeared in Torreón, Coahuila state, in May 2008.

In several cases documented by Amnesty International, relatives who gathered information were warned by members of the local police and state prosecutors' offices to leave the region or face reprisals. Information that families have provided to the authorities has sometimes resulted in immediate threats from perpetrators keen to demonstrate their close connection with local officials. The collusion of public officials with criminal networks has in effect meant that relatives have had to report disappearances to those they suspect of involvement in the abduction. In one instance, relatives told Amnesty International that when they tried to report a disappearance during a meeting with senior officials in the Coahuila State Attorney General's Office, they were told by a regional commander: "You're taking a risk here... because some of us in this room may be part of the criminal group los Zetas".

In other cases, military and police officers carried out detentions and enforced disappearances during operations purportedly targeting criminal gangs. In June 2011, in front of witnesses and their families, marines detained José Fortino

Martínez Martínez, José Cruz Díaz Camarillo, Martín Rico García, Usiel Gómez Rivera, Diego Omar Guillen Martínez and Joel Díaz Espinoza in Nuevo Laredo, Tamaulipas state. Naval authorities have repeatedly changed their version of events, but have consistently denied any responsibility for the disappearances. The men have not been seen since. The National Human Rights Commission issued a recommendation confirming evidence of enforced disappearance by marines. Amnesty International wrote to the then President, Felipe Calderón, about the case on 27 June 2011, but never received an adequate response.

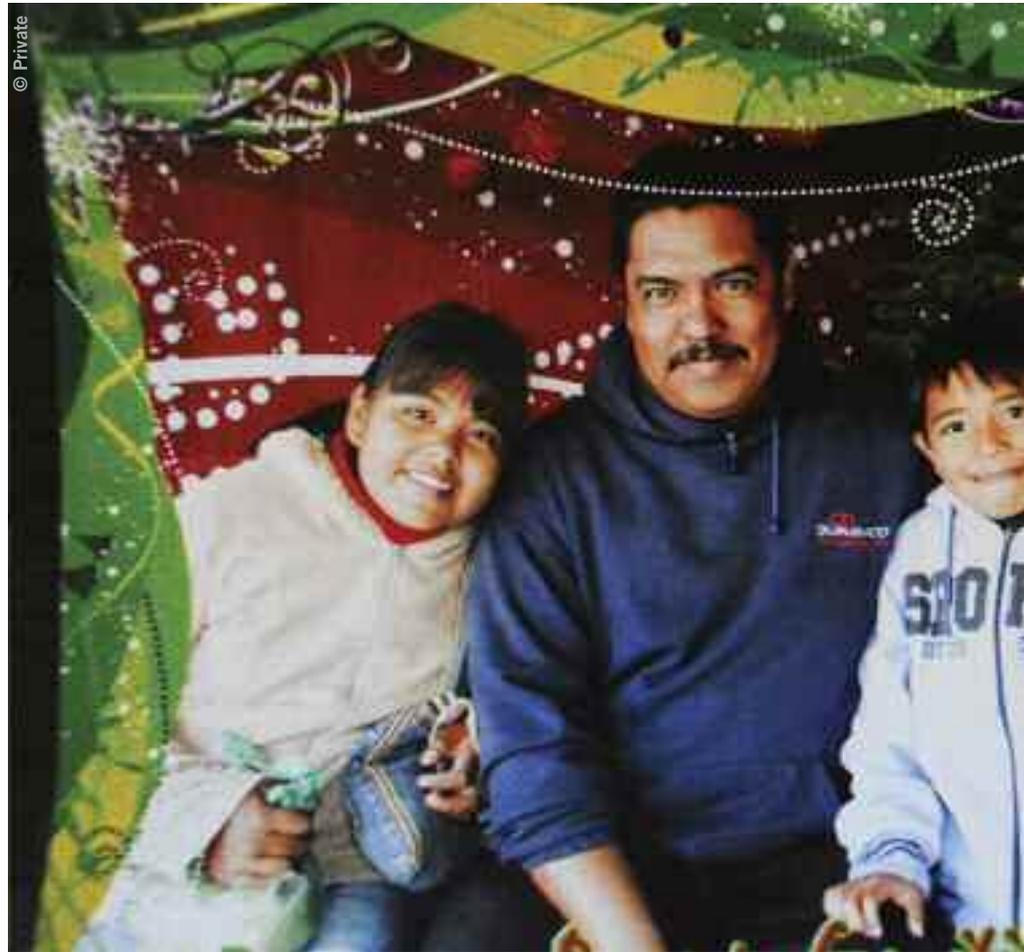
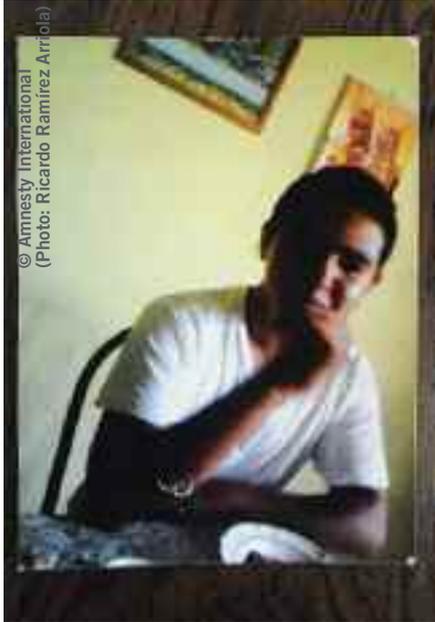
In at least three documented cases of unlawful killings by military personnel, the military authorities had repeatedly denied all knowledge of the victims, who had been detained, tortured and killed and their remains concealed. The fact that the fate of the victims – Jethro Ramsés Sánchez Santana, Saul Becerra Reyes, Miguel Alejandro Gama Habif, Israel Ayala Martínez and Aarón Rojas de la Fuente – was uncovered and that they are no longer among the long list of those who remain

disappeared is testimony to the courage and persistence of the families and witnesses who forced the authorities to investigate more fully and expose the responsibility of military officials. (For more information on these cases, see *Known abusers, but victims ignored: Torture and ill-treatment in Mexico* (AMR 41/063/2012); and *New reports of human rights violations by the military* (AMR 41/058/2009).)

In other cases, where people were last seen in the custody of the military or police but their whereabouts have never been established, although the victims remain disappeared, the authorities responsible have not recognized them as having been forcibly disappeared. Jehú Abraham Sepulveda Garza forgot to take his ID card with him when he went to a local store on 12 November 2010 in San Pedro Garza, Nuevo León state. He was arrested by municipal police, then transferred to the custody of judicial police, and then taken for questioning to a military base run by the marines. He has not been seen since. The marines and the police denied any involvement in his enforced disappearance. At the time of writing, four judicial police

Below: Seventeen-year-old Rubén Limón was abducted and disappeared by a gang supported by municipal police in Saltillo, Coahuila state, on 13 March 2011, along with José Juan Espiricueta and Jesús Fernando Castillo Gallegos.

Right: José Juan Espiricueta with his wife and family.



officers arrested in connection with the crime were released on appeal (*amparo*). In other similar cases, suspects detained by the police and military, have been tortured and then placed by prosecutors in pre-charge detention (*arraigo*), without access to the outside world or family for several days, before facing serious criminal charges.

In some cases, the authorities have argued that criminal gangs have posed as members of the police or security forces in order to carry out abductions, but these claims have never been substantiated. José Angel Alvarado Herrera, Nitzia Paola Alvarado Espinosa and Rocío Irene Alvarado Herrera were detained on 29 December 2009 in the municipality of Buenaventura, Chihuahua state, by heavily armed men wearing military uniforms. The whereabouts of the three remain unknown. The military denied that military personnel were involved in the detentions. In June 2011, the National Human Rights Commission issued its recommendations on the case, stating that there was sufficient evidence of military responsibility (Recommendation 43/2011). However, the military continued to deny all

knowledge of the case, which has been presented to the Inter-American Commission on Human Rights. As a result of the disappearances and the threats the family subsequently received, the Inter-American Court of Human Rights issued provisional measures requiring the authorities to guarantee their safety and establish the whereabouts of the disappeared members of the Alvarado family.

WHAT HAPPENS TO FAMILIES?

“The uncertainty of not even knowing what happened to them, that also makes you suffer terribly.”

Relative of Sergio Ramírez Miranda, who was abducted from a football pitch by armed men believed to be state police in Igualea, Guerrero state, on 27 July 2008.

The disappearance of a loved one devastates families. The unexplained absence leaves those affected suspended in uncertainty, haunted by fears of what their son or daughter, parent or sibling may be going through, and fearing the worst. The UN Human Rights Committee has concluded that the relatives suffering anguish and stress as the result of the enforced disappearance of

family members are themselves victims of violations of the right not to be subjected to torture or other cruel, inhuman or degrading treatment.

Many families are not only dealing with these far-reaching psychological consequences, but are also having to cope with a sudden and dramatic loss of income and social services, such as health care and housing, linked to the victim's job. Some families have struggled with the additional stress of mothers taking on multiple jobs or children leaving education to find work just to make ends meet.

Although thousands of families are in this situation, little has been done to address the long, complex and costly legal process that relatives have to go through to obtain legal recognition of the status of the victim as absent or deceased, so that they can get access to social care and other essential services. The previous government did establish an agency to support victims of crime and violence (Províctima). However, some relatives have said that they received little help and some even reported coming under pressure to accept that their relative



Below: The family of José Angel Alvarado Herrera, Nitzia Paola Alvarado Espinosa and Rocío Irene Alvarado Herrera, cousins who disappeared in Buenaventura, Chihuahua state, in December 2009 after being detained by the military. Relatives received a series of threats, warning them to stop their search for justice.



was dead. Not only did this cause increased distress, but it also suggested to them that the focus was on reducing the number of people listed as disappeared rather than supporting the families.

In Nuevo León, determined pressure by civil society has finally led local authorities to begin to investigate some cases seriously, bringing to light at times extremely distressing information. Several families have had to face devastating accounts by suspects, including police officers, of the killing and complete disposal of the bodies of their loved ones. The absence of remains or physical evidence of the crimes continues to generate intense uncertainty and anguish.

In 2011, the Movimiento por la Paz con Justicia y Dignidad (Movement for Peace with Justice and Dignity) began a national campaign against violence and impunity. Many relatives of the disappeared have participated in and supported the Movement, whose leaders have also played an important role supporting relatives in their demand that state governments reopen disappearance cases.

In 2012, Congress approved the General Law on Victims. This aimed to improve legal recognition of the rights of victims, including the rights to truth, justice and reparations. It also set out more clearly the obligation of the state to investigate crimes and human rights violations. Although the law is not a guarantee of improved access to justice, it will be an important advance if implemented effectively.

WHAT RISKS DO HUMAN RIGHTS DEFENDERS AND RELATIVES FACE?

“Better to leave it alone if you don’t want the same to happen to you”

Prosecutors to the wife of a house painter who disappeared in Nuevo Laredo, Tamaulipas state.

Relatives of the disappeared are frequently told by police and prosecutors to leave the area and stop making enquiries. Although this is sometimes presented as merely giving advice, the underlying threat is clear.

On 21 November 2011, Nepomuceno Moreno Núñez, a leading member of the Movement for Peace with Justice and

Dignity, was shot repeatedly and killed in the city of Hermosillo, Sonora state. In October, armed men had visited his home, warning him that he would be killed if he continued to demand justice for his son, Jorge Mario Moreno León, who was abducted in Ciudad Obregon, Sonora state, in July 2010. Jorge Mario Moreno León remains missing. A criminal gang and members of the local police are suspected of involvement in his abduction.

Relatives have frequently been threatened and intimidated in order to discourage them from seeking truth and justice. Victoria Bautista Bueno and Coral Rojas Alarcón received telephone death threats after demanding justice for the enforced disappearance of their parents, Eva Alarcón and Marcial Bautista, who disappeared on 7 December 2011 in Tecpán de Galeana, Guerrero state; eyewitnesses implicated state judicial police in the disappearances. The two women have received protection, but those responsible for the threats in this and other cases have not been identified or brought to justice.



Above: Carlos (right) and José Luis Guzmán Zúñiga (left) were detained on 14 November 2008 in Ciudad Juárez, Chihuahua state, by the military. They were never seen again. The military only pursued the case as the minor offence of abuse of authority against seven officials.

HOW DOES MEXICAN LAW DEAL WITH ENFORCED DISAPPEARANCE AND DISAPPEARANCE?

“There is no comprehensive public policy or legislation that deals with the different aspects of prevention, investigations, penalties and reparation for the victims of enforced disappearances.”

Report of the UN Working Group on Enforced or Involuntary Disappearances on its mission to Mexico, December 2011 (A/HRC/19/58/Add.2)

Federal legislation contains a law criminalizing enforced disappearance. However, this falls short of international law and standards.

Only 13 states have passed laws making disappearance a criminal offence, despite the obligation under international law to do so. However, even where such laws have been passed, almost all do not meet international standards. In particular, the definition of the offence does not include any references to the authorization, support or acquiescence of public officials. Nuevo León is the exception. After lobbying by civil society, a state-level law was passed in 2012 criminalizing enforced disappearance, in line with international standards.



© Amnesty International
(Photo: Ricardo Ramírez Arriola)

The remaining 19 states do not include the crime of disappearance in their legislation, only kidnapping or illegal deprivation of liberty. These offences do not meet the criteria of enforced disappearance, which is a crime under international law that, when committed as a widespread or systematic practice, constitutes a crime against humanity. Nevertheless, the absence of a specific criminal offence of enforced disappearance cannot serve as justification for not pursuing perpetrators for other relevant criminal offences.

HAS ANYONE BEEN BROUGHT TO JUSTICE FOR ENFORCED DISAPPEARANCES?

“My son’s case is an enforced disappearance because it was a public official that detained him and denied knowing his whereabouts.”

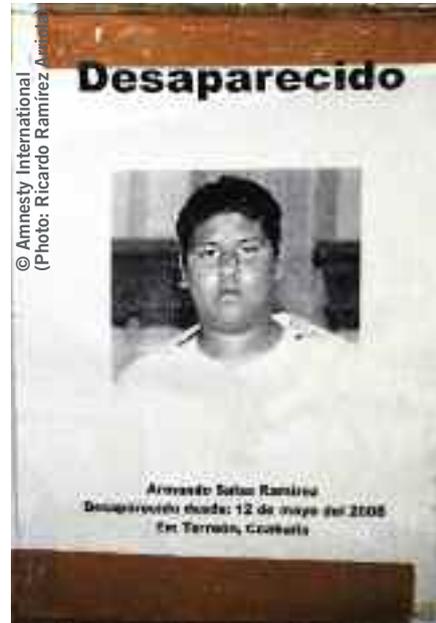
Mother of Israel Arenas Durán, who disappeared in Monterrey, Nuevo León state, on 17 June 2011.

Despite ample evidence of the involvement of municipal, state and federal authorities in enforced disappearances, there have only been two recorded convictions since 2006.

According to the Federal Attorney General’s Office, there were only two successful federal prosecutions for enforced disappearance between 2006 and January 2012; both related to crimes committed in 2009. This is supported by information published by the National Statistics Institute (INEGI) according to which only one sentence was passed following conviction for enforced disappearance in 2009 and one in 2010. There have been no prosecutions or convictions for enforced disappearance in state jurisdictions.

In its 2012 annual report, the National Human Rights Commission reported that 2,126 cases of enforced disappearance were under investigation and that it had received complaints from relatives in relation to 565 people reported missing or disappeared. The Commission issued five recommendations in 2012 on cases involving enforced disappearances and three in 2011. None has resulted in successful prosecutions.

In those cases where suspects are identified and prosecuted, the criminal offence applied is usually illegal deprivation of



Centre: Romana Ortiz Reyes, whose son, Pedro Ramírez Ortiz, and grandson, Armando Salas Ramírez, disappeared in Torreón, Coahuila state, in May 2008. She is standing in front of the display of disappeared victims in Coahuila state. July 2011.

Left: Armando Salas Ramírez.

liberty or kidnapping – even when public officials are implicated. However, from official data provided in response to Amnesty International requests for information to Attorney Generals’ Offices and INEGI, it is not possible to determine how many cases recorded as kidnapping or illegal deprivation of liberty relate to cases of disappearances or enforced disappearances.

MILITARY JURISDICTION

In 2012, the National Supreme Court of Justice issued rulings, in line with judgements by the Inter-American Court of Human Rights, stating that the military justice system should no longer deal with cases of human rights violations. However, the government and legislators have yet to reform the Code of Military Justice in line with international human rights standards to ensure that the investigation, prosecution and trial of all allegations of human rights violations committed by members of the armed forces are dealt with solely by the ordinary civilian justice system.

As regards cases under military jurisdiction, according to the October 2012 report of the Ministry of Defence (SEDENA), only one criminal investigation for enforced disappearance has been opened since 2006. To date, no action has been taken against the 17 officials under investigation. The manner in which cases have been dealt with by the National Human Rights Commission and the Ministry of Defence also indicates that some enforced disappearances have been treated as different, lesser offences. For example, brothers Carlos and José Luis Guzmán Zúñiga were detained on 14 November 2008 in Ciudad Juárez, Chihuahua state, by the military. They were never seen again. Despite the evidence of their enforced disappearance and a recommendation by the National Human Rights Commission, the military only pursued this case as the minor offence of abuse of authority against seven officials.

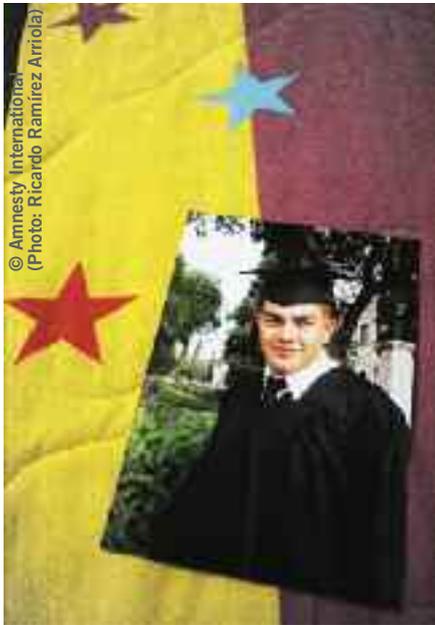
WHAT ACTION DID POLICE AND PROSECUTORS TAKE TO INVESTIGATE?

“We have investigated more than they have themselves”

Relatives of federal police officers, Juan Luis Lagunilla and Juan Hernández Manzanares, who disappeared in San Nicolás, Monterrey, Nuevo León state, on 20 February 2011.

In most states, many relatives who have tried to report a disappearance have been prevented, at least initially, from registering a formal criminal complaint of enforced disappearance, illegal deprivation of liberty or kidnapping. An analysis by a national newspaper of the 26,121 reports of missing or disappeared people found that criminal inquiries had never been opened in 40 per cent of cases.

Many relatives told Amnesty International that officials refused to register cases and told them to come back 72 hours later, or sent them to other offices. Only those families that were in the unusual situation of being able to provide immediate evidence of violent abduction by identified perpetrators were able to lodge a formal complaint. For those who could not provide



this information, formally registering the disappearance often took months of persistent effort.

In many cases, even when a formal inquiry was opened, few substantive investigations were undertaken and cases have routinely been archived or left inactive without any meaningful efforts to take the case forward. Families said that the only response they received from prosecutors to their requests for information on progress in the investigations was: “No, there is nothing new”. Frequently police and prosecutors demanded that relatives provide leads and evidence. The mother of one disappeared man in Guerrero state informed Amnesty International that a prosecutor told her: “It’s your fault because you haven’t been looking for your son”.

Daniel Cantú Iris disappeared on 21 February 2007 near Saltillo, Coahuila state, along with two other people as he was on his way to a marble quarry. When his mother, Diana Iris García, finally obtained access to his case file, she found that it contained no record of the investigations



officials claimed to have carried out over a period of 18 months. She told Amnesty International: “We sincerely believed that the prosecutor’s office was doing its job searching for them... but there is nothing in the case file to show this”.

Many families handed over detailed information – such as victims’ mobile phone numbers, car licence-plate numbers, bank details, important security camera locations, and the details of potential witnesses to investigators – believing that they would be used to speed up the search and help ensure that their loved ones were found alive. However, much of this information was never incorporated into the case files. When they took place at all, official requests to other agencies or private companies occurred months later and often only at the repeated insistence of the family.

Héctor Rangel Ortiz disappeared after being detained by municipal police in Monclova, Coahuila state, on 9 November 2009, along with Irene Lugo Hernández and Milton Hugo Aguilar Torres. In the face of threats and harassment by police and prosecutors,



the family sought the assistance of the federal authorities, but these too failed to act rapidly on the information provided by the family. Disheartened by this official inertia, the family undertook their own enquiries and reportedly managed to obtain mobile phone data to triangulate possible locations of the victims’ phones around the time of their disappearance seven months before federal investigators. However, the whereabouts of the three remain unknown.

Several relatives told Amnesty International that prosecutors took months or years to take DNA samples to assist potential identification. In some cases, DNA samples or results were lost or mislaid or simply not included in the case files, so that tests had to be carried out again. In 2012, Attorney Generals’ Offices around the country notified the National Human Rights Commission of 15,921 unidentified bodies in morgues and graves nationwide.

Gathering and registering correct details of the dead and the circumstances of their deaths, including DNA tests and other evidence to assist identification



Far left: Daniel Cantú Iris, who disappeared when he was 23 with two colleagues in Ramos Arizpe, outside Saltillo, Coahuila state, on 21 February 2007. He was a keen cyclist who had won many prizes. His mother, Diana Iris García, who has fought for a full investigation into his disappearance, has preserved his bedroom in memory of her son.

Left: Diana Iris García at the March of the Mothers of the Disappeared in Mexico City, on Mothers' Day, 10 May 2013. She told Amnesty International: "It is an unending search because we are all missing our loved ones so we continue demanding that they are found."

and investigation, are essential in order to allow cross-referencing of reports of disappearances or missing persons with details of unidentified remains. However, the absence of systematic procedures for autopsies, including recording, testing and storing relevant data, has greatly hindered this process.

For years human rights organizations and relatives, including mothers of disappeared Central American migrants in transit through Mexico, have called for a reliable national database, underpinned by the enforcement of standard procedures. Only now are some steps being taken to put this in place. It is crucial that international experts and civil society are consulted about methodology, procedures and monitoring in order to ensure that those that are adopted are suitable and credible.

WHOSE RESPONSIBILITY IS IT ANYWAY?

"Time is lost in the 'I send you this, you send it back'. It is a game. No one wants to take responsibility".

Mother of Daniel Cantú Iris, who disappeared on 21 February 2007 near Saltillo, Coahuila state.

Relatives searching for their loved ones have had to deal with a bewildering array of different agencies and institutions – such as municipal police, state police, federal police, judicial police, state prosecutors, federal prosecutors, organized crime prosecutors, army, navy, military prosecutors, state human rights commissions, the National Human Rights Commission, Provicima, state and federal courts – to try to get the authorities to take action. As one of the relatives of Armando Salas Ramírez and Pedro Ramírez Ortiz put it: "We went to one office after another". As a result, it is frequently unclear where responsibility and authority lie and cases are frequently shunted back and forth, without any clear acknowledgement of who should be ensuring that timely and effective investigations are undertaken.

Often, the confusion over whether federal or state authorities should deal with disappearances is used as an excuse to avoid responsibility. Most reported disappearances initially fall under the jurisdiction of state prosecutors' offices, unless relatives can present evidence of the involvement of organized crime, drugs

or federal agents, in which case the disappearance may fall under federal jurisdiction. Yet state prosecutors are often unwilling to investigate, preferring to simply fall back on the assumption that the victim must have been involved in organized crime.

The case of Daniel Cantú Iris was at one point passed to the Federal Attorney General's Office, but was then returned to the state authorities on the basis that evidence obtained by the state prosecutor indicating the involvement of organized crime in the case was insufficient and unreliable. The family, whose expectations were raised at the prospect of a serious federal investigation, were once again reliant on a state prosecutor's office that had consistently failed to conduct a full investigation. Other institutions, such as state human rights commissions, have failed to scrutinize adequately the lack of due diligence shown by investigating authorities. As a consequence, relatives are left without access to effective recourse and frequently at the mercy of officials they suspect of negligence or, in some cases, collusion with perpetrators.



© CADHAC



© Amnesty International
(Photo: Ricardo Ramirez Arriola)

WHAT IS THE GOVERNMENT DOING?

In the face of pressure from relatives and human rights organizations, and following the 2011 recommendations of the UN Working Group on Enforced or Involuntary Disappearances, the government has made a number of commitments to combat disappearances and investigate earlier cases. For example, in February 2013, after Human Rights Watch published a report on disappearances, the Interior Minister announced the creation of a Special Commission and stated:

"[W]e are going to look to the past in the search for people, but we are also working toward the future so that this does not happen again and, if it does, there will be a minimum that the Mexican state will do to find disappeared persons".

However, the government has yet to acknowledge the scale of the involvement of public officials in enforced disappearances, preferring to refer only to missing persons or kidnappings for which criminal gangs are presumed to be responsible.

To date the federal government has:

- signed into law the General Law on Victims;
- published elements of the database on disappeared and missing persons and promised to establish a national database of the disappeared;
- met some relatives of the disappeared and made a commitment to establish a strategy for investigations and the search for victims;
- established a special unit to investigate disappearances in the office of the Deputy Attorney for Human Rights of the Federal Attorney General's Office;
- signed an agreement with the International Committee of the Red Cross (ICRC) to strengthen search and identification procedures;
- signed an agreement with international forensic experts to identify the remains of disappeared Central American migrants;
- made commitments to promote standard protocols with all Attorney Generals' Offices to search and locate victims of disappearance.

These actions are important but do not do enough to ensure an end to disappearances

and to impunity or clarify the whereabouts of the disappeared.

Only in the states of Nuevo León and Coahuila have the concerted efforts of relatives and human rights organization obtained some welcome commitments from state governments to begin to address disappearances. These fragile advances are only in their early stages, but significantly, they involve the active participation of relatives and human rights organizations. However, other states facing similarly grave situations, such as Tamaulipas, Michoacán, Guerrero, and Chihuahua, have yet to recognize the serious failure to tackle disappearances. It is essential that these states make tangible commitments to involve relatives and human rights organizations as part of their efforts to fulfil their responsibilities to prevent and punish all disappearances, including enforced disappearances.

AMNESTY INTERNATIONAL CHECKLIST

No impunity for enforced disappearances: Checklist for effective implementation of the International Convention for the Protection of All Persons from Enforced Disappearance (IOR: 51/006/2011).



Far left: Relatives of disappeared people in Monterrey, Nuevo León state, demonstrate to demand that the authorities carry out effective searches for their loved ones and full investigations and accountability, June 2012.
Centre, left and below: March of the Mothers of the Disappeared, Mothers' Day, 10 May 2013, Mexico City.



WHAT MUST BE DONE

In 2011, the UN Working Group on Enforced or Involuntary Disappearances visited Mexico and issued a series of recommendations. These provide a template of the actions required to prevent and punish all disappearances. Federal and state governments have yet to commit to comply with these recommendations in full. Victims' organizations and human rights defenders, including the Movement for Peace with Justice and Dignity, have set out priority actions the authorities must carry out.

Support Amnesty International in demanding that the federal and state governments take action to:

- Harmonize federal and state legislation with international human rights law and standards, including establishing a General Law on Enforced Disappearances.
- Ensure there is an enforceable separate criminal offence of enforced disappearances, in accordance with international standards in all states and in the federal jurisdiction, that guarantees that all reported disappearances are fully investigated, regardless of the suspected perpetrator, and that the crime of enforced disappearance is pursued where there is evidence of the involvement of public officials, including where this amounts to authorization, support or acquiescence.
- Establish an effective and accessible nationwide rapid search mechanism based on standard agreed protocols to ensure immediate and coordinated responses to reported disappearances. The mechanism should focus on finding the victim alive and bringing those responsible to justice. It should have full powers of investigation and enjoy the immediate cooperation of all authorities, including gaining unrestricted access to official and unofficial detention sites, such as military bases.
- Ensure that public officials who are accused of failing to conduct prompt, impartial and full investigations into reported disappearances are subject to full investigation and held to account.
- Ensure that detentions by the police and security forces are immediately and accurately registered and that suspects are brought before the public prosecutor without delay. Failure to comply should result in immediate investigation and sanction. Abolish special pre-charge detention orders (*arraigo*).
- Meet relatives and human rights groups to agree a detailed action plan for implementing public policies to prevent, investigate and punish disappearances and to develop benchmarks and evaluation mechanisms to ensure compliance.
- Establish a detailed and reliable nationwide database of people reported to have disappeared, including DNA information, as well as a nationwide database on unidentified remains, in line with international best practice on locating and identifying victims of disappearance, including migrants.
- Develop, implement and monitor standard investigation protocols, in consultation with civil society, that guarantee coordination, cooperation and accountability of municipal, state and federal agencies to ensure prompt, full and effective investigations of all reported disappearances.
- Ensure the rights of relatives to be treated with dignity and to access to truth, justice and reparations, including by fully implementing the General Law on Victims.
- Strengthen the right of relatives to contribute to and monitor investigations (*coadyuvancia*), without placing the burden on them to investigate and gather evidence.
- Ensure relatives have access to health care, housing and other social services, particularly where the legal limbo arising from disappearances may result in family members losing access to these services.
- Ensure the safety of relatives, witnesses and human rights defenders and ensure any intimidation or threat is fully investigated and those responsible are held to account.
- Reform the Code of Military Justice to ensure that the civilian justice system has sole competence to investigate, prosecute and try all allegations of human rights violations and crimes under international law committed by members of the armed forces.
- Recognize the competence of the UN Committee on Enforced Disappearances to receive and consider individual communications (Articles 31 and 32 of the International Convention for the Protection of All Persons from Enforced Disappearance) and invite the Committee to carry out a visit to Mexico.

**AMNESTY
INTERNATIONAL**



Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

Index: AMR 41/025/2013
English

June 2013

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

amnesty.org