



Informe conjunto en el marco del cuarto ciclo del Examen Periódico Universal (EPU), México 2024, sobre la situación de la desaparición de personas en México por organizaciones de la sociedad civil mexicana

Joint Submission For Mexico's Fourth Universal Periodic Review (UPR), México 2024, by Mexican Civil Society Organisations regarding the disappearances of persons in Mexico

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2. Red por los Derechos de la Infancia en México (REDIM)
3. Centro de Justicia para la Paz y el Desarrollo, A.C. (CEPAD)
4. Fundación Arcoíris por el respeto a la diversidad sexual, A.C.
5. Fundación para la Justicia y el Estado Democrático de Derecho (FJEDD)
 6. Centro de Derechos Humanos Paso del Norte
7. Idheas Litigio Estratégico en Derechos Humanos AC (IDHEAS)
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 9. Propuesta Cívica
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11. Voces Mesoamericanas, Acción con Pueblos Migrantes A.C (VM-APM)

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**Joint Submission For Mexico's Fourth Universal Periodic Review (UPR),
México 2024, by Mexican Civil Society Organisations regarding the
disappearances of persons in Mexico**

1. Introduction

This report was prepared based on the compilation of data from Mexican civil society organizations regarding missing persons in Mexico. The systematization of the document takes into account the recommendations received by Mexico in different international forums and the responses given by the State, as well as the analysis of the legal framework, public policies and the practice of Mexican institutions in this area.

2. General context

According to official data, there are 110,842 missing and unaccounted for persons in the country: 96,636 are missing (presumed to have been victims of crimes) and 14,206 are unaccounted for. Of the total, 17,960 are children and adolescents. Most of the missing and unaccounted for persons are men (75%). However, among minors, 54.6% are women (SEGOB, RNPDO, 2023). Almost all (98%) of the cases have occurred since 2006 when the Mexican State declared a "war against drug trafficking" with extensive military deployment. The problem has not diminished in recent years. Since December 2018, when the current administration took office, official data indicate that close to 36,000 people have disappeared. Many families have not dared to report for fear of reprisals and many

institutions do not have reliable databases, therefore it is possible that the number of missing persons is much higher.

The disappearance of persons is due to various causes, patterns and perpetrators. Many disappearances are committed, directly or indirectly, by federal, state and municipal authorities, which constitute forced disappearances. Organized crime has also become a perpetrator: people may disappear for various reasons such as extortive kidnapping, forced recruitment by organized crime, human trafficking, gender-based violence, for being perceived as members of rival organized crime gangs, retaliation for their political or human rights activism or for being journalists, among others.

In 2018, the General Law on Forced Disappearance of Persons, Disappearance Committed by Private Parties and the National System for the Search for Persons came into force as a result of the demand of relatives of missing persons and accompanying organizations. To date, the implementation of said law is limited and the institutions created still require strengthening in economic, operational and structural resources to adequately fulfill their functions. In 11 of the 32 states, state legislation has not yet been harmonized with the General Law and in 16 of the 32 states, citizen participation councils have not been created (SBH, Redacción AN, 2023). Although the General Law establishes the principle of "joint participation", which obliges to genuinely consult the families of the victims on everything related to this regulation, in recent years authorities of the Executive and Legislative Branches have promoted reforms to the Law without prior or broad consultation.

Some sectors of the government, including the President of the Republic, have recognized, at the national and international level, totally or partially, the crisis of disappearances, the forensic crisis and the crisis of impunity, while others have not yet done so.

3. Search for missing persons

The General Law mandated the creation of specialized search institutions and tools. Many have been created, however the results and impact they have generated are very limited:

- National Search System: it is composed of 32 state search commissions and the National Search Commission (CNB). However, most of the commissions are institutionally weak: according to official data, "one out of three search commissions functions with less than ten people; two are unipersonal" (Nochebuena 2022 a). The CNB's budget has grown in recent years to 198 million pesos by 2023. The budget available for grants for the benefit of local commissions has also grown (811 million pesos by 2023), but many of these grants are often returned because they are not executed (Nochebuena 2022 b). In general, the human, economic and technical resources of the local search commissions remain insufficient for the number of people to be searched. To date, there has been no accountability of the National Search System: no one knows how many people each search commission has found, under what circumstances, and whether they have been found by official actions or by actions of the families;
- National Register of Missing and Unaccounted for Persons (RNPDO): the Register is in force and is an important tool to make the problem visible and provide statistical information. However, it still has important limitations (Tzuc, 2022). The disappearance of LGBT+ persons is invisible: only 1% of registered cases include

information on gender identity or sexual orientation. Missing migrants are largely underreported: according to the Registry there are only 152 cases, but a group of committees of relatives of missing persons from only one country (Honduras) has compiled 963 cases of missing migrants in Mexico (Fundación para la Justicia, 2023). The Registry is not updated in real time, it does not have public and verifiable databases, most of the responsible authorities do not comply with the obligation to include the required information and failures in data entry and updating have been evidenced;

- Homologated Protocol for the Search for Missing and Unaccounted for Persons: approved in 2020, it is in force, although the participating institutions have not published information on its degree of implementation, the concrete results obtained and the challenges that still persist. A follow-up committee was created for its implementation, but it has not published information on the matter;
- Additional Protocol for the Search for Children and Adolescents: approved in 2021, its implementation has progressed unevenly, either due to lack of knowledge and/or lack of training of the authorities, or due to the reluctance of the prosecutors' offices to apply it. In this regard, serious coordination difficulties persist between search commissions and prosecutors' offices, which hinders the effective implementation of immediate and prompt search tasks in cases of missing children.

In 2015, Mexico created the External Support Mechanism for Search and Investigation (MAEBI). Its operational guidelines, which were published in 2022 without incorporating the requests of the committees of relatives of missing migrants' families, represent an advance with respect to the obligations of the Ministry of Foreign Affairs but are a step backward in terms of the duties that the prosecutor's office should assume as the investigating and coordinating body of MAEBI. Numerous families of migrants have expressed that the results of MAEBI are scarce and that, in general, "the Mexican authorities have only notified them of cases of people found dead" (Sánchez 2022). The families and accompanying organizations collaborated with the National Search Commission in the design of a Table for the search of migrants, which was approved by the National Search System in 2022. However, to date, this roundtable has not been installed nor has a public call for its creation been issued.

4. Forensic crisis in human identification

According to official data, as of August 31, 2020, there were 52,000 unidentified deceased persons in Mexico (MNDM, 2021). This figure is probably an underreporting of cases, as several forensic services in the country refused to provide their figures; in many cases the numbers were surprisingly low and, in general, forensic services do not have reliable and accurate databases on unidentified deceased persons. According to figures compiled by the State, in the year 2021 alone, the forensic service units and/or forensic medical service received 92,590 corpses and/or human remains, and between 8738 and 10601 deceased persons remained unidentified (INEGI, 2023). This suggests that the number of unidentified deceased persons is much higher than 52,000.

According to the Movimiento por Nuestros Desaparecidos en México (MNDM 2021), the causes of the forensic emergency are mainly due to two aspects, both of a structural nature: on the one hand, as an external factor, the significant increase in the levels of violence in the country since 2006, which resulted in an increase in the number of bodies entering the forensic services, many of which are mistreated with disappearance techniques that make

identification difficult (such as the segmentation of remains, among other things); on the other hand, as an internal factor, the institutional abandonment of forensic services in the country, which is explained by the lack of trained personnel, poor working conditions, lack of technical, budgetary and human resources, lack of work design oriented to human identification, poor safekeeping of bodies of deceased persons, as well as lack of forensic databases, traceability and deficient use of genetics.

In this regard, the UN Committee on Enforced Disappearances (CED) has pronounced in its report on its visit to Mexico, stating that "under current conditions it would take 120 years to identify them [the bodies of PFSI] without counting the new bodies that are added every day" (CED, 2022).

The General Law provided for the creation of various institutions and technical tools to concentrate forensic information throughout the country and address the crisis in the identification of persons. Among them, they have not yet been created:

- the National Forensic Data Bank (its guidelines came into force in May 2023 but the Bank does not yet exist);
- the National Registry of Deceased, Unidentified and Unclaimed Persons;
- the National Registry of Mass and Clandestine Graves; and
- the National Exhumation Plan.

Faced with the lack of operation and consolidation of national forensic registries by the Attorney General's Office (FGR), the National Center for Human Identification (CNIH) was created in 2022, without consultation with victims, organizations or specialized institutions. After a year of its creation, and the hiring of personnel for its operation, this center still does not have its own laboratory for genetic analysis, and has limited itself to the generation of campaigns for the collection of reference samples for identification purposes. Among its attributions, the Center has the possibility of carrying out various actions involving the handling of bodies and human remains, as well as forensic information, for identification purposes. However, without the existence of a national public policy on human identification that clearly establishes the scope of the functions of each authority and/or their levels of action for coordination, this could lead to cross actions or duplication of efforts in terms of what corresponds to the authorities specialized in the search, such as the CNB and the local commissions, as opposed to the ministerial and forensic authorities, which are in charge of the operation and management of the forensic records.

One of the actions taken to face the forensic crisis was the creation of the Extraordinary Forensic Identification Mechanism (MEIF) and the signing of collaboration agreements with Tamaulipas and Zacatecas, the Regional Identification Centers in Coahuila and San Luis Potosí, the Human Identification Directorate in Jalisco, as well as the reinforcement of forensic services in terms of human and material resources in most of the states, through resources coordinated by the CNB. Although the achievements and advances generated from the recognition of the crisis are recognized, these institutional actions have been isolated and are not part of an integral national policy that seeks the same end and generates shared processes, so there could be a risk that, by following parallel routes, there will be differences in the methodologies of the different states, the standards and protocols applied and a persistence in the accumulation of bodies in the forensic services institutions.

Also pending is the strengthening of the Forensic Commission for the identification of deceased migrants, despite being a reiterated recommendation of international organizations.

It should be concluded that these institutional efforts to address the seriousness of the forensic situation in the country are still insufficient. The forensic crisis has caused irreparable damage to the families of missing persons due to the practices of not generating traceability records, irregular donations of bodies to universities or, in the case of Jalisco and Veracruz, incinerating the bodies illegally without having carried out the corresponding reports. All this makes the restitution of deceased persons to their relatives extremely difficult, further violating their rights.

5. Procuration and administration of justice and impunity

According to the CED, in Mexico there is "almost absolute" impunity in cases of disappearance of persons, since only 2% to 6% of the investigations are prosecuted and there are only 36 sentences for forced disappearance at the national level (CED, 2022). The prevailing impunity in these cases is a factor that encourages the repetition of disappearances. The lack of public confidence in the prosecutors' offices prevents victims from coming forward to report cases of disappearance. In addition, there are multiple practices that obstruct and delay access to justice, including the excessive use of procedural formalism.

With respect to the forced disappearances committed during the historical context of the Dirty War, it is necessary to point out the unwillingness of the institutions of justice to guarantee the due investigation of the facts and the responsibility of the public servants involved. Although in recent months there have been some efforts on the part of the State, such as the creation of the Commission for Access to Truth, Historical Clarification and the Promotion of Justice for serious human rights violations committed from 1965 to 1990, it faces a lack of economic, human and technical resources to fulfill its mandate (Animal Político, Redacción, 2023). It is imperative that this Commission has optimal budgetary resources and the effective collaboration of other institutions, especially the FGR, for the optimal performance of its tasks.

Due to the magnitude of the phenomenon of disappearances in Mexico and the fragmentation of the proceedings, it is necessary to implement methodologies of context analysis and macro-criminal approaches in the investigations that allow cross-checking information and locating trends and patterns, as well as making investigation plans according to the different realities and contexts in the country.

It is also important to review the results of the specialized prosecutors' offices for disappearance cases and to coordinate the investigations with the search actions carried out by the search commissions, as these are not two unrelated issues, although they are often approached in this way, and the existing Protocols, which establish coordination and information exchange, are not fully applied.

6. Aggressions against searchers

In recent years there has been an increase in murders, harassment and threats against people involved in the search for missing persons. Since 2020 there have been seven murders of relatives of missing persons apparently in retaliation for searching for their loved ones and others as part of family collectives:

- Maria del Rosario Zavala murdered in October 2020 in Guanajuato (Funez, 2022);
- Francisco Javier Barajas murdered in May 2021 in Guanajuato (Sandoval, 2021);
- Gladys Aranza Ramos killed in July 2021 in Sonora (Yañez, 2022);
- Rosario Lilián Rodríguez killed in August 2022 in Sinaloa (OHCHR, 2022 a);
- Blanca Esmeralda Gallardo killed in October 2022 in Puebla (Barragan, 2023);
- María del Carmen Vázquez killed in November 2022 in Guanajuato (OHCHR, 2022 b);
- Teresa Magueyal killed in May 2023 in Guanajuato (Espinosa, 2023);

The situation in the state of Guanajuato is particularly serious. In addition to the three people mentioned above, three other searching mothers were murdered in the previous years (Fúnez, 2022; Sandoval, 2021; UN-DH, 2022; Espinosa, 2023) and 12 received threats (Gaspar, 2022). In some cases families have suffered arbitrary detentions for protesting or searching, as for example Leticia Alvarez, who was detained and assaulted in October 2021 in the state of Sonora (Gaspar, 2022).

In general, the State's response is insufficient or inadequate in terms of protection and prevention of aggressions. There is a Protection Mechanism for Human Rights Defenders and Journalists, which is in the process of being strengthened, but it is overwhelmed in terms of personnel, budget and possibilities of action, due to the number of beneficiaries (2,059), plus the number of people waiting to be assisted (SEGOB, 2021). There is little inter-institutional coordination to implement protection measures. Approximately 15% of the beneficiaries are family members searching for their loved ones collectively (CED, 2022). Most have reported that they only receive a panic button which, many times, does not work. Attacks are rarely investigated or clarified. The authorities have announced the arrest of alleged perpetrators of the murders of the seekers; however, there are still no convictions and, therefore, it is not possible to affirm that the persons arrested are actually the perpetrators. In general, the persons accused are the material perpetrators of the murders, not the masterminds, who are rarely identified, arrested or prosecuted.

7. Victims' Rights

Victims of forced disappearances and other human rights violations face serious obstacles to be recognized as such by the Executive Commissions for Attention to Victims (CEAV). The National Registry of Victims (RENAVI), in charge of the CEAV, has only 6,904 registered victims, of which 1,378 suffered human rights violations and the rest were victims of a crime (CEAV, 2023). Considering that there are 110,000 missing persons alone, we are talking about a significant underreporting in the RENAVI, less than 10%.

In some cases, missing persons are considered by the prosecutors' offices as "absences" or as "missing persons", and are not classified as crimes. This, together with the lack of human and financial resources, deficiencies in inter-institutional coordination, an outdated legal framework and the absence of equitable and accessible procedures and guidelines, means that families cannot effectively access immediate help, assistance, specialized psychological care (among others), nor can they access the various assistance funds provided by the

government.

This situation is exacerbated by the refusal to generate spaces for dialogue between the CEAV and the victims, despite the existence of a recommendation from the Inter-American Commission on Human Rights (IACHR) to guarantee access to health care for the families of disappeared persons (IDHEAS, 2023). Similarly, there are multiple difficulties in promoting the procedure for the declaration of absence due to disappearance by relatives of missing persons, who face lengthy bureaucratic processes, lack of training and awareness of justice operators, particularly of the legal advisors of the commissions of attention to victims and the Judiciary, as well as the absence of coordination between authorities.

In terms of reparation of damages, to date it is observed that the relatives of victims of human rights violations during the historical context of the Dirty War face the absence of public policies in terms of attention and reparation. Factors such as the aging of the victims and their families, and the submission to interminable justice processes are elements that drastically aggravate the effects of human rights violations (IACHR, 2023).

8. International scrutiny

The Mexican State has shown considerable openness to international scrutiny and cooperation to address the crisis of disappearances. In the third cycle of the Universal Periodic Review (UPR 2018), Mexico received 27 recommendations on disappearances, this being one of the most recommended topics. All recommendations were accepted by the Mexican State. Since then, some have been partially complied with, such as implementing the General Law (recommendation made by ten countries), increasing budgetary resources to address disappearances (four countries) and accepting the competence of the CED for individual cases (four countries).

Mexico has shown interest and willingness to collaborate with the CED: it was reviewed in 2012 and 2018; it recognized the obligatory nature of the CED's Urgent Actions for all Mexican institutions (2021); it invited the CED to make its first official visit (2021) and, following that visit, accepted the 85 recommendations made to it (2022). A comprehensive strategy to implement these recommendations is pending on the part of the State, as well as adequate compliance with the more than 544 Urgent Actions in force (IDHEAS, 2021).

There are eight judgments or rulings from international human rights bodies on individual cases of enforced disappearances: Human Rights Committee (four rulings), Committee on the Elimination of Discrimination against Women (one ruling), CED (one ruling) and Inter-American Court of Human Rights (two rulings). The State has accepted all these resolutions, but in general the level of compliance is still minimal (IDHEAS, 2020, 2022 and 2023; FUNDENL, 2022, CMDPDH, 2022; CEDEHM, 2020).

In the case of the disappearance of the 43 Ayotzinapa students, Mexico allowed the return of the Interdisciplinary Group of Independent Experts (GIEI) as observers in the investigation of the case (2018). Four years later, the GIEI decided to reduce its members by half, in the face of repeated signs of lack of collaboration, bad faith, cover-up attempts and judicial setbacks in the case.

Recommendations

- 1) Fully and immediately implement the General Law on Forced Disappearance of Persons, Disappearance Committed by Private Parties and the National System of Searches for Persons (SNB) through: 1) publication of the methodology and data of the National Registry of Missing and Unaccounted for Persons (RNPDO); 2) creation of the National Forensic Data Bank, National Registry of Unidentified and Unclaimed Deceased Persons and the National Registry of Mass Graves and Clandestine Graves, which comply with the characteristics established in the law; guarantee the coordination and joint work of search commissions and investigative prosecutors' offices demonstrating concrete results in terms of findings of missing persons and convictions of perpetrators;
- 2) Ensure the effective implementation of the Homologated Search Protocol and the Additional Protocol for the Search of Children and Adolescents, through: 1) the initial and continuous training of the officials of all the agencies involved; 2) the development of indicators to measure the application of the Protocols by the authorities obliged to comply with them; 3) based on the above, the publication of an annual implementation report;
- 3) Concretize the collaboration of the prosecutors' offices and forensic institutions with the Extraordinary Forensic Identification Mechanism, as well as the stability and regularity of the budget of this Mechanism by the federal government. Strengthen the infrastructure and personnel of forensic institutions, both traditional and recently created, guarantee a collaborative and coordinated work between them and the prosecutors' offices, and generate mechanisms for the participation of families;
- 4) To concretize a comprehensive national public policy for human identification in relation to the disappearance of persons with the following elements: 1) to clearly establish the scope, objectives and distribution of tasks of all the institutions created and actions undertaken at the state, regional and national level oriented towards overcoming the forensic crisis; 2) to generate mechanisms for systematic inter-institutional coordination; 3) to guarantee compliance with the principles of joint participation, transparency and accountability;
- 5) Establish coordination, information exchange and cooperation mechanisms, through clear protocols and permanent communication channels, to ensure the effective collaboration of the Commission for Access to Truth and the Attorney General's Office;
- 6) Reform the Guidelines of the External Support Mechanism for Search and Investigation to include the obligations of the Attorney General's Office, issue a public call for the creation of the Search Committee for Missing Migrants and install it as soon as possible, as well as create a special multidisciplinary Commission, with independent experts and a transnational approach, for the investigation of disappearances, massacres and serious human rights violations against migrants, under the auspices of the United Nations;
- 7) Guarantee that the specialized prosecutors' offices and the Judiciary remove practices and obstacles that delay and impede the judicialization of cases and access to truth and justice, avoiding the excessive use of procedural formalism, carrying out the acts of investigation and search in an effective and immediate manner, guaranteeing the procedural rights of the victims, and promoting the incorporation in the investigation of the

tool of context analysis to avoid the fragmentation of cases;

- 8) Guarantee, in terms of attention to victims, the following: 1) update the General Law on Victims and the corresponding state laws, based on the needs of the victims; 2) implement clear and transparent policies so that the commissions of attention to victims effectively and equitably guarantee the rights of victims to be beneficiaries of the measures of aid, medical assistance, specialized psychological care, legal advice and comprehensive reparation, including the full recognition of their quality of victim; 3) generate spaces for periodic and inter-institutional dialogue with the victims to address the issue of comprehensive reparation and the processes of special declaration of absence due to disappearance;
- 9) Adopt and implement a comprehensive public policy for the protection of human rights defenders, including those searching for disappeared persons, containing the following elements: 1) gender perspective; 2) cooperation of all institutions responsible for implementing protection measures; 3) prompt and thorough investigation of all aggressions; 4) comprehensive reparation; 5) prevention of aggressions;
- 10) Implement the 85 recommendations made by the Committee on Enforced Disappearances in 2022, starting with the adoption of a comprehensive and inter-institutional strategy, with concrete and measurable tasks, deadlines and actions, within the framework of a process of dialogue and consultation with family members, civil society organizations and international actors. Likewise, adopt all necessary measures to guarantee the effective implementation of the Urgent Actions issued by the Committee itself;
- 11) Effectively comply with the eight judgments and rulings issued by international human rights bodies (Inter-American Court of Human Rights, Human Rights Committee, Committee on the Elimination of Discrimination against Women, Committee on Enforced Disappearances) on disappearances, in strict consultation with the families of the victims and their representatives.

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