

Report from
the Movement for Our Disappeared in Mexico



to the United Nations Committee on Enforced
Disappearances

for the Follow-Up Dialogue on Additional Information
Submitted by Mexico

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Note: This is a rough translation from the Spanish original

Introduction

Given the need to join efforts in the face of the phenomenon of disappearances in Mexico, in 2015 the Movement for Our Disappeared in Mexico (MNDM)¹ was formed by relatives of disappeared people, the vast majority of whom are women, who decided, based on the experience of numerous local groups of family members, that the recommendations that the United Nations Working Group on Enforced or Involuntary Disappearances issued after its visit in 2011 needed to be implemented. We currently have 52 victims' collectives throughout the Mexican Republic, and 3 Central American countries, and more than 40 non-governmental organizations dedicated to the defense and promotion of human rights.²

Since its creation, the Movement has demanded that the Mexican State pass legislation in response to disappearances, to create an adequate structure to put an end to irregularities and deficiencies in the actions of the search and investigation authorities, and also to standardize certain procedures and records in the different government bodies of the country.

This motivated us to generate input for the legislative discussion, which reflected the broad and varied experiences of families both in the search for their disappeared relatives and in the investigation of the criminal phenomenon behind these disappearances. It was thanks to our advocacy that the authorities finally approved the General Law on Enforced Disappearances, Disappearances Committed by Individuals and the National Search System (hereinafter, "General Law"). The legislative approval and the presidential promulgation took place after a complex and arduous negotiation. The General Law was published in the Official Gazette of the Federation on 17 November 2017 and entered into effect on 16 January 2018.

After this began the process of implementation of the law, which is even more complex, messy and arduous than the previous negotiation stage. The government of President Enrique Peña Nieto has repeatedly demonstrated its lack of political will to move quickly and adequately in the creation of the institutions and procedures that the law establishes. The result, so far, is a limited implementation that is uncoordinated and has frequent delays, insufficient resources and many obstacles to the full participation of the victims, their representatives and other interested sectors.

This is particularly worrying for us, as different dimensions of the phenomenon of disappearances have been aggravated. According to the official figures of the Mexican government, as of 30 April 2018 there were more than 37,000 people "missing or

¹ Véase el proceso de articulación y movilización que se desarrolla a partir de la desaparición de personas en México en Centro de Colaboración Cívica, *El Movimiento por Nuestros Desaparecidos en México y su camino hacia la incidencia legislativa: La siembra colectiva, una apuesta por la esperanza*, 2018.

² Para mayor información sobre este documento o sobre nuestro Movimiento, favor de contactarnos a través del correo electrónico mariano.machain@serapaz.org.mx, teléfono +52 1 55 3500 4793.

disappeared.”³ We know that this is a conservative figure, since there are thousands of families that have not filed a complaint yet, and it does not include various other cases that have been filed (neither the federal cases filed before 2014 nor the totality of those that are investigated for other criminal offenses other than that of disappearance, such as kidnapping or human trafficking, due to the absence of adequate types of classification for these crimes), nor does it include disaggregated data, which are necessary to adequately assess the problem. In addition, on 5 April 2018, the Mexican government reported that there are at least 35,000 unidentified bodies in the country.⁴

Other data shows that the situation has reached one of its most critical moments, as we also have a forensic crisis and no clear strategies to address it. For example, as recently as September 6, the government of the state of Veracruz announced the "discovery" of a clandestine grave with 166 bodies, a figure that was later corrected to 174.⁵ The "discovery" was based on evidence provided by groups of relatives, who were not informed about the existence of the investigation, its findings or the identification process. On September 16 it was learned that a refrigerated truck with 273 unidentified bodies was wandering through the streets and highways of the state of Jalisco, before the neighbors complained about the rotten odor emitted by decomposing bodies inside. The authorities responded by reporting that, since 2016, they have rented refrigerated trucks due to overcrowding in public morgues and official cemeteries.⁶ These are just some indicators of the widespread phenomenon of enforced disappearances of civilians, and the context of negligence, indifference, pain, corruption and impunity in Mexico today.

Mexico is currently undergoing a government transition as a result of the elections of 1 July 2018. Therefore, in addition to following up on the dialogue with the current authorities, the Movement has begun to talk with the elected government. To date, we have held at least four meetings with the team of President-elect Andrés Manuel López Obrador, with the aim of raising awareness of the true scale of the humanitarian tragedy that exists in the country; demonstrating the deficiencies, omissions and obstructions that exist in both the search for disappeared people and the investigation of the perpetrators; and creating a work plan for a genuine and prompt implementation of the General Law from the new administration.

For this reason, the MNDM submits information to the Committee against Enforced Disappearances (hereinafter referred to as the Committee) regarding the degree of implementation by the Mexican state of the final observations issued in February 2015 on

³ El Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública actualizó por última vez la cifra el 30 de abril de 2018, pues la Ley General en materia de desapariciones mandata la construcción de un nuevo registro, que aún no ha sido creado <http://secretariadoejecutivo.gob.mx/rnped/datos-abiertos.php>.

⁴ Miranda, Justino, “Hay 35 mil cadáveres sin identificar en el país: Segob”, El Universal, 5 de abril de 2018 <http://www.eluniversal.com.mx/nacion/seguridad/hay-35-mil-cadaveres-sin-identificar-en-el-pais-segob> (consultado 27 de septiembre de 2018).

⁵ “México: encuentran 166 cráneos en una fosa clandestina en Veracruz”, BBC Mundo, 7 de septiembre de 2018 <https://www.bbc.com/mundo/noticias-america-latina-45443168> (consultado 27 de septiembre de 2018).

⁶ “Lo que sabemos del ‘trailer de la muerte’ de Jalisco”, El Universal, 20 de septiembre de 2018 <http://www.eluniversal.com.mx/estados/lo-que-sabemos-de-los-cuerpos-hallados-al-interior-de-un-trailer-en-jalisco> (consultado 27 de septiembre de 2018).

the report submitted by Mexico pursuant to article 29, paragraph 1, of the International Convention for the Protection of All People from Enforced Disappearance.

The Committee has a key opportunity to assess the state's compliance with its 2015 concluding observations, draw conclusions and reiterate or update the recommendations it still considers pertinent. The result may constitute the beginning of a work agenda with the next government. For us, it is extremely important to have this dialogue and follow-up mechanism.

Information on the Status of Compliance or Non-compliance with the Concluding Observations on the Report Submitted by Mexico, Approved on 11 February 2015

Recommendation Number 12: On the Urgent Action Procedure

The Committee has issued more than 330 urgent actions on behalf of missing people in Mexico, which represents 66% of the total.⁷ At least 45 of the families that make up this Movement are holders of urgent actions of the Committee: 21 actions refer to the search and location of disappeared people; 24 actions refer to the request for protection measures for relatives at imminent risk.

In recent years, there has been significant resistance from the Mexican state against effective implementation of these urgent actions. On repeated occasions, it has maintained the position that "the measures required by the Committee are recommendations in nature and do not imply any obligation on the part of the Mexican state."⁸ The information sent by the state in most cases fails to comply with the established deadlines, is incomplete and/or superficial, which prevents the Committee and family members from knowing the actions carried out in the search and investigation.

We suggest that the Committee recommend to the state:

- **Recognize the mandatory nature of urgent actions issued by the Committee and strengthen coordination among the authorities at the three levels of government to ensure their effective implementation.**
- **Institutionalize a mechanism for the implementation, monitoring and evaluation of urgent actions, to ensure coordination between authorities of the three levels of government and the participation of organizations and collectives of victims.**

Recommendation 14: On Individual and Inter-State Communications of the Committee

In a context of widespread impunity, it is worrisome that the state refuses to recognize the competence of the Committee to receive and examine individual communications under articles 31 and 32 of the Convention, despite being urged to do so.⁹

The state reports that this decision "involves the opinion of a large number of relevant institutions," which we interpret as a statement that some institutions do not agree with the acceptance of this procedure. This is another example of lack of political will in certain state institutions to address this problem on the scale it requires.

The state indicates that it has not been able to accept the competence of the Committee because it has given priority to the approval and implementation of the General Law. This is also unacceptable since there is no reason to think that acceptance of the Committee's competence will divert attention from the other issues. In any case, it would reinforce the implementation of the General Law.

⁷ La lista de las Acciones Urgentes registradas hasta el 13 de junio de 2018, está disponible aquí: <https://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx>

⁸ Minuta de trabajo del 21 de enero de 2015 firmada por funcionarios de la Procuraduría General de la República, la Secretaría de Relaciones Exteriores y el Estado de Guerrero, citada por Id(h)eads Litigio Estratégico en Derechos Humanos, A.C., *Informe sombra sobre la situación de desaparición de personas en México*, mayo de 2018.

⁹ Véase: "Informe de México sobre el seguimiento a las recomendaciones del Comité de Naciones Unidas contra las Desapariciones Forzadas", 13 de febrero de 2018, pág. 2, parr. 5.

Another sign of lack of political will is the refusal of the state to accept the request made by the Committee to conduct a visit in Mexico.¹⁰ We have repeatedly declared to the state our demand that it authorize the visit of the Committee.

We suggest that the Committee recommend to the state:

- **Recognize the competence of this Committee to receive and examine individual and inter-state communications under articles 31 and 32 of the Convention.**
- **Accept as soon as possible its request for an on-site visit to Mexico under article 33 of the Convention.**

Recommendation 16: On the Sanction and Content of the General Law

Finally, after three years of negotiation and advocacy, a General Law on disappearances was approved, which undoubtedly opens up opportunities to advance in the search for solutions, especially with the construction of new specialized institutions throughout the country, but it also has limitations as a result of the resistance encountered throughout the approval process. On many occasions, this resistance reduced our participation to a mere formality intended to limit the obligations of relevant authorities in charge of the search and investigation for disappeared people.

We are facing various implementation challenges, both at the federal and state levels. It seems that the federal government assumed that the Law would be a concluding point, rather than a starting point, to meet the demands of the Movement. It did not foresee an implementation plan or a strategy to promote the creation of the institutions and tools mandated by the Law in the Mexican states.

The state has failed to meet many of deadlines established in the General Law for the establishment of programs and instruments. For example, the regulatory framework of the General Law has not yet been enacted, which should have been in force no later than 14 July 2018. The National Search Program has not yet been created (deadline: 7 September 2018), nor has the National Search Protocol been issued.¹¹

The federal government has only partially initiated the implementation process of the General Law. Those activities which it has begun have been carried out with a complete lack of coordination and without respect for the principle of joint participation; that is to say, without guaranteeing the full and effective participation of the victims.¹² As a result, it has developed normative instruments (draft regulatory framework), the search protocol, a draft search program and created institutions to manage these instruments without the input of families. As will be explained later, many of these instruments and institutions have important flaws that diminish their effectiveness.

There is currently a delay in the implementation of the General Law and no budget has been effectively assigned to the National Search Commission, or to the local search commissions and specialized prosecutor's offices, and these institutions have been created in very few states within the country. Therefore, it is important to emphasize that the federal structure should not be an impediment for the Mexican state to comply with the search and

¹⁰ United Nations, "Governments Must Do More to Protect Displaced People, End Forced Disappearances, Experts Tell Third Committee amid Calls for Greater Adherence to Conventions", 20 de octubre de 2017, <https://www.un.org/press/en/2017/gashc4208.doc.htm> (consultado 8 de octubre de 2018).

¹¹ Véase Artículos Transitorios de la Ley General

¹² Citar Ley General, artículo 5, numeral X.

investigation obligations established in the Convention, particularly to encourage the Mexican states to comply with the established deadlines to create the institutions stipulated by the General Law and to begin to implement the mechanisms so that registries and other tools can be set in motion.

Given the complexities inherent to the federal structure, it is extremely important to establish adequate coordination mechanisms to strengthen search and investigation capacities in the states and develop strategies to immediately address issues that are urgent and cannot wait until the General Law has been implemented in its entirety. They include the current forensic crises in all agencies with forensic responsibilities across the country and the establishment of mechanisms for the immediate search of people, which necessarily require the coordination of federal and state authorities.

We suggest that the Committee recommend to the state:

- **With the participation of the families of missing people, civil society organizations and other relevant actors, draw a comprehensive plan for the implementation of the General Law, which clearly defines strategies and actions in the short, medium and long term, and designates responsible institutions, assigns budgets and sets goals and methods for objective verification.**
- **Establish a coordination mechanism for the implementation of the General Law, led by the Ministry of the Interior (which chairs the National Search System), and which coordinates all levels of government.**
- **Facilitate and guarantee the effective participation of the victims, their representatives, experts and civil society organizations in the process of implementing the General Law.**
- **Issue and harmonize immediately the regulatory framework and instruments provided for in the General Law.**
- **Assess, in an ongoing and transparent way, and based on reliable indicators, the degree of implementation of the General Law, both at the national and state level, and the institutions and tools that it creates, to have relevant information to plan necessary adjustments.**

Recommendation 18 (priority): On the Unified Registry

So far, the state has not complied with this recommendation. For the fulfillment of objectives and the improvement in the search, investigation, location, identification and delivery processes, the General Law provided for the creation of three national and unique registers: the National Registry of Missing and Disappeared People (RNPDyNL); the National Registry of Deceased, Unclaimed and Unidentified People and the National Registry of Common and Clandestine Graves; also for the National Bank of Forensic Data and of a Unified System of Technological Information.

All are indispensable tools for the proper functioning of the General Law and, to date, none have been put into operation and the advances in their design and integration are unknown. Although the operation of several instruments is supposedly being planned for later dates, the information that is being compiled for their integration or the existing progress status should be disclosed.

We are particularly concerned about the lack of the National Registry of Missing and Disappeared People, as it prevents us from knowing how many missing people currently exist and generates our fear of the concealment of new cases. This registry must replace the one that was in operation from 2013 to 2018, called the National Data Registry of Disappeared or Missing People (RNPED).

This registry was accessible on the Internet and the number of missing people was periodically updated (although with many deficiencies). The last update was on 30 April 2018 and accounted for 37,435 people. Of those, 1,170 corresponded to the federal jurisdiction and 36,265 to the local jurisdiction; 9,319 were women and 26,907 were men; the average age for women was 24 years, while the average age for men was 33. Most registered disappearances (21,602) occurred during the administration of President Enrique Peña Nieto.

The state reported that the Registry was compiled from the information provided by the 33 Attorney General's Offices in the country (federal and state levels) and was an unhelpful tool for the search, identification and finding of missing or disappeared people because:

- It only included people reported as missing or disappeared (it excluded those who did not have a formal complaint and those who had been reported as victims of kidnapping or other crimes).
- It was characterized by the duplication of records, the omission of records and the preservation of records of people who had already been located.
- It did not have forensic information on victims or relatives.
- The cases registered through the state attorney's offices did not include full names of disappeared people, despite repeated requests to the prosecutors to provide this information. Only people who knew the precise details of a certain disappearance could know if their case was in the registry and if the information was correct.
- When a case was eliminated, it was impossible to know if the person had been found alive or if it was an identification of remains. On the other hand, it was common that people whose whereabouts were established were not updated in the registry (they remained as disappeared for a long period of time)
- It was not clear which authorities entered, updated or deleted information, nor which mechanisms were used to guarantee security in the transmission of information.
- The authorities responsible for the registry systematically failed to correct the errors that were pointed out to them.

On 30 April 2018, the state reported that as of that date, the RNPED would be eliminated, given that the General Law established that it would be the National Search Commission that would create and administer the future database. The General Law establishes that within 180 days after the establishment of the National Search System, "the National Search Commission must have the necessary technological infrastructure and begin to operate the National Registry of Missing and Disappeared People" (RNPDiNL)¹³ and it also establishes that while the registry begins to operate, the Attorney Generals' Offices must keep a provisional registry.¹⁴

However, the National Search System was only installed on 9 October 2018 (its deadline was 15 May), the Registry has not been launched, nor is the status of the provisional registers, indispensable to integrate it, known. Recently, the supposed new version of the Registry was uploaded to official web pages,¹⁵ however, as indicated by the page itself, it is temporary and, in addition, is identical to the previous one and does not allow searching without knowing the first and names and surnames of the victims, so that the aforementioned concerns about the integration of these tools persist.

In conclusion, as of 30 April, there is no registry at the national level, but only a provisional version that leaves serious doubts about how it is being formed. It is also unclear whether

¹³ Citar Ley General. Transitorio Séptimo.

¹⁴ Citar Ley General. Transitorio Octavo.

¹⁵ See <https://suiiti.segob.gob.mx/busqueda>

both the federal government and each state have a provisional registry of missing people, as the General Law indicates, as these are not public.

As indicated, the General Law also mandates the creation of the National Registry of Unidentified and Unclaimed Deceased People, the National Forensic Data Bank and the National Registry of Common and Clandestine Graves. None of these has been created yet, nor is the state of their progress known. The three registries are the responsibility of the Federal Attorney General's Office and the beginning of their construction is also urgent, since it involves gathering information from all the states, systematizing it and verifying that it is useful.

As the four registries will be distributed between two different institutions (National Search Commission and Federal Attorney General's Office), there is a serious risk that the information will not be adequately systematized. The General Law mentions the need to create a "unified information and technological information system" (article 49, item 2, transitory article 19), whose progress is not known either. According to the General Law, it must be implemented by the National Search System. Currently its construction is being managed by the National Search Commission, generating more of a workload.

In addition, it is necessary that there is a plan for the provision of technological tools (servers and computers) to prosecutors and search committees, so that the exchange of information can begin. Finally, it is necessary that the registries have protocols and guidelines for uploading information.

We suggest that the Committee recommend to the state:

- **Create and publish as soon as possible the National Registry of Missing and Disappeared People (RNPDiNL) with the information available so far, in order to guarantee transparency about the current situation, upon the cancellation of the previous registry on 30 April 2018. Subsequently, the RNPDiNL must satisfy the requirements of articles 102 to 110 of the General Law. The process outlined in transitory article 12 of the General Law for the validation and updating of information between the local authorities and the National Search Commission must be followed promptly.**
- **Create the National Registry of Unidentified and Unclaimed Deceased People as established in articles 111 to 118 of the General Law.**
- **Create the National Forensic Data Bank, according to articles 119 to 127 of the General Law, no later than 17 January 2019.**
- **Ensure coordination between the National Search System, the National Search Commission, the Federal Attorney General's Office and all other authorities involved in activities regulated by the General Law, to enable an effective, unified information system, according to article 49, item 2.**
- **Include the effective participation of families in the development of these instruments. Also, ensure that the best international practices in this field are followed in their design and implementation, and that organizations and experts participate to guarantee that the state meets the objectives outlined in the General Law.**

Recommendation 20: On the Definition of the Crime

The General Law adequately defines the crime of enforced disappearance in its article 27, according to the criteria of the Convention (article 2). However, the Law does not provide for the specifics that can make the crime reach the degree of crime against humanity and in this sense it does not comply with article 5 of the Convention. It was not established what the

penalty in these circumstances will be because article 32 of the General Law does not provide for this aggravating circumstance.

Article 28 of the General Law introduces an unnecessary confusion in the definition of the crime of enforced disappearance, by reiterating the criteria of article 27 but circumscribing them to the case of people who are victims of enforced disappearance while in detention (which is included, implicitly, in article 27). Therefore, it can create confusion for the operators of justice and could create an excuse for the perpetrators to challenge charges and sentences against them.

With regard to the definition of the crime of disappearance committed by individuals (article 34), the General Law does not comply with article 3 of the Convention since the conduct defined for this crime is not the same as for the crime of enforced disappearance, as it is required by article 3 of the Convention ("the conducts defined in article 2"). Article 34 of the General Law also includes the phrase "with the purpose of hiding the victim or his fate or whereabouts", which differentiates it from the definition of enforced disappearance, both in the General Law (article 27) and in the Convention (article 2). This provision raises the standard of proof for cases of disappearance committed by individuals by having to prove the intention of the perpetrator.

We suggest that the Committee recommend to the state:

- **Review the definitions and their application, especially article 28 of the General Law to avoid legal uncertainty.**
- **Reform article 34 of the General Law so that the conduct is exactly the same as that defined in article 27, with the only difference that the perpetrators are individuals acting without direct or indirect participation of state agents, in accordance with article 3 of the Convention.**

Recommendation 22: On the Responsibility of Hierarchical Superiors

This recommendation remains unfulfilled to this day. The General Law establishes in article 29 that, "hierarchical superiors shall be considered the perpetrators of the crime of enforced disappearance of people under the terms of the applicable criminal legislation." Mexican criminal legislation, whether federal or state, does not establish criminal responsibility for hierarchical superiors with effective control over people who commit crimes.

We suggest that the Committee recommend to the state:

- **Reform article 29 of the General Law so that hierarchical superiors are considered criminally responsible for the crime of enforced disappearance in the terms indicated in article 6, item 1, paragraph b) of the Convention.**

Recommendation 24 (priority): On the Transnational Search Mechanism

While the creation of the Unit on Crimes Against Migrants (hereinafter, "Migrants' Unit") and the Support Mechanism Overseas (hereinafter, "MAE"), as well as the inclusion of the MAE as a cross-cutting element in the General Law, constitute an advance in the implementation of specialized mechanisms for the attention of migrants victims of disappearances and other crimes, its operation still does not comply with the recommendation issued by the Committee in 2015.

The legislation establishes the possibility of filing complaints and search reports from Mexican embassies, consulates and attaché offices abroad. However, to date this has not been put in practice. The diplomatic authorities are unaware of these provisions, they are not trained to assist the families of missing migrants, there are no personnel assigned to the

MAE operation and the MAE Operation Guidelines have not been prepared. The families of disappeared migrants have to wait for months for the staff of the Migrants' Unit to travel to Central America to file complaints and follow up on their cases.

In addition to the above, by 2018, the Federal Budget only considered a line of one million pesos for the Migrants' Unit,¹⁶ which implies a lack of operational capacity of the Migrants' Unit, which has only 13 prosecutors to investigate casefiles related to 675 direct victims - many of them disappeared migrants - mainly from Honduras (202), Guatemala (113) and El Salvador (52).¹⁷

Our Movement, which includes groups of Central American family members, can confirm first-hand the lack of comprehensiveness in the investigations and context analysis of the casefiles, which keeps the cases in impunity. Of 98 cases that we have presented to the Migrants' Unit and which we have followed closely, in only two cases has relevant information been obtained for the establishment of the whereabouts of the migrants.

The Migrants' Unit has prosecuted the perpetrators in only one case and there is no information about whether there is a conviction.¹⁸ Also, of 254 inquiries pursued by the Migrants' Unit, although almost 200 have to do with cases of missing or disappeared migrants, only 5 are investigated for the crime of enforced disappearance of people, while the rest are wrongly classified as cases of "illegal deprivation of freedom."¹⁹

We suggest that the Committee recommend to the state:

- **To assign permanent, trained and exclusive personnel for the operation of the MAE in embassies, consulates and offices of attachés of Mexico in Central America and the United States.**
- **Prepare the MAE Guidelines with the intervention of the Federal Attorney General's Office, the National Search Commission, the Ministry of Foreign Affairs and the Executive Commission of Attention to Victims (CEAV) to establish the coordination mechanisms and distribution of competences among themselves.**
- **Provide a sufficient budget to at least triple the operational capacity of the Migrants' Unit.**

Recommendation 28: On the Thorough Investigation of Complaints and

Recommendation 29: On the Creation of a Specialized Unit in the Federal Attorney General's Office

The investigation of cases of enforced disappearance (article 6 of the Convention) and disappearance committed by individuals (article 3) remains inadequate and unfruitful, perpetuating a situation of widespread impunity and delay in the execution of basic proceedings and securing critical information.

¹⁶ Comunicado "Presupuesto para la Unidad de Migrantes de PGR 2018". Available in: <http://fundar.org.mx/12286/>

¹⁷ Información obtenida mediante solicitud de acceso a la información. Oficio PGR/UTAG/DG/003388/2018. Estadísticas actualizadas hasta mayo de 2018.

¹⁸ Procuraduría General de la República (PGR), *Primer Informe Estadístico de la Unidad de Investigación de Delitos para Personas Migrantes*, estadísticas al 30 de abril de 2017 (no se ha publicado un informe más reciente). Disponible en: https://www.gob.mx/cms/uploads/attachment/file/241119/UIDPM-1er_Informe_Estadistico_FINAL_ahora_si.pdf

¹⁹ Información obtenida mediante solicitud de acceso a la información. Oficios PGR/UTAG/DG/003383/2018, PGR/UTAG/DG/003387/2018 y PGR/UTAG/DG/003385/2018. Statistics updated 30 april 2018

In many federal entities, dilatory practices are commonplace, such as requiring families who wish to report a disappearance to wait 72 hours before doing so, stigmatization of victims, requests for money to initiate proceedings and essentially leaving the responsibility for the investigation and continuous update of information in the hands of family members. It is still frequent that there is not a timely collection of mobile phone data or the geolocation of electronic devices, traffic reports, requests for logs of police institutions and other basic techniques to effectively establish the location of missing people, the crafting of investigation hypotheses and the identification of possible perpetrators.

In addition, the investigations initiated regarding clandestine graves are also deficient, because indispensable surveys are not being carried out to adequately document them. Priority is given to achieving identification by genetic means and delivering remains to the families, without other relevant hypotheses being developed about excavation modes, times, or if it is the first time the remains have been buried, among others. The forensic work, as much with investigation of the crime as with the search for the disappeared people, also presents serious challenges due to the lack of state capacities to address the grave scale of the problem.

In 2015, all the country's Attorney Generals' Offices adopted a National Protocol for the Search of Disappeared People and the Investigation of the Crime of Enforced Disappearance. It was replaced on 16 July by a new Investigation Protocol, the creation of which was established in the General Law (see below). The first was a Protocol that, while it included important aspects to complete an adequate investigation, its application was deficient, because it became bureaucratic, inflexible and omitted a focus on the investigation in the field, concentrating instead on desk-based investigation (through the submission of meaningless forms and requests between institutions). The state has never published information on the results or impact of this Protocol.

In accordance with the mandate of the General Law, which sought to revise some instruments with the aim of improving the existing framework around the investigations of disappearances, on 16 July 2018 the National Conference of Attorney Generals approved the National Protocol for the Investigation of the Crimes of Enforced Disappearance and Disappearance Committed by Individuals, in compliance with the term and scope indicated in the General Law. However, there are several problems with this Protocol:

- It was not developed with the effective and adequate participation of the victims. The development process did not allow enough time nor provide a clear methodology to ensure participation. During the meeting in which the victims were "consulted" by government officials, most of the time was devoted to explaining the protocol itself rather than seeking input.
- It had a minimal participation from the National Search Commission in its preparation, contrary to the provisions of article 99 of the General Law, and there was not enough coordination between these institutions for the development of the Protocol.
- It does not meet basic needs to improve specialized investigation processes or the demands of families in this area.

The National Citizens Council of the National Search System (also created by virtue of the Law) observed the deficiencies of many of the contents of the National Protocol in its Recommendation 1/2018.²⁰ In particular, the Council noted that:

²⁰ Consejo Nacional Ciudadano del Sistema Nacional de Búsqueda, Recomendación 1/2018, 11 de julio de 2018, disponible en <http://ibero.mx/prensa/consejo-nacional-ciudadano-del-sistema-nacional-de-busqueda-da-conocer-primera-recomendacion> (last accessed 3 October 2018).

- It appears to be directed to the personnel of the specialized prosecutor's offices, when in fact it must also regulate the actions of the authorities that act as the first contact of the relatives of disappeared people.
- It raises "a criminal investigation that lacks points of interconnection with the search, as if they were isolated processes. For example, there are no mechanisms in place to deal with requests from the search commissions."
- It recognizes the importance of a differentiated and specialized approach that takes into account "the situation of vulnerability or structural discrimination in which victims belonging to different population groups may be found." However, the Protocol focuses more "on the forms of accreditation of the belonging of a person or group in a situation of vulnerability, omitting a deeper development on what consequences this circumstance entails in terms of the investigative measures, the investigation plan and the specialized attention to the victims."
- It underestimates the importance of context analysis of each case, giving it "a merely indicative value for the prosecutor, when in fact context analysis should have a central role in the investigative actions."
- It has deficiencies related to forensic work: it does not incorporate the preliminary forensic investigation, which puts at risk the victims' right to truth; does not include the "making of integrated multidisciplinary assessments" beyond "complex cases" and does not mention "the importance of expert meetings in each forensic medical service, with the aim of bringing together the different disciplines involved in the identification of any given corpse "; the section on finding and recovery is very basic and insufficient; it does not establish which authorities are responsible for loading the forensic data in the databases and what the quality and homogenization controls should be.
- It limits the participation of the victims in the construction of the investigation plan and its execution. This is contrary to the principle of joint participation and good practices, since families often provide decisive information for the determination of the lines of investigation and their realization.
- It seems to be "substantially focused on cases with post-mortem hypotheses", operates with an approach to individual cases (does not offer elements to address cases of more than one missing person) and places too much emphasis on observing procedural formalities rather than on obtaining results.

The Council itself noted, in addition, the lack of a process of consultation and socialization of content with family and organizations. Faced with this, the Federal Attorney General's Office carried out an alleged consultation with relatives and organizations, which consisted of receiving written comments (for a period of only two weeks) and a two-day work meeting (25 and 26 June 2018) that not only did not have an adequate methodology, but was convened and carried out fairly quickly. In addition, their results were quite disappointing, since many of the comments contributed during this exercise were not reflected in the final text.

In addition to this, there are practices that have already been widely documented, such as the fragmentation of criminal investigations, serious deficiencies in forensic work, the low quality of the investigations, the continuous conflicts of jurisdiction between the Federal Attorney General's Office and the state-level offices and the lack of co-operation between these and other authorities. There seems to be a constant resistance on the part of the state to improve the processes of investigation and coordination, aggravated by the current overload of prosecutors and forensic services.

The forensic work associated with the investigation of disappearances and the identification of missing people seems to be at breaking point. The limited state capacities to handle the matter have been exceeded and there is a constant refusal to adopt good practices in the handling of documentation, in the handling of corpses and remains, in the issuance of

multidisciplinary assessments, in the notification and delivery without prior adequate confirmation of identities and the widespread fragmentation of forensic services.

According to the Mexican government there are some 35,000 unidentified bodies in forensic medical services, ministerial morgues and identified mass graves.²¹ This figure does not include the thousands of skeletal remains that also await identification. To contribute to the identification of bodies, the ICRC donated an Ante Mortem-Post Mortem database (AM-PM database) to the Federal Attorney General's Office in 2014. Since then its implementation has only been partial; in many states it has not arrived, in others it has arrived but it is used only partially, with deficiencies in its operation due to lack of trained personnel and approved protocols on how to input and manage information. Some examples of the national reality of identifying remain are shown below:

- In the state of Coahuila, the AM-PM database was adopted in 2016. By 2018, it has only been applied in 30% of the reported cases. In 2015 a property was identified that had been used by the criminal group "Los zetas" to kill and disappear people. To date, more than 80,000 skeletal remains have been collected, of which 500 have been processed, with no notification of any identification. It is estimated that the recovery of the remains could take 20 years.
- In the state of Tamaulipas there are 7,661 missing people (with a formal complaint), there are 3,074 unidentified bodies in the local morgues and only about 120 bodies have been identified and handed over to the families. The prosecutor's office has entered into the AM-PM database genetic information of some 3,000 families.
- In Jalisco, the AM-PM database is not operational. There are about 1,100 corpses waiting to be identified. Some are in facilities of the Forensic Medical Service, others in two refrigerated trucks parked next to the Service and 297 have been buried in the common grave of the ministerial pantheon. There are at least 9 clandestine graves identified by groups of victims but not yet verified by officials. In a grave that began to be processed in 2013, 93 bodies have been found, but the work stopped. When the families asked why, a federal policeman told them "Just give it up, because we're never going to finish taking out bodies." For the collectives, the only means of identification that is working is to "retweet" the photos of the tattoos on the bodies, which has yielded seven identifications in just two months.
- In Veracruz, the AM-PM database only has about 30 cases, with deficiencies in the methodology. They are not using it. Subsequently, the state bought another database arguing that it would be better. It cost millions of pesos, but they are not using it either. In the clandestine grave located in Colinas de Santa Fe, 295 bodies have been found so far; only 16 have been identified and 7 delivered to the families. There is not a sufficiently large set of samples of DNA from families in the database. Few people give genetic samples, despite several awareness-raising campaigns, and the information is not being input properly into the database.

The deficiencies in the investigations result in an almost 100% impunity. As mentioned above, as of 30 April 2018 there were 37,435 complaints of people "disappeared or missing" in the country. However, according to information provided by the Judicial Branch of the Federation, from 1 December 2006 to 31 December 2017, only 14 sentences were issued for the crime of enforced disappearance (in the federal jurisdiction); 12 of those resulted in convictions.²²

²¹ Miranda, Justino, op. cit.

²² Consejo de la Judicatura Federal, Solicitudes de información folios: 0320000161517 y 0320000294317. Actualización: CJF. Solicitud de información folio: 0320000037918. Fecha de respuesta: 22 de febrero de 2018. Información solicitada por Id(h)neas Litigio Estratégico en Derechos Humanos.

In state-level jurisdiction, we have learned of convictions for the crime of enforced disappearance in two cases: one in the the state of Veracruz and one in the state of Coahuila.²³

Regarding the recommendation to create a specialized unit in the Federal Attorney General's Office, on 21 June 2013 the institution created a Search Unit for Disappeared and Missing People. On 8 October 2015, the Unit was transformed into a Specialized Prosecutor's Office for the Search for Disappeared People. On 16 February 2018, the Federal Attorney General's Office transformed this office into the Specialized Prosecutor's Office for Investigation of the Crimes of Enforced Disappearance, trying to comply with the fifth chapter of the General Law. At no time has the state published information on the effectiveness or impact of these institutions.

The founding document that created the Specialized Prosecutor's Office for Investigation shows the different deficiencies with which it has been launched, such as:

- It does not recognize the need for the institution to have ministerial, police, expert or psychosocial support personnel sufficient for the nature of its work, although this is a crucial component (detailed below) and the General Law mentions it explicitly.
- It only mentions the person specification of the Head of the Specialized Prosecutor's Office, establishing only the entry requirements, his or her profile and the appointment process. It says nothing about the prosecutors, who should be part of a professional career service.
- As long as there is not a National Search Commission operating effectively, it is still up to the Specialized Prosecutor's Office to carry out in its entirety both the search for missing people and the investigation of the cases, otherwise it is leaving families and disappeared people unprotected. Even if this commission works, it will remain within its competence to execute all the proceedings and investigative acts that are outlined in the National Code of Criminal Procedures, so it is essential that it also has a coordination mechanism.
- It does not establish a transition regime that takes into consideration and adjusts to the times of the implementation of the General Law. On the other hand, the search and investigation in accordance with the Law must remain connected, and from the Specialized Prosecutor's Office, certain search actions must be promoted. However, this is not reflected in the document.
- It does not establish collaboration with other prosecutors in cases where other crimes exist, which restricts its intervention.
- It is not expressly established, contrary to the provisions of the Law, that the Specialized Prosecutor's Office must coordinate with the Foreign Support Mechanism and the various institutions that comprise it.
- The Migrants' Unit becomes dependent on the Specialized Prosecutor's Office, which eliminates the Unit's powers (such as search actions while the National Search Commission is not operating in its entirety and certain investigation techniques) and seems to reduce its competence to disappearances of migrants only.
- Last, but perhaps most importantly, the victims were not consulted, violating the principle of joint participation of the General Law. If consulted, many of these shortcomings, or perhaps all of them, could have been rectified.

²³ El 22 de marzo del 2018 fueron sentenciados a 30 años de cárcel a 8 policías municipales de Papantla, Veracruz por la desaparición de dos personas desde marzo del 2016. Un ex elemento de tránsito del estado de Veracruz fue sentenciado a 20 años de cárcel por el delito de desaparición de un joven desde febrero del 2014 y encontrado sin vida en diciembre del 2017. El 1 de febrero de 2017 un juez del Estado de Coahuila condenó a dos policías estatales por la desaparición forzada y posterior homicidio de tres hombres.

Despite the nominal changes that this institution has gone through, the resources of the entity remain very limited. It has few prosecutors trained in the subject and limited technology. It only has 44 prosecutors to attend a total of 1,170 casefiles. Of those 44 prosecutors, at least 15 are assigned to the Ayotzinapa case. On average, 61 casefiles are investigated by each prosecutor.²⁴ The job security is not guaranteed and there is a high turnover of personnel, which makes investigations even more difficult. No study has been conducted to assess the human resources needed for this institution to function adequately, both quantitatively and qualitatively. Nor is there a serious and formal explanation of why there is not enough staff.

Since the creation of the Specialized Prosecutor's Office, we have noticed a lack of coordination between it and the National Search Commission, and with local prosecutors and state-level search commissions, from little information exchange, to null agreements to comply with the provisions of the General Law. This fully undermines the meaning of a Search System, making it closer to the separation of institutional efforts, and making search efforts even more difficult. This situation has even been recognized by officials of both agencies (National Search Commission and Federal Specialized Prosecutor's Office) in public meetings.

More recently, staff from the Specialized Prosecutor's Office have claimed that the search is not their responsibility, but rather criminal prosecution. They have also declined to share information from their casefiles with the National Search Commission because they claim the information is confidential. This is contrary to the General Law. Mandatory collaboration and coordination should be promoted by the Specialized Prosecutor's Office. A high official of the Specialized Prosecutor's Office said "in accordance with the Law, prosecutors do not search [for disappeared people], they only investigate crimes"²⁵, which is inadequate, because according to the country's criminal procedure laws, they are responsible for various procedures such as geolocations and exhumations.

At the state level, to date, only 13 of the 32 mandated specialized prosecutor's offices exist.²⁶ This implies that 19 states have not complied with the deadline established in the General Law, which expired on 15 February 2018.

As an example of the shortcomings that exist in terms of research, in the state of Coahuila, a team of foreign and independent experts evaluated the response of the local government to the persistent situation of disappearances.²⁷ The experts detailed 75 shortcomings grouped into 58 categories and made 63 recommendations to the State Attorney General's Office and, in particular, to the Deputy Attorney General for Missing Persons (now the Specialized Prosecutor's Office). Some of the main shortcomings include:

- More than half of the officials who were linked to the Deputy Attorney General's Office did not meet the person specification to belong to this agency.

²⁴ Sólo para fines de comparación, la Subprocuraduría Especializada de Investigación en Delincuencia Organizada (SEIDO) tiene 2.354 averiguaciones previas, 674 carpetas de investigación y cuenta con 90 agentes del ministerio público. Es decir, 33 casos por agente.

²⁵ Reunión de familiares con altos funcionarios de la Fiscalía Especializada de PGR, en julio de 2018.

²⁶ Consejo Nacional Ciudadano del Sistema Nacional de Búsqueda de Personas, *op. cit.*, pág. 5.

²⁷ Luna Prada, Lucía; Rodríguez Contreras, Carlos; Vélez Gutiérrez, Luis, "Resultados del Proyecto de Asistencia a la Subprocuraduría de Personas Desaparecidas en el Estado de Coahuila de Zaragoza", 7 de diciembre de 2017, <http://www.frayjuandelarios.org/blog/wp-content/uploads/2018/05/COAHUILA-Informe-Final-EnfoqueDH-Dic.-7.pdf> (consultado 8 de octubre de 2018).

- In some investigations of disappearances, in which the possible participation of public officials is notable, the prosecutors and ministerial police do not have the institutional support (superiors) to allow them to advance in the investigations.
- Situations persist in which some officials of the Deputy Attorney General's office make undue economic demands on the relatives of the victims in order to process the casefiles with greater speed.
- 90% of the search actions are limited to official forms sent between institutions without follow-up on the responses and even reiterated due to the years elapsed since the issuance of the first requests for information.
- It is noted that some of the cases are focused on investigating organized crime as the sole perpetrator, even though in the interviews with relatives it is reported that it is very possible that there are public officials involved in the disappearances.

We have verified that these shortcomings are not exclusive of the Coahuila State Attorney General's Office, but that they are replicated in other states within the country.

The Veracruz State Attorney General's Office has requested arrest warrants against former state governor Javier Duarte Ochoa, former public security secretary Arturo Bermúdez Zurita, former state attorney general Luis Ángel Bravo Contreras, as well as against 52 other middle and high-ranking commanders, for the crime of enforced disappearance against 202 people in 124 cases. The prosecutor has argued that the disappearances are systematic given that the orders came from the highest levels of government and respond to an established policy. The crimes were allegedly committed by special police officers, who received orders to arrest people who were perceived as linked to organized crime, then transferred them to the El Lencero police academy and were tortured to obtain information. Later they were disappeared. Despite the advances in this investigation, the budget and human resources of the Office of the Prosecutor are very limited for the scale of enforced disappearances in the state. As a result, very few cases can be advanced.

We suggest that the Committee recommend to the state:

- **Reform the Approved Protocol for the Investigation of the Crimes of Enforced Disappearance and Disappearance Committed by Individuals, published on 16 July 2018, based on a genuine consultation with victims, human rights organizations, international organizations and experts, with the objective of correcting the serious limitations that it contains, such as reducing "paper-based" investigations and increasing the quality and quantity of operational and field investigations, based on lines of enquiry; Include feedback from prosecutors, ministerial police, justice operators that will have to use it. In addition, it must contain an adequate link with the National Search Protocol.**
- **Guarantee that in all cases where there is a person whose whereabouts are unknown and it is presumed that his absence is related to the commission of a crime, the case will be investigated as enforced disappearance or disappearance committed by individuals, regardless of whether other crimes may have been committed (such as human trafficking , illegal deprivation of liberty, kidnapping, etc.).**
- **Redesign and provide adequate resources, both human, material and technological to the Specialized Prosecutors' Offices, both at the federal and state levels, and create those offices that have not been created so far, with special emphasis on the states with the highest rates of disappearance.**
- **Strengthen forensic and expert skills so that investigations are based on appropriate scientific and technical elements.**
- **Prepare, on the part of the Federal Attorney General's Office, regional research strategies based on context analysis, in coordination with specialized prosecutors and local search commissions.**

- **Create an international program of forensic technical assistance in conjunction with international cooperation agencies, victims' organizations and specialized organizations with the aim of proceeding with the forensic processing of thousands of skeletal remains pending identification, under the supervision of an advisory committee, national and international public tenders and programs to strengthen the forensic capacity of the state.**
- **Establish new mechanisms for collecting complaints, DNA samples and information from families who have not yet wanted to file a report or join groups of victims.**

Recommendation 31: On the Protection of Victims

Assaults against family members who search for their disappeared loved ones and publicly defend their rights remain a constant threat. Since the Committee published its recommendations in 2015, we have suffered defamation, harassment, threats and homicides against our comrades. The murder of Myriam Rodríguez, which occurred on 10 May 2017 in the city of San Fernando, Tamaulipas, remains partially unpunished. As for the perpetrators, there is one sentenced to 15 years in prison, one in prison for another crime but not yet prosecuted for this murder, one dead in a confrontation with the police and one fugitive. The mastermind has not been arrested. Miriam had repeatedly requested protection measures, but never received them.

Many of us are beneficiaries of protection measures granted by the Mechanism for the Protection of Human Rights Defenders and Journalists and the Federal Attorney General's Office. In most cases the measures are insufficient or inadequate, such as panic buttons with little range that rarely work. When they work, the respondents do not have the mandate to make the competent authorities react immediately. Some measures generate costs that must be covered by the beneficiaries (cameras and lighting that increase electricity consumption, feeding of bodyguards, gasoline of vehicles, etc.). Sometimes the measures are discontinued or withdrawn without prior consultation. The implementation by local authorities is usually very poor. Today, the Mechanism is in a precarious situation and it is known that an adequate budget has not been prepared for the following fiscal year.

We suggest that the Committee recommend to the state:

- **Accompaniment in all field searches to prevent attacks, through mechanisms designed for this purpose.**
- **Strengthen the Protection Mechanism for Defenders and Journalists with a) a sufficient budget to cover personnel and operational expenses, guaranteeing annual budgetary stability, in a context of gradual increase in the number of beneficiaries; b) sufficient and properly trained personnel to perform these tasks; c) coordination between federal, state and municipal authorities to implement protection measures.**
- **Design an adequate institution of protection so that it can effectively protect all family members who need it, among other measures to protect victims and witnesses.**

Recommendation 33: On Truth and Justice for the Enforced Disappearances of the "Dirty War"

This recommendation is unfulfilled. Despite the fact that the Mexican state has acknowledged its responsibility for these serious human rights violations, all the cases of enforced disappearance of that era remain unpunished. From 2007 to date, the General Coordination of Investigation (CGI) of the Federal Attorney General's Office has been in charge of the investigation of 294 cases of enforced disappearance occurred at that time.

However, it has still not been possible to identify the direct perpetrators and masterminds of these crimes, nor has any disappeared person been located. In these 11 years, the CGI has only sought the declaration of 20 military officials, all as witnesses and nobody as probable perpetrator, as the state itself refers in its report to the Committee.

The little success of the investigations is due, in part, to the fact that the vast majority of cases are investigated in isolation, without cross-referencing the lines of enquiry or a designing a comprehensive research plan, despite the fact that these disappearances belong to the same context that has already been defined by various bodies such as the National Commission of Human Rights (CNDH) in Recommendation 26/2001, the Truth Commission of the state of Guerrero and the Inter-American Court of Human Rights in the ruling of the Rosendo Radilla Pacheco case.

It is recognized as a significant advance that the General Law establishes the need to generate criteria and a specific methodology for the investigation and prosecution of the crimes of enforced disappearance as well as for the search and location of the victims of enforced disappearance for political reasons in past decades. However, it will be crucial to guarantee the effective participation of family members and groups that seek disappeared people from the "dirty war" in the creation of such criteria, methodologies and protocols, as well as in the actual search and investigation processes.

We suggest that the Committee recommend to the state:

- **Guarantee the active participation of the families of victims of enforced disappearance in the implementation of the General Law, especially in the creation and implementation of a specific search mechanism for victims of enforced disappearance during the "dirty war" in strict compliance with what the General Law itself establishes, as well as a joint investigation plan in order to facilitate the exchange of evidence and information both for the effective search of victims and for the identification, judgment and immediate sanction of those responsible.**
- **Establish an administrative plan for the full reparation of victims, direct and indirect, due to episodes of political violence in the past, in which the consultation and participation of family members and their representatives, groups of victims and human rights organizations is ensured in the creation of such a plan; and that the standard of proof to access the measures of reparation included in the proposed plan be reduced so that all victims are included (regardless of whether or not they have been included in Recommendation 26/2001 of the CNDH). Therefore, it is also suggested to open the registry before the relevant bodies, such as the Commission for the Assistance of Victims, so that any family member who has an ongoing complaint for the crime of enforced disappearance during the "dirty war" can register and access the rights that establishes the General Law of Victims.**

Recommendation 41: (priority) Search for Disappeared People

The search for disappeared people continues to be, in the vast majority of cases, ineffective and fruitless. The greatest achievements that have been made are thanks to the work of the families themselves, who have decided to take on this task, which has little state support and clear strategies.

As explained above, from 2015 to 2018 there was a National Protocol for the Search of Disappeared People and the Investigation of the Crime of Enforced Disappearance, which ceased to be in force due to the separation of search and investigation functions in the General Law. The state has not made any evaluation on the effectiveness of the Protocol, the results achieved or proposed improvements to both the Protocol and structures and

budget. There is no information on supervision, control or accountability for the lack of compliance with the Protocol.

In general terms, the state response on immediate and effective search continues to be characterized by the following elements:

- Lack of reporting on the part of many families, generally due to distrust or fear. For example, in the state of Veracruz, some 5,000 people have been reported missing. However, in a recent awareness-raising campaign to encourage families to give their DNA samples to the database, some 1,500 people agreed to participate. However, 70 percent of them had not filed a complaint. Extrapolating this information, it could be concluded that in the state of Veracruz there would be about 16,000 cases that have not been reported.
- In case of complaint, there is often negligence on the part of public officials. We have often heard answers such as "come back in 72 hours," "he must be partying" and "she must have gone with her boyfriend."
- Poor or null interinstitutional communication: there is excessive bureaucracy, the prosecutors send official letters to a large number of public institutions, by default, without strategy, there are no deadlines and there is no follow-up to those who do not respond.
- Obstacles to the active participation and scrutiny of the victims: many times prosecutors have told us: "Go home. If we find out anything, we will notify you. "
- Criminalization or defamation of disappeared people: "he must've been looking for trouble".
- Threats and other forms of intimidation: some of us have been told: "Do not file a complaint; you will get into trouble."
- Corruption: Public prosecutors have requested money from relatives to initiate or accelerate a search or to do extra-institutional investigations.
- There are no urgent search mechanisms, which prevents locating people in a timely manner.
- Lack of resources to search on the ground: lack of police, vehicles, weapons, gasoline or travel expenses. In the state of Veracruz, it is estimated that only about 10 prosecutors are responsible for conducting searches, but have no training. In the state of Tamaulipas, authorities responded that a police patrol would take a month and a half to reach the place where our information indicated that there might be buried bodies. That's why we look for ourselves and when we find something, we call the police to follow up.
- Fear and lack of guarantees for civil servants and public officials. A prosecutor in the state of Veracruz told one of our companions: "I cannot investigate those policemen, I'm afraid of what could happen to me."

As a result of the approval of the General Law, during this year (2018), the government created the National Search Commission, with the purpose of having institutions (national and local), dedicated exclusively to the search of people and carry out tasks that are difficult to implement effectively by the prosecutors, because they require different methodologies to follow the criminal investigation.

However, to date, said Commission is characterized by the following shortcomings:

- Insufficient and inaccessible resources. The Mexican government had a budget of 186 million pesos (8.5 million euros) to implement the General Law and create the Commission. However, to date, the Commission has not been able to access its funds (around 30 million pesos) due to administrative and bureaucratic problems.²⁸ It

²⁸ Martínez, César, "Falta en Comisión hasta para el café", *Reforma*, 31 de julio de 2018.

is operating out of offices with limited security and space, with 8 people currently hired (of 44 planned in its organic structure). People do not receive their salary from the Commission, but rather from other government institutions that lend to them.²⁹

- The commissioner does not have the capacity to manage the necessary coordination between institutions to ensure that the Commission begins to function effectively, so it requires the political will of the Secretary of the Interior and that of other agencies to collaborate.
- There is no National Search Protocol yet, whose existence is established in the General Law. This protocol must be aligned with National Investigation Protocol, mentioned above.
- Zero progress on the creation of the National Search Program, beyond a table of contents that was shared online and over WhatsApp. There is also no progress with the National Exhumation Program that must be coordinated by the Federal Attorney General's Office.
- The delay in the construction of the registries, including the provisional ones, generates delays in the establishment of adequate search strategies.
- As mentioned in section 29, there is no coordination between the National Search Commission and the specialized prosecutor's office of the Federal Attorney General's Office; search commissions and specialized prosecutors' offices have not been created in all the states, which makes it difficult to have adequate diagnosis and reaction mechanisms.

On 15 May 2018, the National Search System must have been installed, something that took place on 9 October 2018. On that day the National Search Protocol must have been published, which indicates that the General Law is being violated.

In the state of Jalisco, in June 2018 a local search commission was created. Its head had been selected through a pre-selection committee that included victims and the specialized prosecutor. It was a transparent process. In addition to the head two other high-ranking people were selected in this way. However, it does not have any more staff. It has no budget. The staff is not being paid a salary, in an apparent attempt on the part of the state government to discourage them from remaining in office.

In the state of Veracruz, the local search commission has been installed, but it still has no budget or personnel. The commissioner, who is also responsible for the institutions created to investigate cases of journalist killings and gender violence, announced that they will only search for people who have disappeared since January 2018. Those reported before that date will continue to be the responsibility of the prosecution.

The situation in the rest of the states is similar. There are no mechanisms for immediate and sustained search, nor is there data that encourages the drafting of plans and strategies. On 9 October, the National Search System was installed, with only 7 of the 32 state commissions that should have been created, which continues to make effective coordination between instances impossible for the strategic planning of the search for disappeared people.

It is important to begin soon with the mapping and articulation of existing databases that contain useful data to draw effective search strategies and that until now have not been used for these purposes, as well as much of the information held by state-level agencies. An initial

²⁹ El Consejo Nacional Ciudadano del Sistema Nacional de Búsqueda de Personas observó, en su Recomendación 1/2018 que el cumplimiento del mandato de la Comisión Nacional de Búsqueda “exigirá no sólo la asignación de espacio para oficinas, sino también la provisión de todos los recursos humanos, materiales, técnicos y financieros que sean necesarios para el diseño y la ejecución del Programa Nacional de Búsqueda”.

diagnosis of all the information that must be included in the Unified Information System is an essential first step to be able to advance in the subject.

It is necessary to improve regulations that include issues of dental and medical records, civil registrars, official ID databases and others, which implies reaching various agreements between institutions. In addition, mechanisms must be generated to avoid duplication.

We suggest that the Committee recommend to the state:

- **Guarantee the empowerment and effective coordination among the members of the National Search System, which will coordinate the public search policy at the national level.**
- **Prepare and publish the National Search Program and the National Exhumation Program, respecting the principle of joint participation, with clear goals and sufficient budgets.**
- **Provide the National Search Commission with an adequate annual budget and make those funds accessible to the Commission. Strengthen the organic structure to hire the staff who should generate the search plans to meet this urgency.**
- **Generate the immediate search mechanisms needed to improve the location of victims within the first few hours.**
- **Create databases and consolidate the unified information system ordered by the General Law.**
- **Create and consolidate the context analysis unit in the Federal Attorney General's Office (focused on investigation) and the National Search Commission (focused on search), ensuring coordination between both.**
- **Promote the creation of state-level search commissions and specialized prosecutor's offices in the states so that they have comprehensive and adequate mechanisms for the exchange of information and for the generation of rapid-response mechanisms and short, medium and long-term strategies.**
- **Strengthen the country's forensic system and generate cooperation programs that allow for human resources and budgets for identification.**

Recommendation 43: On the Declaration of Absence

This recommendation is partially fulfilled since only at the federal level and in the states of Chihuahua, Coahuila, Mexico City, Nuevo León, Querétaro and Veracruz have declaration of absence laws been approved, in compliance with the General Law.

Additionally, we consider that the Federal Declaration of Absence due to Disappearance should take have taken into account, among the amendments to the Social Security Law, the protection of the victim and his/her family when the disappearance takes place beyond the activities directly related to employment. In addition, the families of those victims who work informally continue to be unprotected in relation to the rights covered by social security.

The declaration of absence will have to be brought before a judge specifying the legal needs of the disappeared person and their family members, which may vary over time. Hence, the declaration should be comprehensive and not limited to specific circumstances.

We suggest that the Committee recommend to the state:

- **Approve absence declaration laws for disappeared people in the 26 states that do not have it yet.**
- **Modify the Social Security Law and the Federal Labor Law to add the incidence of disappearance occurred beyond work-related activities, with the objective of providing maximum legal protection to the economic dependents of disappeared people.**

- The Declaration of absence must be a broad civil, commercial and labor instrument that does not require additions but rather works in the same way as a birth, marriage or death certificate, which with the simple presentation produces the effects for which it was created.