



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances

### List of issues in relation to the report submitted by Mexico under article 29, paragraph 1, of the Convention\*\*

#### I. General information

1. Please provide information about existing mechanisms for dealing with requests for urgent actions transmitted by the Committee to the State party and for implementing the interim and protection measures requested by the Committee in this connection. Please advise, in particular, about existing mechanisms for interacting with the state governments in this connection.

2. Please provide detailed information about the scope of authority of the National Human Rights Commission when dealing with cases of enforced disappearance and about the activities it carries out that relate to the Convention, including specific examples. Please also include information on complaints concerning enforced disappearances considered by the Commission since the entry into force of the Convention and on the recommendations made in that connection.

#### II. Definition of the criminal offence of enforced disappearance (arts. 1–7)

3. With reference to paragraphs 103 to 113 of the report, please provide information on the current status of the initiative to amend article 215 of the Federal Criminal Code and indicate when its adoption and entry into force are expected. Please also provide information on the steps taken to ensure that all states have the offence of enforced disappearance on their books as defined in article 2 of the Convention. Please also indicate what steps have been taken towards adopting a general law on enforced disappearance, as recommended by the Working Group on Enforced or Involuntary Disappearances (A/HRC/19/58/Add.2, para. 86) and the Committee against Torture (CAT/C/MEX/CO/5-6, para. 12) (arts. 2 and 4).

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\* Reissued for technical reasons on 16 December 2014.

\*\* Adopted by the Committee at its seventh session (15–26 September 2014).



4. Please describe the laws at both the federal and state levels that would apply in connection with: (a) the acts specified in article 6, paragraph 1 (a), of the Convention, i.e., ordering, soliciting or inducing the commission of, or attempting to commit, being an accomplice to or participating in an enforced disappearance, or committing any other similar act; (b) the responsibility of a superior in terms of the situations set out in article 6, paragraph 1 (b), of the Convention. In addition, with reference to paragraph 118 of the report, please elaborate on the content of the proposal to codify the criminal responsibility of superior officials and indicate how it conforms to article 6, paragraph 1 (b), of the Convention (art. 6).

5. Please provide updated information on the number of missing persons in the State party and the number of those persons who are presumed to have been subjected to enforced disappearance. Describe the methodology used to arrive at that figure. Please provide data, disaggregated by sex, age (adult/child), nationality and the state in question, on persons who are presumed to have been subjected to enforced disappearance. Please also provide information on the progress made in setting up the database for use in searching for disappeared persons that is mentioned in paragraph 217 of the report. Please also report on the kinds of data that will be entered into the database and the methodology that is to be used to keep it updated. Please indicate how it will be linked to the National Registry of Missing and Disappeared Persons (RNDPED) and with the records kept on unidentified bodies by forensic medical services. Please also indicate whether RNDPED data on disappeared persons is accessible to all interested parties and whether the confidentiality of protected personal information is maintained. Lastly, please provide information on the steps taken to cross-check the databases on disappeared persons with the DNA databases maintained by various institutions of the State party, such as civil service agencies at the federal and state levels, offices of attorneys general (the Office of the Attorney General of the Republic and state offices) and the National Human Rights Commission (arts. 3, 12 and 24).

6. While taking note of the information contained in paragraphs 94 to 101 of the report, the Committee would appreciate receiving detailed information about the efforts made to investigate the commission of the acts defined in article 2 of the Convention by persons or groups of persons acting without the authorization, support or acquiescence of the State, in particular organized crime groups, and the efforts made to ensure that those persons are punished. Please also describe how the different criminal investigation and prosecution systems operate and provide statistics that reflect their effectiveness (art. 3).

7. Please provide information on the nature and impact of the steps taken to investigate disappearances of migrants, some of which could be classified as enforced disappearances, and to punish those responsible. Please indicate how relatives, next of kin and their representatives who live outside the State party are guaranteed access to information on investigations. In that context, please also provide information on the steps taken to ensure cooperation with States parties whose nationals are affected by enforced disappearances and the greatest measure of mutual assistance in helping victims and searching for, locating and releasing disappeared persons (arts. 3, 12, 14, 15 and 24).

### **III. Judicial procedure and cooperation in criminal matters (arts. 8–15)**

8. With reference to paragraph 139 of the initial report, which deals with the jurisdiction of Mexican courts, please provide information on the scope of the requirement that “enforced disappearance [must be] a criminal offence” in the country in which it was committed and on the corresponding implications in terms of the fulfilment of the obligations contained in article 9, paragraphs 1 and 2, of the Convention. Please make

special reference to the implications in cases where enforced disappearance is not expressly defined as an offence as such in the State in which it was committed. Please also specify whether, pursuant to article 6 of the Federal Criminal Code, article 9 of the Convention constitutes a sufficient basis for the exercise of jurisdiction by Mexican courts, even in cases of enforced disappearance that may have taken place in States that are not parties to the Convention (art. 9).

9. Please provide information on the scope of the jurisdiction of military courts, especially in the light of the amended Code of Military Justice that came into effect in June 2014. Please also provide information on the measures taken to ensure that all reports of enforced disappearance allegedly committed by military personnel are investigated from the very outset by civilian authorities and indicate whether military personnel may provide assistance to civilian authorities in investigating enforced disappearances. Please specify whether there are any ongoing investigations into alleged enforced disappearances that are still being processed by military courts and, if so, provide details on the steps being taken to hand them over to a civilian court (art. 11).

10. Please provide information on the nature and effectiveness of any measures taken at the federal and state levels to ensure that searches for alleged victims of enforced disappearance are launched as soon as the competent authorities are notified of a disappearance and to ensure effective coordination while also forestalling any duplication of efforts or jurisdictional overlap among the various federal and state bodies with the authority to search for missing persons and investigate enforced disappearances. In this context, please also provide information on the provisions contained in the new *Amparo* Act of 2013 that will facilitate the efforts of persons wishing to launch a search (art. 12).

11. While it notes the information provided in paragraphs 73, 74 and 164 of the initial report, the Committee would appreciate updated statistics covering the period that has elapsed since the entry into force of the Convention, disaggregated by gender, age (adult or minor), nationality and state, regarding: (a) the number of reported cases of alleged enforced disappearance; (b) the investigations conducted and their outcomes, including the sentences handed down to perpetrators; and (c) any reparation awarded to victims. Regarding the Missing Persons Search Unit attached to the Office of the Assistant Attorney General for Human Rights, Crime Prevention and Community Services, please provide information on: (a) the number of reports that it has received and investigated since its establishment, disaggregated by type of offence and outcome; (b) the human, financial and technical resources that it has been allocated; (c) the measures adopted to ensure coordination between it and other investigating authorities at the federal and state levels, including, but not limited to, the Office of the Assistant Attorney General for Organized Crime Investigations, the Executive Commission for Victim Support (CEAV) and the Strategic General Directorate for Human Rights of the Ministry of the Interior; (d) whether the Missing Persons Search Unit also has the authority to act in cases of disappearances whose investigation falls to state authorities and, if not, whether there are similar mechanisms at the state level (arts. 12 and 24).

12. Please provide detailed, updated information on the progress and results of investigations into enforced disappearances that allegedly occurred during the period known as “the dirty war”; this information should cover the entire period starting from the moment when the investigations were brought to the attention of the General Coordinating Office for Investigations (CGI). Specifically, please include information on: (a) the number of open investigations, their current status and the criminal offences that serve as their legal basis; (b) the number of persons charged and/or convicted; (c) whether there are cases in which it has been decided that the statute of limitations applies, and, if so, the reasons for such decisions. Please also provide updated information on the nature and effectiveness of

the measures taken to locate persons who may have been victims of enforced disappearance during this period (arts. 12 and 24).

13. Please provide detailed information on the nature and actual implementation of measures for protecting complainants, witnesses, relatives of disappeared persons and their defence counsels, as well as those participating in the investigation, against any form of ill-treatment or intimidation as a consequence of the complaint or of any testimony given. Please also include information on the measures that the Federal Prosecution Service may take to provide security and assistance to victims and witnesses (para. 148 of the initial report). Please also provide information on the measures taken to prevent and investigate acts of intimidation and/or ill-treatment directed at human rights defenders who are working to combat enforced disappearance and to protect victims of such acts, and the measures taken to punish the perpetrators of such acts (arts. 12 and 24).

14. Please supply detailed information on the measures provided for by law to ensure that persons suspected of having committed the offence of enforced disappearance are not in a position to influence the progress of an investigation or pressure, intimidate or take reprisals against persons participating in an investigation, including measures and precautions that may be taken by the Federal Prosecution Service (para. 148 of the report). Please also indicate whether the law provides for the suspension of a State official from his or her duties during an investigation when that official is a suspect and whether it is possible to exclude a law enforcement or security force from an investigation into an enforced disappearance when one or more of its officers stand accused of the offence (art. 12).

#### **IV. Measures to prevent enforced disappearances (arts. 16–23)**

15. Please provide information on the authorities responsible for determining whether or not a person is to be expelled, removed or returned to another country and explain what criteria are used to arrive at those decisions. Please also indicate whether it is possible to appeal a decision to authorize an expulsion, refoulement, surrender or extradition and, if so, indicate which authority would hear such an appeal, what the applicable procedures are, whether the appeal has suspensive effect and who is authorized to initiate it. Lastly, please provide information on the mechanisms and criteria applied in connection with expulsion, return, surrender or extradition procedures to assess the risk of a person being subjected to enforced disappearance (art. 16).

16. Please indicate whether there are legal or other provisions which require that, when persons are deprived of their liberty, their family members or any other person of their choice must be promptly notified and allowed to visit them. If so, indicate whether these provisions apply from the outset of the deprivation of liberty and whether complaints can be lodged if they are not applied. Please also provide information about the steps taken to ensure that notification is indeed prompt, particularly when a person is in preventive custody (*arraigo*) or when migrants in holding facilities are involved (art. 17).

17. In relation to the records kept on persons deprived of their liberty (arts. 17 and 22):

(a) Please clarify whether the entries recorded in the administrative arrest log of the Federal Police (para. 182 of the report) are reflected in the Detention Registry System (SIREN) used to record information concerning persons held for offences dealt with by the Office of the Attorney General of the Republic (paras. 198–203 of the report) and whether these two information systems reflect the entire chain of custody of persons deprived of their liberty, from initial arrest to release;

(b) Please indicate whether the SIREM system contains information on all persons deprived of their liberty, regardless of which state the place of detention is located in and regardless of the type of facility concerned (migrant holding facilities, for example). If it does not, please provide specific information on the other registers of persons deprived of their liberty that are kept in the State party and indicate whether there is a register that centralizes the information on all persons deprived of their liberty or whether there are plans to create such a register;

(c) Please provide information on the steps taken (including monitoring arrangements) to ensure that all registers on persons deprived of their liberty are duly filled out and kept up to date;

(d) Please indicate whether there have been cases in which officials failed to enter an arrest or detention or other relevant information in the registers on persons deprived of their liberty. If so, please provide information on what action was taken, the resulting penalties and the measures adopted, including the provision of any training, to prevent a recurrence of such incidents.

18. Please provide information on existing procedures or mechanisms at the federal and state levels whose purpose is to ensure that relatives or any other person with a legitimate interest have access to the information referred to in article 18 of the Convention (art. 18).

19. Please indicate whether all facilities in which persons deprived of their liberty may be held, regardless of their nature or location, come within the purview of the National Human Rights Commission in its role as the national mechanism for the prevention of torture. Please indicate what safeguards are in place to ensure that the Commission has immediate and unrestricted access to all places of detention. Please also provide specific information about any other mechanisms for the inspection of places of detention, including the authority they report to and the means by which they coordinate their work with the national preventive mechanism (art. 17).

20. With reference to paragraphs 232–244 of the report, please indicate whether the State party has developed a methodology for assessing the effectiveness of training programmes, particularly with respect to the prevention and investigation of cases of enforced disappearance. If so, please provide specific information on this methodology (art. 23).

## **V. Reparation and protection of children from enforced disappearance (arts. 24 and 25)**

21. Please indicate how a victim is defined in Mexican law, in particular under the Victims Act, and discuss its compatibility with the definition given in article 24, paragraph 1, of the Convention. Please also indicate what criteria must be met in order for a person to be considered a victim under the Victims Act and to be entitled to the rights that it confers. Also, please indicate whether the victims of enforced disappearances that took place before the entry into force of the Act are also entitled to the benefits that it provides for. In addition, please provide information on the implementation of the Victims Act at the federal and state levels and indicate how many victims of enforced disappearances have been assisted under the terms of this Act since its entry into force and what services have been provided to them, including full redress, in particular. Please also indicate how many victims of enforced disappearance were served by the now defunct Crime Victims Programme (Províctima), what services were provided and how the Programme's functions have been integrated into the work of the Executive Commission for Victim Support (CEAV). Please also supply information on the results achieved to date by CEAV and indicate how victims participate in its work. Lastly, please indicate whether there are any

rehabilitation programmes for victims of enforced disappearance and, if so, specify what states those programmes operate in and the number of victims who have benefited from them since the entry into force of the Convention (art. 24).

22. With reference to paragraphs 43–46 of the report and to the 275 cases referred to by the National Human Rights Commission in its recommendation No. 26/2011, please provide specific information on the reparations granted by the interdisciplinary committee that was set up to compensate victims for violations of the human rights of individuals associated with social and political movements in the 1960s and 1970s. If there are victims of enforced disappearances who have still not received appropriate redress, please provide information on the reasons for the delay, bearing in mind that the committee was created in 2001. Please also indicate whether there are plans to extend reparation to other possible victims of enforced disappearances during that period whose cases were not corroborated by the National Human Rights Commission in its recommendation No. 26/2011 (art. 24).

23. Please provide information on the forensic services available in the State party to identify and return the remains of disappeared persons who were murdered. Please also describe the steps taken to ensure the coordination of forensic services in the State party and to ensure that they have the human, financial and technical resources to do their work in an effective manner. Please also provide current information on the work of the Forensic Subgroup and the Technology and Forms Subgroup of the Working Group on Enforced Disappearances, including information having to do with the national register of unidentified human remains and the register of ante-mortem information, and on progress towards the implementation of the standard identification protocol at the state level (para. 231 of the report). Lastly, please describe the measures taken to locate unmarked graves and provide statistics for the period since the entry into force of the Convention concerning the persons who have been found and identified or have yet to be identified, indicating any obstacles that the State party may face in that respect (art. 24).

24. Please provide information on current federal and state legislation on the legal situation of disappeared persons whose fate has not been clarified and that of their relatives in relation to such matters as social welfare, financial matters, family law and property rights (art. 24).

25. Please provide information on the criminal laws, at both the federal and the state levels, that would apply to the acts described in article 25, paragraph 1, of the Convention. Please also provide information on any federal or state procedures for reviewing and, if necessary, annulling any adoption, placement or custody arrangement that originated in an enforced disappearance. If these procedures are not yet in place, indicate whether any proposals are being put forward to bring federal and/or state laws into line with article 25, paragraph 4, of the Convention (art. 25).

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