

## Enforced Disappearances in Latin America: Not Just a Crime of the Past

### The situation of Mexico, Colombia, and Honduras

Statement for the Record of the Tom Lantos Human Rights Commission hearing on “Enforced Disappearances in Latin America: Taking Stock”

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We salute the Tom Lantos Human Rights Human Rights Commission for holding this important hearing on enforced disappearances in Latin America. Enforced disappearances have profoundly wounded too many Latin American families and societies. The crime has a wrenching impact on family members—as Colombian scholar Alfredo Molano has said: “To the torment of absence is added the sorrow of doubt.” Family members are often stigmatized, excluded, and not recognized as victims.

Unfortunately, this hearing is still all too timely. The problem of enforced disappearance in Latin America is not over. This not just because so many truths remain covered up, and justice for many families remains out of reach—but because enforced disappearances still take place.

Here is a summary of issues related to enforced disappearances in Mexico, Colombia, and Honduras.

#### **Mexico: Slow progress in addressing enforced disappearances amidst ongoing impunity and massive forensic backlog**

The Andrés Manuel López Obrador (AMLO) Administration has made some progress in addressing enforced disappearances in Mexico in the first two years of his presidency, though significant challenges in the forensic identification, investigation, and prosecution of these cases remains. Progress in the search of disappeared persons is due, in large part, to the mechanisms established under the General Law on Enforced Disappearances and Disappearances Committed by Non-State Actors (*Ley General en Materia de Desaparición Forzada de Personas, Desaparición Cometida por Particulares y del Sistema Nacional de Búsqueda*) that came into force in January 2018 and to the civil society participation in its implementation. According to a National Registry published by the National Search Commission (*Comisión Nacional de Búsqueda, CNB*) one of the mechanisms established under the law, as of July 13, 2020, there were [73,201 disappeared persons](#) in Mexico from 1964 through the present, with the majority of cases occurring from 2007 onwards, demonstrating the widespread and ongoing nature of the crisis. 2019 had the second highest number of cases on record, with 7,350 reported disappearances.

#### ***Ayotzinapa case***

The sixth anniversary of the disappearance of the 43 students from the Ayotzinapa rural teachers’ college in the state of Guerrero in September 2014 marked important steps towards truth and justice in the case, though it is important that more assertive steps are taken before more time passes in what has already been such a long and painful process for the families of the students. To date, only two of the remains of the disappeared students have been identified. Recently, the remains of another one of the

students, Christian Alfonso Rodríguez Telumbre, [were identified](#) thanks to the work of forensic experts, civil society and the Special Investigation and Litigation Unit for the Ayotzinapa case within the National Attorney General's Office (FGR, by its Spanish acronym). His bone fragments [were found](#) in a different location to the one that had been identified by the previous Peña Nieto Administration as the site of the incineration of the students, adding to the lack of veracity of this administration's "official" version of the disappearance of the students.

The special prosecutor's unit for the case [had also taken significant steps](#) in the investigation of the case such as issuing arrest warrants for several government officials, including municipal government officials, and a marine for torture and obstruction of justice in the case. There is an outstanding arrest warrant for Tomás Zerón, the former head of the Attorney General's Criminal Investigation Unit, for obstruction of justice, torture of witnesses and enforced disappearance. The FGR also recently [announced](#) arrest warrants for the first time for members of the army and federal police believed to have participated in the disappearance of the students.

A change in narrative that recognizes the involvement of the state in the disappearance of the students has also been important. During his first few days in office, President López Obrador established a [Presidential Commission for Truth and Justice](#) (COVAJ by its acronym in Spanish) on the Ayotzinapa case chaired by Alejandro Encinas, the Interior Ministry's undersecretary for human rights and migration with the participation of civil society organizations, and the families to coordinate efforts around the case. On the sixth anniversary, the President and other government officials [issued the families a formal apology](#) recognizing the disappearance of the students as a state crime.

Moving forward, it is crucial that the Mexican government expand its efforts to search for the students, investigate the material and intellectual authors of the disappearance including government officials and security and law enforcement forces, and ensure that those who obstructed justice are held responsible.

### ***Challenges in the search and forensic identification of disappearance cases***

As of July 2020, [all 32 of Mexico's](#) states had created local search commissions mandated by the General Law on Disappearance, but appropriate staffing and funding of each commission remains a challenge. Between December 2018 and July 2020, the National Search Commission [located](#) 1,143 clandestine graves and exhumed 1,682 bodies. Collectives of families of the disappeared have [recognized](#) the government's political will in searching for the disappeared but raised concern with the methodology utilized for the National Registry and stressed the importance of working with state authorities to publish the cases included in the registry in a more accessible and transparent manner. In August, the Mexican government approved a [national protocol](#) for the search of disappeared and missing persons, after consulting with civil society organizations and families, that includes standards and guidelines for coordinating on searches between governmental agencies and nongovernmental organizations. [Fifteen skeletal remains](#) were recently found in the state of Guanajuato by family members of the disappeared who form a part of the state's local search commission. They brought the remains to the attention of the state prosecutor, demonstrating the crucial role that family members and local search commissions play in the identification of remains. Collectives of families of the disappeared continue leading their activism amidst [threats and danger](#) against them including by local police and organized crime.

The forensic identification of disappearance cases remains a challenge requiring international assistance, especially in terms of acquiring appropriate facilities and technology. A major step forward

was the Mexican government's approval of an [Extraordinary Mechanism for Forensic Identification](#) (MEIF by its acronym in Spanish), which will lead the government's efforts to identify remains and clear the backlog of unidentified remains in government custody with the support of international experts and civil society groups. It will be important for this mechanism to coordinate with national and state level prosecutors' offices. As of August 2020, [25 specialized state prosecutors' offices](#) had been established for handling disappearances out of the total 32 states, though those that do exist are underfunded and understaffed.

### ***Investigation and prosecution of enforced disappearances***

There is practically no progress in the prosecution of enforced disappearance cases and impunity remains the norm. The federal-level Special Prosecutor's Office for Disappearances, weak and underfunded, brought charges in only [four cases in 2019](#) and did not secure any convictions last year. More recent cases of enforced disappearances such as the case of at least 21 individuals who were forcibly disappeared in Nuevo Laredo, Tamaulipas between February and May 2018 have not had any new developments beyond suspending a few of the marines who may have been involved.

### **Recommendations for U.S. policy:**

- Urge the Mexican government to ensure that the Specialized Prosecutor's Office for the Ayotzinapa case has sufficient resources to continue the investigation, takes immediate steps to hold the material and intellectual authors of the enforced disappearance of the 43 students accountable and accelerates the search for the students.
- Continue to provide support to strengthen Mexico's forensic capacity via USAID for forensic laboratory assistance, support for state-level efforts and infrastructure to identify human remains, and support for the new Extraordinary Mechanism for Forensic Identification ensuring it has the necessary infrastructure and technology, as well as full autonomy, to do its work. Encourage the Mexican government to ensure the participation of international experts and civil society in the mechanism's work.
- Urge the Mexican government to advance the effective and well-funded implementation of the General Law on Enforced Disappearances and Disappearances Committed by Non-State Actors, including moving ahead with the establishment of all of the state-level search commissions and specialized prosecutor's offices, the full funding and staffing of the federal-level Specialized Prosecutor's Office for Disappearances, and the development of the various forensic databases mandated by the General Law.
- Increase support for human rights programming in Mexico including for protection for journalists and human rights defenders, as well as families of the disappeared. Offer public support via statements and conduct visits to human rights defenders and journalists, including family members of the disappeared, and call for protection measures and swift investigations into threats and attacks against them.

### **Colombia: Peace accords offer opportunity for progress on search for the disappeared, but advances needed**

According to the Center for Historical Memory, more than [80,000](#) people were forcibly disappeared in the course of the conflict in Colombia. A definitive number is still lacking as various [databases](#) with

different definitions and methods exist, and as transitional justice mechanisms are still in the midst of carrying out their mandates. Victims of forced disappearances include the rural and urban poor, labor and peasant organizers, journalists, human rights defenders, politicians, and Afro-Colombian and indigenous leaders. The victims of forced disappearance were buried in unmarked graves in cemeteries; thrown into rivers and town dumps; buried in the jungle outside the camps of illegal armed groups; or in the case of the “false positive” extrajudicial executions, dressed in guerilla clothing by army soldiers and buried as enemy dead. One study by the Center for Historical Memory [attributes](#) 46 percent of cases (of those in which perpetrators can be identified) between 1970 and 2015 to paramilitary groups, 19.9 percent to guerrillas, 8.8 percent to state agents, and 8.8 percent to paramilitary successor groups. Beyond the problem of forced disappearance is the broader problem of people who have gone missing in the conflict, such as victims of forced recruitment, kidnapping, and soldiers and illegal armed actors whose bodies have not been recovered.

As part of the historic 2016 peace agreement between the Colombian government and the FARC guerrillas, a tripartite transitional justice system was set up, including a truth commission (*Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición*), a transitional justice court (*Jurisdicción Especial para la Paz, JEP*) and the Unit to Search for Disappeared Persons (*Unidad de Búsqueda para Personas dadas por Desaparecidas*). The Search Unit has no judicial functions but is intended to locate and identify the disappeared and missing, coordinate searches, and help to provide, if possible, the dignified return of persons’ remains to their loved ones. The Search Unit is charged not only with searching for the victims of enforced disappearance, but for those missing in the conflict, including victims of forced recruitment and kidnapping, and soldiers and illegal armed actors whose whereabouts are unknown. The work of the unit, which has 20 years to complete its task, is intended to contribute to the broader effort of satisfying the rights of victims to truth, justice, and meaningful reparations.

The Search Unit took substantial [time](#) to launch full operations, launching its operations more slowly than the other transitional mechanisms. Nevertheless, in May 2020, the Search Unit completed, with strong, participatory input from family members of the disappeared from across the country, a National Search [Plan](#) for the Disappeared and 11 regional search plans. Among the tasks the unit faces are searching through, digitizing where needed, and merging multiple government agency databases; participating in the investigation of cemeteries in which unidentified bodies have been buried; and coordinating with the Attorney General’s office and family members of the disappeared in the identification of bodies and the matching of records to victims’ requests to locate their loved ones.

The work of the National Search Unit should build upon and accelerate the work already done to identify the missing and disappeared. The Attorney General’s office, which is responsible for exhumations, has exhumed over [2400](#) bodies since 2010, and returned the remains of over 400 people to their family members. Still, this is a tiny fraction of the daunting task. And prosecuting enforced disappearances remains a largely unmet challenge. One nongovernmental investigation estimates a level of [99.51](#) percent impunity for cases of enforced disappearance.

Enforced disappearances continue to the present day. From the signing of the government-FARC peace accord in December 2016 until August 2020, the International Committee of the Red Cross has registered [466](#) new disappearances related to the armed conflict and sociopolitical violence.

Finally, the search for truth and justice for people who were forcibly disappeared continues to be a dangerous task, and family members of the disappeared and human rights organizations receive often continuous threats and attacks.

**Recommendations for U.S. policy:**

- Urge the Colombian government to fully implement the 2016 peace accords, including the victims and ethnic chapters, and provide each year adequate budget for the National Search Unit as well as the truth commission and the JEP;
- Continue to provide funding via USAID to the National Search Unit and to civil society organizations, including associations of family members of the disappeared and groups providing forensic, human rights, and psychosocial accompaniment and expertise;
- Encourage the National Search Unit to advance effectively in its efforts to investigate and identify victims of forced disappearance, while continuing to consult and coordinate with family members of the disappeared, human rights, and forensic organizations;
- Encourage the Colombian authorities to act promptly and effectively to search for newly disappeared persons and communicate with their families;
- Raise concerns regarding threats and attacks against family members of the disappeared and human rights activists when these take place, urging both investigations of these threats and attacks and protection measures for those who request and need them; and
- The U.S. president should issue a declassification order for U.S. documents that might provide truth and justice for victims of enforced disappearances as well as other victims of the Colombian conflict, providing these documents to Colombia's truth commission.

**Honduras: Impunity for the past, a new case – the missing Garifuna leaders, and Hondurans missing on the migrant trail**

Honduras experienced a series of forced disappearances by agents of the state in the 1980s. Honduras's Human Rights Commissioner, Leo Valladares, published a report in 1993, *The Facts Speak for Themselves*, investigating the disappearances. He concluded that [179](#) forced disappearances took place between 1979 and 1990, the majority between 1982-84, by members of Honduran security forces. The groundbreaking report offered hope and support to the family members of the victims. However, few of the recommendations of Valladares' report were carried out, and almost all of these cases remain in impunity.

Enforced disappearances still take place in Honduras. For example, in July 2020, four Garifuna (Afro-Honduran) men and a fifth person were [kidnapped](#) from their homes in Triunfo de la Cruz, Honduras at gunpoint by men [wearing](#) uniforms of a Honduran government police investigative unit (DPI), and, according to witnesses, identifying themselves as investigative police. Among the men were community activists, including Alberth Sneider Centeno, leader of the Triunfo de la Cruz community and active participant in Garifuna rights group OFRANEH. Sneider is a [principal force](#) behind efforts to defend Garifuna territory and urge compliance with the Inter-American Court of Human Rights 2015 ruling ordering the Honduran government to [respect](#) the rights and territory of the Triunfo de la Cruz community. Little progress seems to have been made in investigating the disappearance of these men.

Another issue facing Hondurans is the disappearance of migrants en route to Mexico and the United States. This crisis is not just limited to Honduran migrants as Salvadoran, Guatemalan, and other migrants have also faced the same fate. While some of these may not be cases of enforced disappearance, the search for loved ones is doubly difficult as victims' families have to navigate their search not only with the Honduran authorities, but transnationally, with Guatemalan, Mexican, and U.S. authorities. Mothers and other family members of missing have organized caravans of family members to Mexico to seek information about their loved ones, and have tried to reach out to Immigrations and Customs Enforcement (ICE) detention centers in the United States to see if their missing family member ended up there. Missing migrants may have been victims of organized crime or state agents in Mexico or elsewhere; they may have simply lost communication with their families; or they may be in detention in the United States, Mexico, or Guatemala.

**Recommendations for U.S. policy:**

- Urge the Honduran authorities to investigate promptly and effectively the disappearance of the 5 men from the Garifuna community of Triunfo de la Cruz. Special care must be taken as the perpetrators wore the uniforms of the unit normally charged with such investigations. Urge the Honduran authorities to communicate about progress in the search with the missing men's family members. Urge effective prosecution of this case as well as other cases of possible enforced disappearance.
- Ensure coordination between U.S. authorities and the government and consular authorities of Honduras (or appropriate home country) and communication with the family of the disappeared migrant on the treatment and repatriation of remains taking into consideration the wishes and traditions of the family in their language. With the participation of family members, civil society organizations, and independent experts, ensure the inclusion of unidentified remains in forensic data banks on deceased migrants.