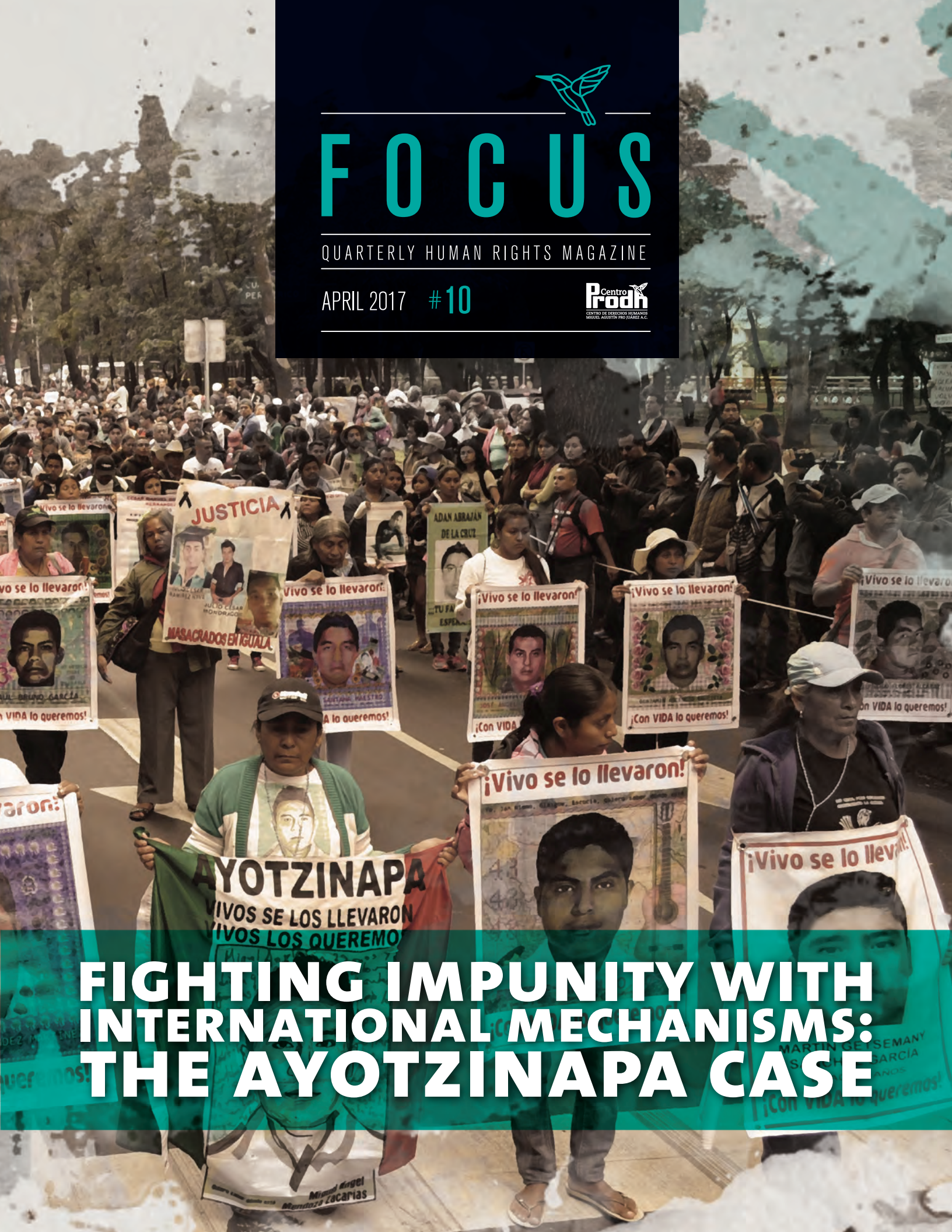




FOCUS

QUARTERLY HUMAN RIGHTS MAGAZINE

APRIL 2017 #10



FIGHTING IMPUNITY WITH INTERNATIONAL MECHANISMS: THE AYOTZINAPA CASE

Directory

Mario Ernesto Patrón Sánchez
DIRECTOR

Santiago Aguirre Espinosa
SUBDIRECTOR

THE CENTRO PRODH TEAM

DIRECTION AND ADMINISTRATION

Alejandra Govea Briseño
Bernardo Padrón Samaniego
Hiram Gutiérrez Bautista
Inés Casarrubias Gámez
Isaias Gonzalo Flores Romero
José de Jesús Maldonado García
José Luis Alvarado Rodríguez
Mireya López Cruz
María del Consuelo López Juárez
María del Rosario Reyes Jiménez

INSTITUTIONAL DEVELOPMENT AREA

Alexandra Jiménez Martínez
Raffaella Kely Brunner
Yeny Santiago Alcaraz

INTEGRAL DEFENSE AREA

Araceli Magdalena Olivos Portugal
Daniela Aguirre Luna
Gabriela Carreón Lee
Gabriela Rodríguez Limas
Luis Eliud Tapia Olivares
María Esther Martínez López

INTERNATIONAL AREA

María Luisa Aguilar Rodríguez
Sofía de Robina Castro
Stephanie Erin Brewer

EDUCATION AREA

Laura Estela Mendoza Gómez
Meyatzin Velasco Santiago
Víctor Hugo Carlos Banda
María Guadalupe Isaac Carreño

COMMUNICATIONS AREA

Adazahira Chávez Pérez
David Eduardo Mirafuentes Ortega
Narce Dalia Santibañez Alejandre
Xosé Roberto Figueroa Rivera

Since being founded by the Jesuits in 1988, the MIGUEL AGUSTÍN PRO JUÁREZ HUMAN RIGHTS CENTER (Center Prodh) has worked to defend, promote and increase respect for human rights in Mexico, with a focus on social groups that find themselves in situations of vulnerability such as indigenous populations, women, migrants and victims of social repression.

Serapio Rendón 57-B, Col. San Rafael,
México D.F. Tels: (0155) 5546 8217, (55) 5566
7854, (55) 5535 6892 / Fax: ext. 108

Contents

-
- 01** Editorial: A light that illuminated the path
-
- 02** Truth Out the Garbage Dump
-
- 08** Problems in human rights investigations in Mexico identified through the Ayoyzinapa Case* | **Claudia Paz y Paz Bailey****
-
- 12** What does placing the victims at the center of the case mean? | **Carlos Martín Beristain****
-
- 16** Encouragement to seek the truth
-
- 18** International Assistance for a Country Living with Impunity
-

* Adapted from an article written in September 2016 and published in the January 2017 edition of the magazine *AportesDPLF* of the Due Process of Law Foundation.

** Former GIEI members.





Editorial | A light that illuminated the path



ON THE NIGHT OF SEPTEMBER 26, 2014, IN IGUALA, in the Mexican state of Guerrero, one of the most emblematic episodes of human rights violations in the recent history of our country occurred. The results were brutal: the enforced disappearance of 43 young students who are still missing; six people killed, including three Ayotzinapa students, including a man whose body appeared the following day in an uninhabited area with clear signs of torture; at least 40 people injured. In all, more than 180 people were direct victims of human rights violations that night and about 700 people were indirect victims, considering the relatives of the victims.

Ayotzinapa forced the world to see and accept that a serious human rights crisis was taking place in Mexico, which has as a particular characteristic the collusion between state and non-state actors in organized criminal activities. The so-called "Iguala Case" became a painful and paradigmatic event defined by the number of victims and the student identity of the disappeared. It is a case marked by the flagrant collusion between authorities and criminal groups, but also by an immediate documentation of what happened by human rights organizations, an ingrained tradition of social struggle in the state of Guerrero and in the school of Ayotzinapa, and an early internationalization of some aspects of the search for justice. Above all, the organizational and moral force of the fathers and mothers of the disappeared made an intense impact on the national and international public.

In the midst of pain, mothers, fathers, sisters, uncles, daughters, and grandparents of the students have spearheaded initiatives to search for the young men and the demand justice. One of these was the formation of the Interdisciplinary Group of Independent Experts (GIEI), which worked for more than a year in our country. Although the obstacles placed in the GIEI's path did not allow the group to transform its findings into the full discovery of the truth, justice, and structural change, the contributions made by this unprecedented exercise of international supervision have been of great relevance to ensure that the truth regarding the case is not covered up. These contributions also clearly marked a route that could allow us to take the first steps to emerge from the crisis that led to the events of September 26 and 27, 2014, and to so many others.

In this issue of Focus we present what, from our perspective, are the main contributions of this experience, both structural and within the case. You will also be able to read, from the voices of members of the GIEI, about the problems in the investigation and the challenges in ensuring that the victims are at the center of the process. Above all, we hope to contribute to an ongoing debate about how to break the cycle of impunity that harms everyone in our country.

MARIO PATRÓN SÁNCHEZ

DIRECTOR OF CENTER PRODH

Presentation of GIEI's second report in the Ayotzinapa Rural Teacher College, 2016.

Photo: Center Prodh



Cocula landfill, 2014.
Photo: Saúl Ruiz | El País

Truth Out the Garbage Dump

Thanks to the Interdisciplinary Group of Independent Experts (GIEI), today we know more about the facts of Ayotzinapa than in January of 2015 when the federal government announced the so-called “historical truth” of the case. The facts demonstrated by the GIEI, the flaws that it discovered in the investigations, the evidence that it offered, and the lines of investigation it followed reversed the government’s attempt to close the case by decree. The GIEI’s task remains unfinished mainly due to the obstacles generated by the authorities, but the members of this group managed to rescue the truth from the landfill and offer encouragement and tools to the families to carry on the struggle.

FIND THE TRUTH, EVEN IF IT HURTS. This was the request of the families and the slogan of the Interdisciplinary Group of Independent Experts (GIEI), appointed by the Inter-American Commission on Human Rights (IACHR) to give technical assistance in the Ayotzinapa case.

The technical assistance that materialized in the creation of the GIEI occurred within precautionary measures MC/409/14 of the IACHR and was proposed by the families and their representatives.

These organizations include: the Miguel Agustín Pro Juárez Human Rights Center, charged with coordinating national and international legal strategy, the Tlachinollan Human Rights Center, and the José María Morelos y Pavón Regional Center for Human Rights, which were later joined by Services and Counseling for Peace, and Fundar Center for Analysis and Research.

The request for technical assistance came in a context of national and international pressure aimed

at the federal government, which was consequently forced to join the request. Between November 12 and 18, 2014, the terms of the assistance agreement were consolidated, which among other things authorized the IACHR to appoint the members of the GIEI (Clause 4). The group of experts was mandated to carry out a technical verification of the search plans (Clause 5), lines of investigation (Clause 6), victim care plans (Clause 7) and institutional capacities with respect to the search and case investigation of enforced disappearances (Clause 8).

First phase. From the historical truth to the report that debunked the official theory

Between the formal request for technical assistance and the arrival of the GIEI in Mexico, on March 2, 2015, the PGR sought to achieve a *fait accompli* by publishing the so-called "historical truth". This narrative held that all 43 missing students had gone to Iguala to interrupt a municipal event; that once there, municipal police officers arrested them. In turn, the police gave them to members of a criminal organization who confused them with members of a rival group, killed them, burned their bodies to cremation on a pyre in a garbage dump in the locality of Cocula, and finally, cast their remains into the San Juan River.

The families demanded scientific proof of the theory, which was based on statements of detainees. To bolster its version, the PGR announced that a piece of bone was allegedly found in a bag in the river. When tested in the laboratory of the University of Innsbruck on the recommendation of the family's experts –the Argentine Forensic Anthropology Team (EAAF)–, the piece of bone matched the profile of Alexander Mora Venancio, one of the missing students. Without questioning the identification made by Innsbruck, the EAAF pointed out multiple irregularities in the collection of the sample that cast doubts on its origin, given that the chain of custody was not preserved. Additionally, the evidence supposedly collected in the river could not be linked to the evidence collected in the landfill.

In this scenario, the arrival of the GIEI changed the intended closure of the case.

During the first phase of its mandate (from March to 6 September 2015), during which it had at least minimum conditions to carry out its work, the

group of experts became a reference and confidence factor for the families.

In its report on this first period, the GIEI made recommendations and recorded its findings: it reconstructed the events of September 26, from when the students left the school to the disappearances; showed that the students were monitored at all times through the c4 (interagency communications and coordination mechanism) and that their intention was not to boycott the political event. Further, the group found a plurality of moments and criminal events not recognized in the official version; described an increase in violence during the attacks and concluded that they were aimed at preventing buses taken by students in Iguala from leaving the city. The GIEI expressed concern about the fragmentation of the investigations and addressed the lack of immediate search and use of intelligence, and it gathered the testimony of families, putting their experienced at the center of the case.

Additionally, the GIEI submitted the burning hypothesis to an independent expert who concluded that the existence of such a human pyre could not be inferred from the evidence, testimonies, and expert reports carried out by the PGR. For the families, this confirmed what they had previously denounced: that the investigation was manipulated to conform to an official hypothesis, intended to limit the responsibility of authorities to the municipal level.

The federal government reacted through the PGR, stating that the GIEI's report would be analyzed to assess its incorporation into the investigation. The forcefulness of the report obliged the President of the Republic to meet again with the families and with the GIEI, this time on September 24. In a tense meeting, the families denounced the falsehoods in the investigation and demanded that the work of the group be continued.

The GIEI presented the report to the plenary of the IACHR on October 19. On the 28th of the same month, and after working meetings of the Commission with representatives of the State and of the families, the GIEI's mandate was renewed.

Second stage. Obstruction and irregularities

In this second period, which would culminate in the presentation of the group's second report in

Stump without large fire traces
in Cocula landfill, 2014.
Photo: Argentine Forensic Anthropology Team (EAAF)



Between the formal request for technical assistance and the arrival of the GIEI in Mexico, on March 2, 2015, the PGR sought to achieve a *fait accompli* by publishing the so-called "historical truth".

April 2016, without having met the objective for which it was created, the GIEI faced harsher conditions. These challenges included the impossibility of interviewing the accused, a delay in compliance with its requests, a media campaign to discredit its members, and, above all, the media manipulation of new expert reports on the possibility of a fire in attempts to validate the hypothesis of the garbage dump.

Although the GIEI considered that this new testing of the fire hypothesis was unnecessary, under the pressure of the PGR and as a gesture of good faith it agreed to participate in a new forensic review under certain conditions. The PGR violated the conditions and at the beginning of April 2016 presented to the public a preliminary study, not endorsed by all the experts and inconclusive, giving the impression that the human pyre was possible. This brought considerable tension between the panel of experts and the federal government.

Three weeks later, at an event that the authorities refused to attend, the GIEI presented its report *Ayotzinapa II. Progress and new conclusions on the investigation, search and attention to the victims*. In it, the group documented new scenarios not investigated by the PGR in a greater territorial extension, participation at different levels of all security corporations –municipal, state and federal– and the reluctance of the PGR to follow different lines of investigation differing from the official hypothesis, in addition to omissions and delays in investigation of international drug trafficking.

The GIEI also showed telephone analysis that shows activity on students' devices beyond the hours these were allegedly cremated along with

the bodies. It especially exposed serious irregularities in the lifting and processing of evidence allegedly collected in the San Juan River, in which the only bone fragment with a positive identification has been located thus far. In particular, the head of the Criminal Investigation Agency participated in a visit to the river with one of the suspects, in an episode not recorded in the case file.

Apart from documenting that 17 individuals presented as fundamental witnesses of the historical truth were tortured, the GIEI noted mechanisms that perpetuate impunity in human rights violations such as formalism, bureaucracy, the preponderance of testimonial evidence and confessions, and deficient analytical capacity. Further mechanisms include defects in the definition of crimes, fragmentation of investigations, denial of information to victims, obstruction of justice, reluctance to investigate the chain of command, lack of technology in searches, deficiencies in burials and exhumations, revictimization and criminalization of aggrieved persons, lack of guarantees upon arrest, and so on.

The report had a great public impact not only in Mexico but also at the international level, coupled with the Mexican government's refusal to renew its mandate despite the families' request for the experts to stay given the continuing relevance of the GIEI's founding objective.

Thus, given the lack of conditions to continue its work, the GIEI left a list of 20 priority recommendations for the government and gave way to the Special Follow-up Mechanism of the IACHR, a new formula of the inter-American Commission to continue supervision given that the case continues

Thanks to the profile of the members of the giei, one of the main contributions was to put the victims at the center of the conflict, contrary to the inertia of the Mexican justice system that revictimizes and ignore them.

to meet the requirements of severity, urgency and irreparability.

The GIEI's contributions to the case

Thanks to the profile of the members of the GIEI, one of the main contributions was to put the victims at the center of the conflict, contrary to the inertia of the Mexican justice system that revictimizes and ignores them. The GIEI acknowledged their suffering, highlighted their dignity and rescued their words. Further, it took concrete steps to understand and mitigate the profound impact that the tragic event has had on their lives.

Another one of the achievements of the group was to clarify an important interval of the occurrences of September 26 and 27 drawing from a coherent reconstruction, prioritizing evidence over confessions (which are overshadowed by the evidence of possible torture). The group further discarded the thesis that the students have been attacked for attempting to sabotage a political event or for being identified as hitmen of a rival group of the Guerreros Unidos. On the contrary, it determined that the attacks were to prevent the buses taken by the students from leaving the city.

Precisely by reconstructing the complex events that happened that night and by integrating multiple scenarios ignored by the PGR, the GIEI realized the magnitude of the attack. The case could not come from collusion in the purely municipal scope given the territorial control and intervention by action or omission of different actors (security forces of all levels, military and civilian) and with degrees of escalating violence. It pointed to the need

to investigate the criminal structures colluded with the three levels of government.

With this accumulation of evidence, the GIEI left a clear path to achieve truth and justice in the case, embodied in the 20 recommendations sent to the government. The recommendations are: 1) Unify the different criminal cases; 2) Avoid the fragmentation of the inquiry by incorporating other related investigations; 3) Prevent interference in the inquiries by the Office of the Special Prosecutor for the Investigation of Organized Crime (SEIDO), inasmuch as this body led the investigation into a hypothesis that proved unsustainable; 4) Consider other human rights violations and crimes committed; 5) Take pending testimonies; 6) Follow up on telephone record information of students and suspected perpetrators; 7) Contrast ballistic evidence collected in different scenes with weapons of the different police; 8) Continue to collaborate with Innsbruck and the EAAF for genetic testing, avoiding revictimization; 9) Require the relevant military documentation that has not been delivered; 10) Investigate the possible transnational movement of narcotics; 11) Fully identify the fifth bus and possible falsehood in declarations; 12) Investigate allegations of ill-treatment or torture; 13) Determine responsibility for omissions regarding security forces present during the acts; 14) Arrest alleged perpetrators who remain fugitives; 15) Investigate the property of alleged perpetrators; 16) Investigate possible obstruction of the investigation; 17) Disseminate a narrative of the case in line with reality and with the findings of the GIEI; 18) Continue with the search processes of the disappeared students; 19) Maintain spaces for dialogue and communication with family members; and,

finally, 2o) Ensure the safety of family members and their representatives.

The evidence and professional work shown by the members of the GIEI forced the authorities to open an internal investigation in the PGR regarding the irregularities in the case and to accede to some of the recommendations. However, there does not seem to be will from the federal government to clarify the case despite having the information and ability to do so.

As it was from the beginning, it will be the combination of social demands and technical work that

can bring justice and truth to these victims, who opened new paths for themselves and the families of more than 30,000 disappeared individuals who are officially recognized in Mexico.

The Special Follow-up Mechanism of the IACHR, which will follow up on the work of the GIEI, presents a new opportunity to achieve justice and truth that must not be wasted. The obstacles imposed on the experts are known, making it all the more relevant to reach a commitment from the authorities that this time there will be guarantees for the Mechanism to carry out its work. 🌿

Cocula landfill, 2016.

Photo: Témoris Grecko/Ojos de Perro vs la Impunidad A.C.





Protest 15 months after the enforced disappearances, 2015.
Photo: AP

Problems in human rights investigations in Mexico identified through the Ayotzinapa Case

ADAPTED FROM AN ARTICLE WRITTEN IN SEPTEMBER 2016 AND PUBLISHED IN THE JANUARY 2017 EDITION OF THE MAGAZINE *APORTES DPLF* OF THE DUE PROCESS OF LAW FOUNDATION

Claudia Paz y Paz Bailey

Former GIEI member

The Interdisciplinary Group of Independent Experts (GIEI) was appointed by the Inter-American Commission on Human Rights (IACHR) within the Precautionary Measure 409/2014, issued due to the enforced disappearance of 43 students of the "Raúl Isidro Burgos" Ayotzinapa Rural Teacher College on September 26, 2014 in Iguala, Guerrero. In November 2014, the IACHR, the Mexican government, and representatives of the victims signed a technical assistance agreement that gave life to the group. This established the mandate of the GIEI to assist in the investigation carried out by the Attorney General's Office (PGR), the search for the disappeared young men, the Plan of Integral Attention to the Victims, and the creation of general recommendations regarding the problem of enforced disappearance in Mexico.

THE INTERDISCIPLINARY GROUP of Independent Experts (GIEI) was appointed by the Inter-American Commission on Human Rights (IACHR) within the precautionary measure 409/2014, issued due to the enforced disappearance of 43 students of the "Raúl Isidro Burgos" Ayotzinapa Rural Teacher College on September 26, 2014 in Iguala, Guerrero. In November 2014, the IACHR, the Mexican government, and representatives of the victims signed a technical assistance agreement that gave life to the group. This established the mandate of the GIEI to assist in the investigation carried out by the Attorney General's Office (PGR), the search for the disappeared young men, the Plan of Integral Attention to the Victims, and the creation of general recommendations regarding the problem of enforced disappearance in Mexico.

The GIEI was composed of five experts: Carlos Martín Beristain, Alejandro Valencia Villa, Ángela María Buitrago, Francisco Cox, and Claudia Paz y Paz, who worked two terms of six months each. We presented two reports: one in September 2015 and the second in April 2016. In the latter, a chapter detailed our findings on the workings of the criminal investigation system and attention to victims in Mexico as well as various shortcomings that limit the possibility of fully clarifying the events of September 26 and 27 and identifying all those responsible. These problems are common in the investigation of human rights violations in this country.

Here we will reference some of the shortcomings that most deeply undermine the chances of progress in the investigation to determine the fate of the 43 missing students and the identity and responsibility of all perpetrators.

The theory of the case presented by the PGR has weaknesses and contradictions. According to their version, the 43 students were taken to the Cocula landfill where they were killed and cremated and their remains thrown in a nearby creek. This story is based exclusively on the statements of five alleged members of Guerreros Unidos, who gave confessions. According to the official medical reports, these five people had strong indications of having suffered torture between the time they were arrested and when they gave their confessions to the PGR while they were in the custody of the Office of the Special Prosecutor for Investigation of Organized Crime (SEIDO).

This version of the fate of the missing students contradicts the findings of a fire expert, Dr. José Torero, and an expert opinion from the Argentine Forensic Anthropology Team (EAAF), which indicate that there is no physical evidence to support the version of events allegedly given by the perpetrators. On the contrary, the physical evidence found in the garbage dump of Cocula indicate there was no fire of the magnitude necessary to incinerate 43 bodies during the dawn hours of September 26 to 27, 2014.

These findings revealed serious shortcomings not only in clarifying the facts but also because the investigation of the truth was hampered by an official version that contradicts scientific evidence, based on the confessions of people who had strong indications of having been tortured.

The use of confessions as the sole source of evidence is not an exclusive problem of the investigation of the enforced disappearance of the 43 students; as documented in various reports, it is a recurring problem in investigations of organized crime in Mexico, encouraged in part by national jurisprudence. Several judgments argue that in cases of organized crime, the confession of the accused is full indirect evidence, that is, it is intermediate evidence that, joined with another piece of evidence, however small, acquires "full" evidentiary value. The "other evidence" is usually confessions of co-defendants, that is, in cases with two or more people, to obtain full evidence, it is sufficient that they confess and incriminate their alleged companions.

In *Ayotzinapa Report II*, we stress how the dependence on the "confessions" of the accused not only provokes erroneous lines of investigation, but also encourages the practice of torture.

A solid investigation of a case as complex as this one or of serious human rights violations in general requires the use of scientific evidence, for which the independence of the experts is fundamental. The GIEI found that forensic experts in this case guided the conclusions of some of their reports to support the official version rather than providing an independent analysis based on evidence alone, while other forensic reports did not adequately assess the serious indications of torture reported.

The weakness in Mexican investigations is hidden in formalism. The written record of irrel-

Protest one year after the enforced disappearances, 2015.
Photo: Inter-American Commission on Human Rights (IACHR)



evant details and the repetition of information in the case files produce immense documents where the substantial information is lost. The difficulty in accessing the relevant information and the possibility of loss of evidence increases with the fragmentation of the investigations. The investigation of the Ayotzinapa case was divided in innumerable investigation files. The detentions gave rise to isolated investigations, and it was the Public Prosecutor's Office who determined in which file the evidence was assigned. Since homicide is not a crime included in the Federal Organized Crime Law, the six killings that occurred that night remained in the state-level justice system,

producing the contradiction that an investigation of criminal conduct was carried out in isolation from the investigation of the criminal network of the perpetrators.

Formalism also hides the decontextualization of research. In the Ayotzinapa case, a hypothesis in need of investigation is the transfer of heroin in buses as the possible motive of the attack. Yet the modus operandi of Guerreros Unidos, the recruitment of public servants, and the routes through which the drug and money circulated were completely ignored. This omission prevented the understanding of the events in their context. The events were described as the actions of out-

The use of confessions as the sole source of evidence is not an exclusive problem of the investigation of the enforced disappearance of the 43 students; as documented in various reports, it is a recurring problem in investigations of organized crime in Mexico, encouraged in part by national jurisprudence.


of-control members of Guerreros Unidos and a few corrupt police officers, without revealing the relationship of organized crime with all levels of authorities present that night: military, state, federal, ministerial police, as well as municipal police officers from three localities, which the GIEI recommended for investigation.

Despite the fact that the GIEI documented and made known to the PGR these and other serious weaknesses, such as the irregular actions of former Director of the Criminal Investigation Agency, Tomás Zerón de Lucio, the PGR has not made progress in investigations into obstruction of justice or responsibility in cases of torture, even though Zerón recently resigned. In this case, Zerón de Lucio was present at the scene of the crime near the San Juan River with one of the detainees, without the presence of his defense counsel and without these actions being recorded in the file. This situation affects the progress in the investigation of the missing 43 students, as well as other investigations of serious human rights violations, since there is no clear message these behaviors will not be tolerated within the PGR.

The transition to the adversarial criminal justice model, which entered into force throughout the country on June 18, 2016, is an opportunity to overcome these weaknesses, and especially to de-formalize investigations. Regarding organized crime, the Mexican Constitution still permits pre-charge detention (“arraigo” in Spanish) of up to eighty days for people under investigation. This measure creates a scenario that hinders judicial control over detention as the system seeks to detain in order to investigate and not to investigate in order to detain, and it

facilitates the practice of torture by keeping detainees in the custody of the PGR. This means the door is open for old practices to continue even with a new system in operation.

In this vein, the Constitutional amendment to Article 102 foresees the transformation of the PGR into a General Prosecutor's Office, an entity expected to be autonomous from other branches of government. However, all the resources of the current PGR, including staff, are automatically transferred to the new institution, as envisaged under the nineteenth transitional article of the reform. In the absence of internal mechanisms to investigate the obstruction of justice in the Ayotzinapa case and in other cases of serious human rights violations, as well as the practice of torture, this transfer would mean that those officials responsible for these serious crimes would continue to be responsible for investigations. It is foreseeable that if those responsible for obstruction, torture or negligence in the loss of evidence go unpunished, even with the creation of a new institution, investigations will continue with all the weaknesses already described.

For these reasons, it is imperative that the results of the investigations regarding obstruction of justice and various detainee injuries compatible with torture be shared with the parents of the 43 students, as a prerequisite to advance in the investigation of the missing students. Only in this way will the government begin to ensure that these events are not repeated in future investigations and that the justice system can fulfill its mission of punishing those responsible and preventing further human right violations. 



Protest one year after the enforced disappearances, 2015. Photo: Centro Prodh

What does placing the victims at the center of the case mean?

Carlos Martín Beristain

Former GIEI member

In recent years, the importance of the centrality of victims in investigations of human rights violations and in relation to state institutions has been discussed in vastly different countries –including in Mexico regarding the Ayotzinapa case. Yet this remains one of the issues where there exists an abyss between discourse and reality.

CENTRALITY IS NOT SAYING THAT THE VICTIMS are right about everything or loading them with new responsibilities that do not correspond to them. Rather, centrality is to learn to listen and take into account their experiences, information, and expectations in the investigation process, to facilitate spaces for effective dialogue, to modify one's behavior accordingly, and to establish satisfactory communication and accompaniment mechanisms.

When we arrived in the country, the first words uttered to us by the families in the Ayotzinapa case were: "always tell us the truth, even if it is hard"; "you have our trust", and one phrase we had never heard: "please do not sell out." This triple message was shared repeatedly by a notable portion of the attendants in the first meeting shortly upon our arrival in Mexico. It continued to accompany us during all those months like an echo.

From the beginning, we realized that one thing that is damaging Mexico is the distrust between the victims and Mexican government institutions. This is an indicator of the impact on the victims but also of the deterioration of democracy. Working in this abyss means gaining the trust of both parties, but it does not mean choosing a mid-way point in ethical questions, as if one were neutral in the face of pain or injustice. Trust is restored by showing trust: if I commit to something, I do it; if people ask for something important, I keep it in mind even if I cannot do it. Instead of saying what I am going to do, I listen first. Listening is an exercise in putting oneself in the position of the other side. Not in the position of the institution that says what has to be said. It is a basic, and yet, seemingly incredibly difficult exercise.

The nature of our mandate

Enforced disappearance is a strategy that casts fog over the facts, the perpetrators, and the fate of the disappeared. Confusing and erasing are two verbs associated with this. For the GIEI, the relationship with the victims was a part of its mandate, which stated that it would assess the Mexican government's attention to victims and make proposals for improvement. The mandate brought together things that are often divided, such as attention to victims and the criminal investigation or the search

for the missing. That was a great success of the three parties that signed the agreement: the government, the representatives of the victims, and the IACHR.

One cannot investigate without communication and the trust of family members. Without this, we would not have found the telephone message of Jorge Aníbal to his mother: "Mom, can you put credit on my cell phone, it's urgent", with which we determined that he was alive after the time at which, according to the official version, the students were assassinated in the landfill. The family members also cannot be separated from the search, which is their strongest motivation and the engine driven by the affection for their children. When everyone has become tired of looking, even thinking about the case, when the information channels turn off, the problem does not disappear, and in Mexico and in other countries, it is the relatives who keep the flame lit against oblivion. The relatives gave us information about places that allowed us to discard some and to discover graves in others. They also provided a critical perspective on many actions, which has led to further investigation.

In order to care for the victims, it was necessary to consult and mediate between the government and the families, to make proposals based on international experience and to help the institutions to make better decisions in the investigation. Examples include the completion of the second autopsy of Julio César Mondragón to investigate the torture he was suffered before his death. Of course, this means confronting a great deal of discomfort, but channeling rage intelligently is part of the process.

Understanding history and facts

To understand the facts it is not sufficient to review the file; the testimony of the victims is also fundamental. In people's stories, there are oftentimes keys to being able to move ahead and investigate. Due to the earned trust of the surviving students, they told us the horror stories of that night. Without creating a space to overcome fear, we would not have been able to make a reconstruction of the facts alongside the students located at the site. We would not have understood why they went to Iguala or would have checked certain facts only after the clues were lost. We would not have discovered that there was a fifth

bus that was not in the file; in addition, the testimonies of the students were the first thread that led us to construct a theory of the case regarding what led to the massive attack against them that night.

Take care of the process

Further, the centrality of the victims means caring for the process itself. There is no struggle that maintains itself without a collective process or personal strengthening. Too many factors lead to fatigue. Impunity accumulates new forms of what we call secondary victimization along the way: that is, moments and situations in which the dignity of the victims are once again attacked. As one Guatemalan victim once told me in a case before the inter-American system, as she explained why she did not want to move ahead with the lawsuit: "My lawyers knew a lot about my case but they did not know what was happening to me." And what was happening to her were feelings of fear and vulnerability because her intimacy was going to be publicly exposed in dealing with a case of rape.

Thus, taking care of the process is also important for legal representatives and those who try to fight against impunity. It also leaves key tasks for the Mexican government because attempts to divide family members or clumsiness when taking into account their needs, or even their rights, may hurt them again. For example, attention to victims that does not take into account their criteria, or unilateral proposals by the government for economic reparation, have had a negative impact on them. These responses convey, at times unknowingly, insensitivity and lack of empathy. Even in the case of victims of the soccer team, Los Avispones, that received some economic support, the publicity of this reparations measure increased their risk levels.

Empathy as transformative energy

The family members prevented the case from being closed and were those who, through their mobilizations, have pushed for collective conscience. We often hear that family members were politically manipulated or that there were other interests. That is, there are voices that do not understand anything but try to occupy the space of meaning.

We also heard in multiple meetings the feeling on the part of the families that the authorities are not putting themselves in their place:

—You are also a mother or father, think about what you would be going through..

Empathy as transformative energy. If one takes this proposal in one's hands, the world becomes different. As the GIEI, we were always convinced that a lack of empathy is always an obstacle to progress. Without understanding the pain of enforced disappearance, there is no possible investigation or relationship with the accompanying relatives. This is a message echoed by family members and victim organizations in Mexico: have the courage to join them, and look them in the eyes.

After we were in the country for two months, we organized a workshop to meet with all the relatives and take their testimonies. Further, we opened spaces for dialogue between them and Ayotzinapa students because questions that are not processed end up doing damage. The aim was to have some time to talk over issues (which there had never been any time for between marches and meetings). Take their testimonies, transcribe, analyze, and write in a way that allows one to listen to what was experienced and what is being experienced.

One of the chapters of the first GIEI report discusses relatives and students. It is about those things we so often want to be away from because they hurt or question us. Yet letting oneself be touched by this experience is part of what allows one to understand and learn.

Institutional link

The presence of the GIEI opened spaces with institutions. When we arrived in the country, the bridges were broken. In our shared reflections, we said that we were the last link with institutions and that the government should use this to strengthen its own relations. It is not a matter of humanitarian aid but the basic condition for regaining a sense of citizenship with rights.

The relationship with the victims means, first and foremost, not treating them as an object of compassion or assistance but as active people, with



their ideas, experiences, and a dignity that has been trampled by the injustice suffered. That means listening and understanding. In cases of human rights violations, where state responsibility is involved, it often means absorbing the rage accumulated over months and months of lack of answers, ambiguities, lack of consideration, and contempt.


Protecting against stigma and criminalization

Traumatic events such as enforced disappearance generate a moral stigma against the victims. Moral stigmas negatively affect identity and frequently involve ways of justifying facts or blaming victims. This case is an example of how stigma has been used to call students “violent youth”. It is further seen in the suspicion about their intentions with statements that they “were infiltrated by the narcos”, as if even these (false) circumstances justified their disappearance. The stigma has also been extended to family members, when they are viewed as people who do not accept reality, who are following political interests, or who should not be listened to because “they are against the government.”

The presence of the GIEI in the country helped protect the victims against these attempts at criminalization by conducting an investigation of the events. The investigation showed that such accusations were untrue and also permitted the dissemination of a truth that people did not want to hear. The truth is part of a social transformation towards recognizing the experience of family members. Truth commissions have been important in several countries when they help bring forth uncomfortable truths that some have attempted to conceal. These truths must be part of official history and collective

memory. When we arrived at the Ayotzinapa Rural Teacher College to present our first report, the *papas* and *mamas* spoke about our conclusions about the garbage dump, later confirmed by the EAAF, saying, “a weight has been lifted off of us.” This greater clarity is not a promise to find the students alive, but it shows that the story told up until then was not related to the truth and that this fault weighed on the hearts of the victims.

From Mandate to Meaning

The relationship with the victims has been a fundamental part of the meaning of our work. This relation extends beyond evaluating the actions of the Mexican government in dealing with victims, promoting communication, and constructing minimum trust for dialogue. After our first report, a smear campaign against the GIEI emerged, with attempts to accuse us of incredible things, in order to increase the pressure on our work. The family members were a driving force that made us move forward and who protected something that could not be taken away. The relationship with the victims was not only part of the mandate related to the technical assistance, it was also part of our way of functioning. It was further incorporated into another aspect of our mandate, related to giving recommendations on cases of enforced disappearance in general in Mexico, for which we tried to listen to other organizations of victims throughout the country, which despite less visibility, face similar challenges. These ways of working have shaped the identity of a novel mechanism that has been an example for many other cases, and from which we ourselves have learned so much. 



Presentation of GIEI's second report in
Claustro de Sor Juana, 2016.
Photo: Saulo Ortíz | Regeneración Radio

Encouragement to seek the truth

“They treated us like human beings.” That is how Mario César González, father of César Manuel González Fernández, summed up what the GIEI’s work means to the families of the 43 students, who, since September 26, 2014, have been immersed in one of the most devastating experiences that exists: the enforced disappearance of a child.

CÉSAR’S FATHER’S WORDS SHOW THAT this international mechanism was vital to avoiding further violations against the families. Not only that: the GIEI was instrumental in preventing the truth from being hidden, which gave the families strength and hope to carry on in their fight for truth and justice.

The two years of tireless searching have taken their toll on every mother, father, sister, brother, uncle, and aunt. While the families have inspired

millions of people to stand up for human rights in Mexico, they themselves go to sleep each night with the sadness and loneliness of the disappearances. In this context, the GIEI has been an invaluable support. “The experts gave us more courage to demand justice,” says Eleocadio Ortega, father of Mauricio Ortega Valero.

That is no small feat in a country ruled by impunity, in which the families are the ones who scour the countryside and dig in the earth looking

for answers, in the midst of a human rights crisis known the world over.

The parents agree that, before the GIEI's arrival, what they had received from the authorities were lies and even criminalization of the victims and of themselves, for instance, unfounded claims that they had links to organized crime.

"The Attorney General's Office hid evidence from us. From the beginning they started to lie," accuses María de Jesús Tlatempa Bello, mother of José Eduardo Bartolo Tlatempa.

In the face of lies and after the terrible impact of the public announcement that the students had supposedly been killed and buried (in two initial versions) and then, killed and cremated (in others), finally with the GIEI, the families found some small relief in seeing the right questions asked. The science and independence of the GIEI cut through the videos of supposed confessions and the endless formalities in the case file.

This "isn't the only case the Mexican government has sought to cover up, there are plenty in its list that have already been closed," warned Don Mario in a

document sent to the IACHR to request an extension of the GIEI's mandate.

"We have a lot of trust in the GIEI because they brought us scientific proof regarding our children, they brought to light things we hadn't known this whole time," explains Doña Joaquina García Velásquez, mother of Martín Getsemaní Sánchez, as she recalls, among other omissions, how the authorities hid the discovery of their children's clothes in a bus, the existence of a fifth bus, and the telephone activity that, according to the "historic truth", was impossible.

The right to access to information, to a quality investigation, and to be respected and taken into account in the search and investigation, make all the difference to the families fractured by enforced disappearance. "It's not just us, there are many more disappeared, there is so much impunity here in Mexico and the government doesn't seem to care," observed César's mother, Hilda Hernández Rivera.

In this violent reality, every one of the families of the disappeared has the right to truth and justice. 🦋



Presentation of GIEI's second report in the Ayotzinapa teacher training school, 2016.

Photo: Centro Prodh

Presentation of GIEI's second report in the Ayotzinapa teacher training school, 2016.
Photo: Tlachinollan Human Rights Center



International Assistance for a Country Living with Impunity

The GIEI represents a novel model of technical assistance due to its inclusion of the victims and their perspectives, analysis of scientific evidence, and investigation of macro-crime. The GIEI's highlighting of the shortcomings in the investigation, and its recommendations, are part of its heritage towards a hoped-for break in cycles of impunity denounced by multiple international human rights bodies.

In a country where 98% of crimes committed remain unresolved, international assistance provides clarity on structural obstacles and deficiencies that prevent the adequate investigation and punishment of crimes in general.

JUDGING FROM MEXICO'S EXPERIENCE WITH the GIEI, some of the keys to the success of such real-time, cooperative, and non-subsidiary international assistance are:

- Ensure a high level of professionalism, impartiality and independence.
- Guarantee the application of the highest investigation standards, whether from comparative experiences in the region or from the use of international protocols.
- Analyze real-time development of investigations and make recommendations around lines of investigation, probable responsibility, and technical capacities, including the use of technology.
- In parallel with the rest of the mandate, address partial or total structural failures in the government justice apparatus that could have long-term or permanent impacts and prevent the truth from being revealed¹. Further, incorporate into the group's activities the investigation of actions by public officials that obstruct investigations².
- The mandate should permit the establishment of structural non-repetition measures based on the observed reality in concrete cases.

An expectation of legal and political self-investigation and self-condemnation, always slim, is espe-

1. During 14 months of intensive work on the case, the GIEI analyzed in real time the search for the disappeared students, the criminal investigation, and the attention to victims in light of the needs and demands of affected families. It published two reports on the case that provide detailed information and recommendations within the three areas.

2. In its latest recommendations, the GIEI criticized the internal investigation for lack of diligence, negligence, or destruction of evidence by public servants.

cially unrealistic in a country that denies facts about the human rights situation related to the widespread practices of disappearance and torture³. This is especially true when federal forces –such as the Army, the Navy, or the Federal Police– enter into the equation. Thus, international assistance remains the most viable option to support the victims and the Mexican government in fighting impunity for these types of cases. Further, in a country where 98% of crimes committed remain unresolved⁴, international assistance provides clarity on structural obstacles and deficiencies that prevent the adequate investigation and punishment of crimes in general. We face the inevitable question: Is this model of technical assistance replicable in other cases of serious human rights violations in our country? The consideration of a specific case, such as Tlatlaya, provides a paradigmatic example. In the absence of international technical assistance, the Tlatlaya case is marked with opacity and the construction of differing and often erroneous narratives.

In this case, 22 civilians were killed, at least 12-15 of them arbitrarily, by soldiers. A survivor's decision to share her testimony in the press opened the way for dismantling the official "truth" that was sustained

3. In February 2015, the UN Committee against Enforced Disappearance recognized in its concluding observations a context of widespread disappearances in much of the national territory. In response, the Mexican government, via the Ministry of the Interior (SEGOB), disparaged the recommendations. Only a month later, in March 2015, the Special Rapporteur for Torture of the United Nations, Juan Méndez, presented his report, which was also immediately disqualified by federal officials, who denied the widespread practice of torture.

4. Statement by the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, on the occasion of his visit to Mexico, October 7, 2015, page 2, available at: <https://es.scribd.com/document/284058735/ONU-Derechos-Humanos>.



Presentation of GIEI's second report in the Ayotzinapa teacher training school, 2016.
Foto: Centro Prodh

about the events on June 30, 2014. The government claimed that it was a confrontation and that the military defended itself resulting in 22 dead individuals. The same argumentative exercise repeated itself in 2015, in the executions in Apatzingán and Tanhuato, in Michoacán⁵.

The National Human Rights Commission documented in Tlatlaya, among other things, the arbitrary deprivation of life of 12 to 15 persons, including a minor, as well as the alteration of the crime scene by soldiers, precisely to simulate a wider confrontation. Despite this, the Attorney General's Office could not achieve the successful prosecution of any of the soldiers involved.

The months of October 2015 and May 2016 plunged the case into impunity, first with the acquittal in military jurisdiction of those allegedly responsible, and the second through a determination of "lack of elements to prosecute" in civilian jurisdiction. That is, the judge of the Sixth Unitary Tribunal in the State of Mexico argued that more evidence was required.

This confirms the need expressed by the principal witness and her representatives since July

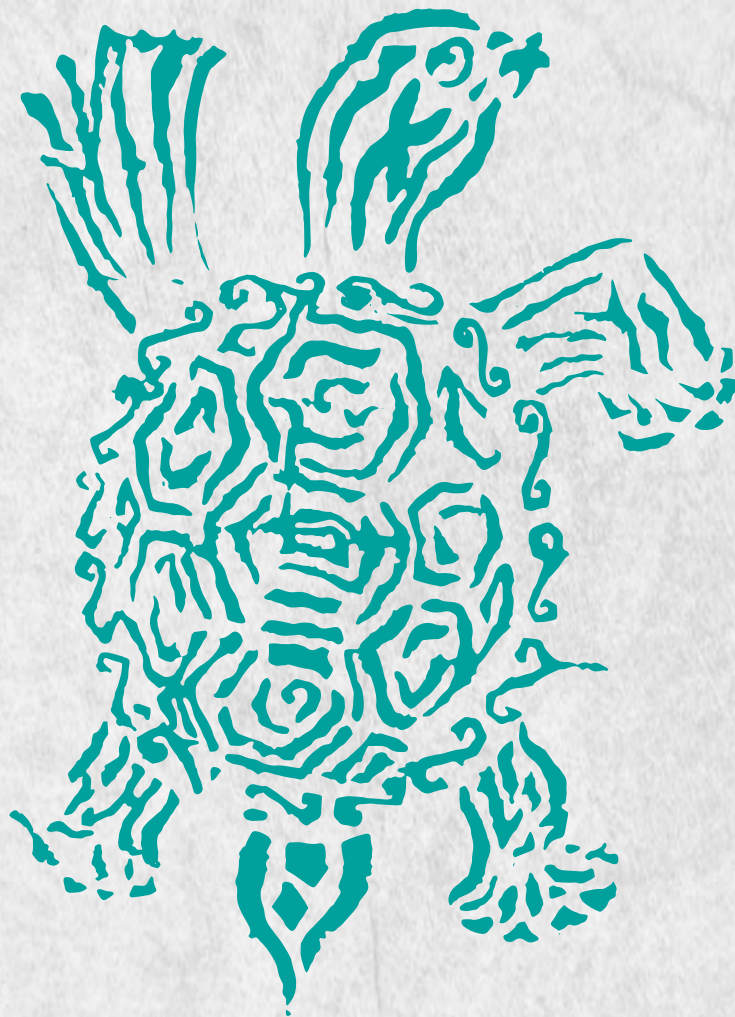
of 2015: the formation of a Commission of Inquiry in which institutional specialists, both from CNDH and independent, apply the standards established in the Principles for an Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions⁶. Principle 11 states: "In cases in which the established investigative procedures are inadequate... Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles."

The answer to the request was silence. The current state of affairs appears set on a persistent lack of justice in this and many other cases. Therefore, it is vital to incorporate a broader model of international technical assistance to break with impunity for gross human rights violations in Mexico. 🦋

5. See Focus, *Extrajudicial Executions in Mexico. Decades of denial, impunity and abuse of state power*, "From counterinsurgency to the 'War on Drugs': massacres and impunity in Mexico, then and now"; Edition #08, Winter 2015, pp. 6-7.

6. Principles relating to the effective prevention and investigation of extralegal, arbitrary or summary executions; Adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989.

**Visit our website about the Indisciplinary
Group of Independent Experts (GIEI)**
and download relevant materials:



PHOTOS • INFOGRAPHICS • VIDEOS • PRESS RELEASES
AYOTZINAPA REPORTS I AND II

Visit:

centroprodh.org.mx/GIEI



MIGUEL AGUSTÍN PRO JUÁREZ
HUMAN RIGHTS CENTER
Serapio Rendón 57B, Col. San Rafael,
C.P. 06470, México D.F.

centroprodh.org.mx

 facebook.com/prodh

 @CentroProdh



Señala el GAB
"verdad histórica"
del caso Ayotzinapa