



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report of the Committee on Enforced Disappearances on its visit to Mexico under article 33 of the Convention*, **, ***

Observations and recommendations (art. 33, para. 5)

I. Priorities to be addressed by the national policy to prevent and eradicate enforced disappearance

1. The Committee considers that, in addition to creating the minimum conditions necessary for the introduction of an efficient and effective national policy to prevent and eradicate enforced disappearance,¹ the State party should adopt a series of specific measures in the terms described in the following sections: (a) strengthen institutions, searches and investigations; (b) ensure systematic and effective coordination of institutions; (c) remove obstacles preventing cases of enforced disappearance from being brought before the courts; (d) duly address disappearances occurring in the context of migration; (e) facilitate search, investigation, reparation and memory efforts related to long-standing cases; (f) address the forensics crisis; (g) facilitate access to searches, truth, justice and reparation using a differential approach; (h) recognize the role of victims and duly address their support and protection needs; (i) protect public officials involved in searches and investigations; and (j) use registers to devise efficient strategies for preventing and eradicating enforced disappearance.

A. Strengthen institutions, searches and investigations

2. The Committee is concerned that, despite the creation of a comprehensive institutional and regulatory framework, search and investigation efforts and urgent action requests are still hampered by several of the shortcomings that were mentioned in the concluding observations.² This situation is the result of the lack of a comprehensive strategy for conducting searches and investigations, despite the instructions – contained in the standardized protocols – to favour the use of such a strategy.³

3. In general, the victims interviewed during the visit expressed concerns about and frustration with unjustifiable delays in the proceedings. They reported that some authorities still require 72 hours to have passed after a disappearance has occurred before they can receive a complaint, thereby preventing a search for the disappeared person from being

* The present report should be read in conjunction with [CED/C/MEX/VR/1](#) (Findings).

** Adopted by the Committee at its twenty-second session (28 March–8 April 2022).

*** The annexes to the present report are available on the Committee's web page.

¹ See [CED/C/MEX/VR/1](#) (Findings).

² [CED/C/MEX/CO/1](#) and [CED/C/MEX/OAI/1](#).

³ Standardized Protocol for the Investigation of Offences of Enforced Disappearance of Persons and Disappearance Perpetrated by Individuals, pp. 7–8.



launched immediately. They provided considerable evidence of inaction in the search operations and investigations related to their cases, regardless of whether the cases were older or more recent. These practices result in impunity for the perpetrators and saddle family members with the burden of searching and investigating, gathering evidence, finding witnesses and conducting searches of and exhumations in mass graves and other clandestine burial sites.

4. The establishment of the National Search Commission and local search commissions in all states is worthy of note. However, the Committee finds it regrettable that, despite the State party's efforts, the National Search Commission and the local commissions often lack the resources they need to do their work. With some exceptions,⁴ state congresses are responsible for transferring to the state's Ministry of the Interior the funds that have been approved in the state budget. The Ministry of the Interior then passes these funds on to the local search commissions and grants them federal resources to supplement their searches and strengthening activities. This situation leads to different levels of funding from the state authorities and significant inequalities.⁵ When funds are insufficient, the commissions are forced to cancel scheduled activities or seek alternative funding sources. In this regard, the Committee has received reports that commission staff members have, on occasion, paid for activities out of their own pocket or sought support from victims – for the purchase of fuel, for example – or have had to avoid turnpikes to reduce costs, opting for longer and often much more dangerous routes. Naturally, such practices cannot be considered an acceptable solution.

5. The Committee is also concerned to note that the share of the annual budget of the National Search Commission used to cover operating expenses decreased from 29 per cent in 2020 to 12 per cent in 2021 (annex 10). Commission officials also face operational difficulties caused, in some cases, by internal regulations. Having to request travel allowances at least three days in advance, for example, often makes it very difficult to conduct searches promptly. In Veracruz, the internal regulations of the state's Ministry of the Interior place a limit on the number of trips officials can make, thereby creating obstacles to travel.

6. In connection with human resources, the Committee notes that several of the local commissions are still single-person entities. The personnel budget of the National Search Commission increased from 0 per cent of the budget in 2019 to 7 per cent in 2020,⁶ but it is still too low. In addition, the temporary employment arrangements entered into by the staff members of the National Search Commission and the local commissions put them in a situation of job insecurity that is incompatible with the complexity and sensitivity of their work. These circumstances, taken as a whole, make effective and personalized follow-up to searches and investigations less likely and require the adoption of urgent measures.

7. The Committee finds it regrettable that, four years after the adoption of the General Act, only some states have specialized prosecutors' offices (Coahuila, Guerrero, Mexico, Nayarit, San Luis Potosí, Tamaulipas and Veracruz), whereas others (Baja California, Jalisco and Sonora) have categorized them in a way that is incompatible with the organizational structure and powers set forth in the General Act. In addition, the specialized prosecutors' offices generally do not have the financial, material and human resources they need to do their work. This situation is very troubling, as it prevents effective and personalized follow-up to search and investigation efforts.

8. With regard to the regulatory framework for search operations, the Committee notes that, according to the information it received, the National Search and Location Programme, which is administered by the more than 40 authorities making up the National Missing Persons System, has nine phases of implementation. The Committee welcomes the progress

⁴ The exceptions are the commissions of Chihuahua and Tamaulipas, which are part of the public prosecutor's office.

⁵ Official Gazette, "Guidelines for the award of subsidies to the federative entities, through their local search commissions, for actions to search for persons, within the framework of the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System, for the 2021 financial year", art. 6.

⁶ In 2021, the National Search Commission had 89 people working for it, of whom 39 were involved in work related to searches and information processing.

made by the National Search Commission, with the participation of victims' relatives, towards the implementation of the first phase of the programme (2020–2024). It is concerned to note, however, that the programme has not yet been adopted.

9. The Committee welcomes the establishment of the National Search Commission's Context Analysis Unit in March 2020. It notes with satisfaction the methodological tools⁷ and context analysis studies⁸ developed by the Unit. It regrets, however, that, despite the relevance of these analyses to both searches and investigations, they have been used in very few cases.

10. The information that has been collected on investigations provides confirmation that field investigations are rare, having been replaced by the "transmission of written notifications that go unanswered". Some victims reported patterns previously noted by the Committee, including "the practice of following investigative hypotheses based on prejudices and stereotypes about disappeared persons, the automatic dismissal of cases of temporary enforced disappearance, and the lack of safeguards ensuring that suspects may not be tortured or mistreated in the process of gathering evidence".⁹

11. The use of scientifically based evidence in the investigation of cases of disappearance also remains very limited. Several of the people interviewed pointed out that some investigators lacked the specialized training to know what type of evidence to ask for; others mentioned that technical and scientific resources were insufficient to meet demand; while still others reported that evidence is often misplaced within the offices of the Public Prosecution Service and that some prosecutors have resigned because of their heavy investigative workload.

12. Investigations are also commonly broken down into their constituent parts, with little cross-referencing of information and the fragmentation of responses to crimes across multiple proceedings and levels of action (federal and state). A combination of offences that includes enforced disappearance leads to the opening of different investigations by the specialized prosecutors' offices without these investigations being coordinated or a joint analysis of open cases being carried out.

13. As a result, the facts of the case are categorized as different offences. The most common criminal offences in the files related to disappearances are homicide, unlawful deprivation of liberty in the form of kidnapping, possession of prohibited weapons and organized crime. Rarely is anyone prosecuted for enforced disappearance as a crime in its own right, even when there is strong evidence of the involvement of the authorities. When someone is prosecuted for having committed such a crime, he or she is acquitted if certain standards of proof, which are particularly high in cases of enforced disappearance, are not met.

14. The Committee considers it a priority for the State party to establish a global and comprehensive search and investigation strategy for cases of disappearance to ensure that both recent and older cases are duly addressed. This strategy should include an action plan and timeline to ensure thorough and impartial processes and to systematically investigate possible chains of command, indirect perpetrators and other forms of perpetration and participation, including all those referred to in article 6 of the Convention. The strategy should take into account all available information, including the context in which the disappearance occurred.

⁷ National Search Commission, "El ABC del análisis de contexto: Herramientas básicas de análisis de contexto orientado a la búsqueda de personas desaparecidas" (The ABCs of context analysis: basic context analysis tools for the search for disappeared persons), Mexico, 2021. Available at https://www.gob.mx/cms/uploads/attachment/file/666836/Gui_a_ABC_-_Compimido_Hipervi_nculos.pdf.

⁸ The Committee welcomes the reports on the urgent action requests issued by the Committee following the disappearance of 47 persons in Nayarit, the disappearance of Claudia Uruchurtu Cruz in Oaxaca and the disappearance of Felipe Díaz Castro in Guanajuato, as well as the context analysis carried out in relation to the disappearance of girls and women in the state of Mexico.

⁹ CED/C/MEX/OAI/1, para. 24.

15. This includes: (a) ensuring that the strategy is periodically evaluated and complies with due diligence requirements at all stages of the process (including an automatic, immediate and thorough investigation); (b) ensuring the competence and independence of the professionals involved; and (c) determining the actions to be taken in an integrated, efficient and coordinated manner, as well as ensuring that these actions are accompanied by the means and procedures needed to find the disappeared person and investigate their disappearance.¹⁰

16. The Committee therefore urges the State party to systematically use context analysis in both searches and investigations so as to make it possible to gain a full understanding of disappearances and identify effective methodologies, determine where in the chain of command responsibilities lie¹¹ and develop effective strategies for the prosecution of cases at a system-wide level.

17. To this end, the State party should create and implement context analysis units in all search commissions and specialized prosecutors' offices, and set up mechanisms for the systematic coordination of their work.

18. With regard to search operations more specifically, the Committee urges the State party to adopt and implement the National Search Programme without delay, in accordance with the consultation processes provided for in the General Act.

19. In this context, the Committee reiterates that the State party should give priority to efforts to find disappeared persons alive and secure their release, and should prevent, investigate and punish any failure by State officials to make such immediate efforts.¹²

20. The State party should ensure that the National Search Commission and the local commissions have the human and financial resources they need to do their work. To this end, the Committee believes that each of these institutions should draw up a detailed periodic plan to identify the resources it needs. At the same time, the federal authorities and the states should allocate budgets that respond to the planning and priorities of the national and state commissions, prioritizing, inter alia, the hiring of specialized personnel and the conduct of searches.

21. The Committee also considers it a priority for the State party to ensure job stability for the staff members of the National Search Commission and the local commissions.

22. In addition, the Committee recommends to the State party that the federal and state authorities, drawing on the lessons learned, review the regulations of the search commissions and ensure that administrative requirements do not prevent them from properly carrying out their work.

23. With regard to investigations, the Committee reiterates its previous recommendations concerning the need to strengthen the Prosecutor General's Office and local prosecutors' offices.¹³ The State party should therefore ensure that federal, state and municipal authorities provide these institutions with the human, specialized and technical and multidisciplinary resources they need, as determined by a yearly analysis, to enable them to carry out their work effectively.

24. The Committee stresses the importance of prosecutors' offices prioritizing field investigations and avoiding breaking cases down into separate crimes. In each disappearance, officials should posit and consider all relevant hypotheses, including the possible involvement of State actors by action, authorization, support or acquiescence, and should keep them in mind until judgment has been rendered.

25. The State party should also promote the use of scientifically based evidence through specialized training and the acquisition of the necessary infrastructure.

¹⁰ See the recommendation reiterated by the Committee in most of the urgent action requests relating to events in Mexico.

¹¹ [A/HRC/45/13/Add.3](#), para. 78.

¹² [CED/C/MEX/OAI/1](#), para. 19 (f)–(g).

¹³ *Ibid.*, para. 25.

B. Ensure systematic and effective coordination of institutions

26. The search for the disappeared person and the criminal investigation of the persons responsible for the disappearance should be mutually reinforcing.¹⁴ In this regard, the General Act provides for the establishment of the National Missing Persons System as a forum for inter-institutional coordination intended to lay the groundwork for public policies on searching for, locating and identifying disappeared persons, preventing and investigating disappearances, and punishing perpetrators. However, four years after the entry into force of the General Act, the National Missing Persons System has been undermined by the marked lack of coordination between the institutions involved in searches and investigations.

27. The Committee has received several reports indicating that searches for disappeared persons have been hampered by operational difficulties arising from the so-called “institutional conflict” between the National Search Commission and the Prosecutor General’s Office. A distorted understanding of the autonomy enjoyed by the Prosecutor General’s Office, which is seen as a kind of discretionary authority, causes it to disregard shared competencies and resist the implementation of effective communication, collaboration and information-exchange mechanisms.¹⁵ Given that the National Search Commission and the local search commissions have limited mandates, their powers to take action are often affected by this lack of coordination and by the unwillingness of the Prosecutor General’s Office to process their requests. Thus, although the search commissions are responsible for conducting searches, they lack the competence to remove remains, establish chains of custody, conduct raids and undertake geolocation processes. In short, their ability to perform some of their functions is entirely dependent on the responsiveness of public prosecutors’ offices.

28. Moreover, the lack of systematic and effective inter-institutional coordination affects procedures involving other institutions. The Committee has been informed that complications arise from the failure to coordinate with human rights and victim support commissions with a view to supporting searches and working with families, and with the ministries responsible for public security when search commissions are required to intervene in cases where a located person has been detained after committing an offence. Shortcomings in coordination also hamper the optimal functioning of security and protection mechanisms, which have been essential for victims, their supporters and the public officials involved in searches and investigations.

29. The Committee heard accounts highlighting the difficulties occasioned by deficiencies in intra-institutional coordination mechanisms. Some of the Committee’s interlocutors underlined the lack of coordination between the various specialized prosecutors’ offices and between the federal and state prosecutors’ offices.

30. **In view of the above, the Committee considers that the State party should, as a matter of priority, clearly define the competencies of the Prosecutor General’s Office, the federal and state specialized prosecutors’ offices and the search commissions to enable them to carry out their work effectively.**

31. **The State party should ensure the effective implementation of the principles related to intra-institutional and inter-institutional coordination set out in the harmonized search and investigation protocols. In order to achieve this, it is necessary to: (a) establish intra-institutional and inter-institutional communication mechanisms and channels that allow information to be exchanged in a systematic, instantaneous and flexible manner, depending on the requirements of the case; (b) ensure that information is made available and managed effectively; (c) legislate to grant search commissions the powers to act as first responders, that is, powers concomitant with those of public prosecutors’ offices; and (d) ensure the involvement of all primary, information-sharing, reporting and awareness-raising institutions identified in the protocols.**

¹⁴ CED/C/7, principle 13.

¹⁵ National Citizens’ Council, National Missing Persons System, Report on the disappearance of persons in Mexico, November 2021, pp. 37 et seq.

32. **At the same time, the State party should develop and implement methodologies and indicators by which to periodically assess the implementation of coordination mechanisms and the outcomes of searches for persons and investigations into disappearances, enabling any shortcomings to be corrected.**

C. Remove obstacles preventing cases of enforced disappearance from being brought before the courts

33. It is still unusual for cases of enforced disappearance to be brought before the courts. The Committee is concerned about judicial practices that delay investigations of cases of enforced disappearance and become obstacles to bringing them before the courts. Proceedings are broken down into components for which different jurisdictions are responsible; there is too much red tape;¹⁶ and vexatious actions are brought with a view to preventing the adoption of measures targeting the perpetrators who are keeping justice from being done. There is also a diversity of criteria for interpreting the constitutional norm to determine the competence of the courts responsible for cases under the adversarial and mixed judicial systems. Similarly, numerous criteria are used to determine whether due process judges or district judges have jurisdiction over federal criminal proceedings, depending on their area of expertise. These practices delay proceedings and obstruct justice in the vast majority of cases, including landmark cases such as the Ayotzinapa case.

34. **The Committee urges the State party to remove obstacles limiting access to justice and to promote the prosecution of cases by positing the possibility of enforced disappearance.**

35. **It also urges the judicial authorities to ensure legal certainty by defining uniform criteria for determining whether cases are to be heard under the current adversarial judicial system, the former mixed judicial system or as part of specialized federal criminal proceedings. It also urges the State party to: (a) make use of the power to join proceedings provided for in article 100 of the Constitution and in article 86 of the new Organic Act on the Federal Judicial Branch in cases of enforced disappearance; (b) adopt similar regulations at the local level; (c) prevent the excessive use of bureaucratic requirements with a view to expediting the administration of justice; and (d) take measures to prevent vexatious litigation and other such actions designed to obstruct justice and make it impossible to determine the truth and punish the culprits.**

D. Duly address disappearances occurring in the context of migration

36. Disappearances occurring in the context of migration pose specific challenges which call for particular types of measures to be taken. The actual number of such disappearances has not yet been determined. As at 21 October 2021, the National Register of Missing and Disappeared Persons included 2,522 foreign nationals. However, although the Register includes details of persons in an irregular situation, the information available does not reliably identify cases in which these persons have disappeared while in transit through the country. In addition, persons whose migration status is irregular generally do not report the disappearance of travel companions or family members for fear of being detained and deported or because they are unaware of the mechanisms for doing so. This results in significant underreporting of migrant disappearances and makes it impossible to measure the impact of the initiatives carried out in this connection.

37. The Committee takes note of the Strategic Plan 2019–2024 of the National Institute of Migration for protecting and upholding human rights and ensuring the safety of national and foreign migrants. It also welcomes the creation of several mechanisms for dealing with these cases: the Mechanism for Mexican Support Abroad in Search and Investigation Activities, under which the Ministry of Foreign Affairs, acting through the Foreign Service,

¹⁶ See, for example, the rejection of thousands of pages of documents in the Ayotzinapa case for not having been submitted in the required colour; or the extremely bureaucratic requirements for authenticating copies of files.

is to serve as the liaison for searches conducted outside Mexican territory in coordination with the Prosecutor General's Office and the National Search Commission; the Inter-Agency Working Group on Pattern-based Searches, which is to expedite coordination among the institutions involved in searches and investigations; and the Bureau for the Search for Missing Migrants, which is to work to foster collaboration and coordination among civil society, the families of missing migrants and the National Search Commission. The Committee welcomes the creation of a specialized inter-agency working group on the search for foreign migrants who are missing. However, the Committee finds it regrettable that the Strategic Plan and the various forums and mechanisms that have been created are not yet operational. The Bureau for the Search for Missing Migrants is still not functioning, and the specialized inter-agency working group has not yet been formed. In addition, the effectiveness of the Mechanism for Mexican Support Abroad in Search and Investigation Activities has been limited by the absence of guidelines for coordination with the embassies and consulates on which its implementation depends.

38. Information received by the Committee also attests to the urgent need for all officials of the Ministry of Foreign Affairs, the Prosecutor General's Office, state prosecutors' offices, search commissions, the national and state-level human rights commissions and the National Institute of Migration to discharge their duties and assume a more proactive role in leading this effort so that victims of disappearance in the context of migration can avail themselves of their rights. Currently, the lack of inter-agency cooperation hampers the collection of data and evidence related to disappearances of migrants, particularly when transnational criminal networks that engage in the smuggling and trafficking of persons are in operation. The lack of context analysis, the absence of a transnational perspective and the failure to take a multidisciplinary approach to such cases have an adverse impact on the outcomes of searches and investigations, as well as on the state of knowledge about such criminal activity and the efforts to address and prevent it.

39. The criminalization of migration and the vulnerability of migrants in an irregular situation continue to interfere with the exercise of their rights and those of their families. Migrants suffer from multiple factors of discrimination that are exacerbated by the lack of an institutional response from the authorities. This results in impunity. The Committee regrets the lack of progress and the existence of serious irregularities in the investigation of these cases. Specifically, the Committee finds it regrettable that the Forensic Commission established in 2013 to further the investigation of the massacres carried out and the graves discovered in Cadereyta (Nuevo León) and San Fernando (Tamaulipas) has not received the support it needs to carry out its work. For example, it has not been given access to the reports of disappearances and kidnappings that were requested several years ago from the Tamaulipas prosecutor's office and the Prosecutor General's Office.

40. Reports received by the Committee illustrate the difficulties encountered by the families of missing migrants, which include the "structural vulnerability of migrants in a foreign country, their lack of family ties and of the resources needed to effectively claim access to justice and their rights, and the limited capacity of investigative bodies to deal with illegal markets linked to human trafficking, in some cases with apparent links to State agencies".¹⁷ Persons with whom the Committee has been in contact have also highlighted a lack of clarity as to the applicable procedures in their respective cases, difficulty in obtaining the permits and visas they need to be able to participate in searches and investigations, and the limited nature of the information that they are provided with concerning the progress and results of searches and investigations. In addition, these persons have reported unduly long delays in the identification and dignified repatriation of people's remains once they had been found.

41. Since 2016, 124 reports of missing migrants have been filed with Mexican consulates in Guatemala, El Salvador and Honduras, but these filings represent only a fraction of the cases that have been documented. Reports received by the Committee also indicate that, unless victims push for investigations with the Migrants Unit of the Prosecutor General's

¹⁷ [A/HRC/45/13/Add.3](#), para. 87.

Office and the Executive Commission for Victim Support, the Prosecutor General's Office and local prosecutors' offices only process the paperwork, and the cases do not move forward.

42. The Committee has also received reports from persons in migrant holding centres that they are awaiting forced return to their country of origin, where they had received threats that they would be forcibly disappeared. This contravenes the provisions of article 16 of the Convention.

43. **In view of the above, the State party should ensure that the different institutions report cases of missing migrants brought to their attention and that the National Register of Missing and Disappeared Persons clearly identifies disappearances of persons in a regular or irregular situation and is interoperable with existing registers of migrants, including those kept in migrant holding centres.**

44. **The State party should ensure that searches and investigations are conducted in cases of disappearances occurring in the context of migration and that such cases are effectively prosecuted.**

45. **The implementation of the existing regulatory and institutional framework for addressing such cases is therefore a priority. The Ministry of Foreign Affairs and the Prosecutor General's Office should adopt without delay operational guidelines for the Mechanism for Mexican Support Abroad in Search and Investigation Activities in accordance with the General Act and international standards. These guidelines should include clear instructions concerning coordination between these and other institutions, particularly the Executive Commission for Victim Support, the National Institute of Migration and the National Search Commission. There is also an urgent need for the specialized inter-agency working group on the search for foreign migrants and the Bureau for the Search for Missing Migrants to enter into operation. The first step in that connection should be the adoption of operational guidelines for these bodies.**

46. **In accordance with the General Act on Enforced Disappearance and the General Victims Act, the State party should adopt measures to facilitate the filing of reports of missing migrants from abroad, either electronically or through consular offices.**

47. **The State should promote the participation of family members of missing migrants in searches and investigations and in the setting of national and state-level policies and strategies in this area. To this end, the State party should facilitate the issuance of humanitarian visas free of charge for family members and loved ones of migrants who are missing or have disappeared in Mexico by allowing them to be processed by Mexican consulates in the countries where relatives of missing migrants reside.**

48. **In the search for disappeared persons and the investigation of their disappearance in the context of migration, the inter-agency mechanisms for coordination among the primary, transmitting, reporting and disseminating institutions identified in the search and investigation protocols (see paragraphs 28 and 31 of this document) should systematically involve the National Institute of Migration, as well as the Mexican authorities and the relevant authorities and institutions of the victims' countries of origin and destination.**

49. **In order to expedite and facilitate the provision of files, data, fact-finding reports, records and references that can be used to locate the relatives of as yet unidentified victims, the Prosecutor General's Office should strengthen the mechanisms for internal cooperation and for cooperation with prosecutors' offices at the state level in Mexico and with the authorities of migrants' countries of origin.**

50. **With regard to the investigation of massacres of migrants, the Committee recommends that the State party ensure that the Forensic Commission established in 2013 has the cooperation of all State authorities so that it can carry out its work. The Committee also considers that a special multidisciplinary commission needs to be established to investigate disappearances and massacres of migrants. This commission should be composed of national and international experts able to provide support for**

investigations into the facts of these cases and to bring a regional perspective to that effort.¹⁸

51. Under article 16 (1) of the Convention, the State party is required to guarantee that it will not expel or return a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance. To this end, the authorities of the State party should carry out an individual assessment of the risk to which the person would be exposed if returned and provide him or her with appropriate international protection.

52. In addition, the Committee considers it a priority for the State party to conduct wide-ranging and multilingual preventive campaigns that are accessible throughout the country as well as in migrants' communities of origin and in migrant shelters and homes in order to disseminate information on the mechanisms and agencies authorized to receive reports and complaints of disappearances and to promote non-discrimination in relation to victims.

53. The State party should conduct campaigns in consulates to disseminate information on the mechanisms in place in Mexico and to promote judicial cooperation and assistance between the States concerned in cases of missing migrants.

E. Facilitate search, investigation, reparation and memory efforts related to long-standing cases

54. The Committee considers that the establishment of the Commission for Access to the Truth, Historical Clarification and the Promotion of Justice for Serious Human Rights Violations committed between 1965 and 1990 constitutes a step forward that holds out great potential for searches, investigations and reparation in these cases and for the formation of the collective memory that is necessary for the prevention of similar events in the future. However, the Committee finds it regrettable that no other mechanisms exist for long-standing cases that occurred after 1990.

55. The State party should provide the Commission for Access to the Truth with the human and material resources it needs in order to fulfil its mandate, and broaden the methodology used to clarify all long-standing cases.

56. The State party should ensure that the experts on the Commission for Access to the Truth are able to do their work independently and have unrestricted access to the military camps and bases that were used as places of deprivation of liberty and to relevant government archives, including those of the Ministry of Defence, the Ministry of Naval Affairs and the Presidential General Staff.

F. Address the forensics crisis

57. The forensics crisis is another high-priority issue that needs to be addressed by the State party at both the federal and state levels. The structural causes of the forensics crisis include the increased levels of violence observed since the militarization of the country's public security services, which is reflected in the number of homicides (27.8 per 100,000 inhabitants in 2020) and the large number of disappeared persons. Another factor is the ineffectiveness of existing forensic services owing to a faulty institutional design, shortages of infrastructure, equipment, budget resources and specialized human resources, the underutilization of genetic analyses and databases, and a failure to properly preserve unidentified human remains.

¹⁸ See the joint appeal of the national institutions for the promotion and protection of human rights of El Salvador, Guatemala, Honduras and Mexico and the offices of the United Nations High Commissioner for Human Rights in Guatemala, Honduras and Mexico 10 years after the discovery of clandestine graves in San Fernando, Tamaulipas. Available at https://www.cndh.org.mx/sites/default/files/documentos/2021-05/COM_Conjunto_006.pdf.

58. This crisis is reflected in an inability to meet the huge demand for the identification of human remains. It is also reflected in problems with locating and notifying family members or loved ones of persons whose bodies have been identified and in irregularities in the identification process itself, with the result that persons who are notified that a body has been discovered and identified cannot be certain that the remains that they receive are actually those of their disappeared relative. Projects have been carried out to promote good practices in this connection,¹⁹ but there are no official standards or mechanisms to ensure their effective application.

59. The Committee is also concerned about the way in which genetic material provided by disappeared persons' family members is handled and the way in which related information is stored and protected, as numerous victims have reported that they had to resubmit samples of genetic material as many as five times because it was improperly recorded or lost.

60. This forensics crisis is exacerbated by shortcomings in the record-keeping system. The information on record is often incomplete and outdated, and relevant data are frequently lacking, such as the date when the remains were brought in, where they came from, where they were found, what bodies have been identified and whether or not they have been handed over to the families, and their location. Fourteen of the country's forensic services do not have electronic registers. In addition, several of the registers provided for in the General Act that are to be the responsibility of the Prosecutor General's Office have not yet been created, and the Unified Information Technology System has not been set up.

61. The State has recognized that it is facing a crisis in terms of its forensic capacity and has taken steps such as the establishment of regional centres for the identification of human remains in Coahuila and San Luis Potosi; the outfitting of mobile forensics laboratories in Sonora; the construction of forensic facilities at cemeteries in Jalisco, Michoacán, Tamaulipas and Veracruz; and preparation by the National Search Commission of its own records on clandestine graves, the circumstances in which bodies have been found, the human remains that have been recovered and the mass graves that have been located. The National Search Commission has also begun systematizing the records on burials in mass graves in the cemeteries of Mexico City, Puebla, Sonora and Veracruz, where 47.2 per cent of the persons buried there are unidentified.

62. In response to requests made by victims' associations and related organizations and with support from international cooperation agencies, the State party has created the multidisciplinary Special Forensic Identification Mechanism to carry out or support the relevant examinations and analyses of unidentified bodies or skeletal remains. The Mechanism's coordinating group, which is funded by the Federal Government, is composed of seven national and international²⁰ experts who enjoy technical and scientific autonomy.

63. With regard to the identification of human remains located outside of Mexico, the Committee has received information on the use of systems that make it possible to compare reference samples from family members of disappeared persons between different countries. The Committee particularly welcomes the use of the Humanitarian DNA Identification Database of the Centre for Human Identification at the University of North Texas, United States of America, which makes it possible to compare family reference samples from non-United States citizens with DNA profiles of unidentified human remains within their local DNA index.²¹ However, the Committee notes that still only limited use is being made of the system.

64. The Committee recognizes the importance of the actions undertaken thus far but considers that firm political will on the part of all institutions with responsibilities in this connection will be needed in order to surmount this crisis.

¹⁹ See, for example, the interdisciplinary protocol for reporting the identification of disappeared persons and dignified restitution.

²⁰ See <https://www.gob.mx/segob/prensa/se-presenta-a-personas-integrantes-del-grupo-coordinador-del-mecanismo-extraordinario-de-identificacion-forense?idiom=es>.

²¹ Bruce Budowle and others, "A standalone humanitarian DNA identification database system to increase identification of human remains of foreign nationals", *International Journal of Legal Medicine*, 134, 20392044 (2020). Available at <https://doi.org/10.1007/s00414-020-02396-9>.

65. In view of the above, the Committee urges the State party to: ensure that the Special Forensic Identification Mechanism has the budget, organizational structure and independence necessary to carry out its work; move forward as quickly as possible with the process of establishing a national centre for human identification;²² and establish regional centres for human identification that are suitably equipped to carry out the work of identifying the bodies and human remains that have been located, with priority being given to the identification of those found in mass graves.²³

66. The State party should guarantee the operational and technical independence of forensic services and provide them with properly trained staff and the material and technical resources they need to carry out their work, including digital registers containing detailed, up-to-date and protected information on when the remains of deceased persons are brought in. The State party should also create effective and independent mechanisms to ensure that these services can be held accountable for their actions.

67. The Committee considers that priority should be given to the establishment by the institutions tasked with identifying the bodies of deceased persons of systematic inter-agency coordination mechanisms, in accordance with the guidance contained in the standardized search and investigation protocols.

68. The Committee underscores the urgent need for: (a) the Prosecutor General's Office, in accordance with its duties as set out in the General Act, to set up a national forensic databank, a national register of unidentified and unclaimed disappeared persons and a national register of mass and clandestine graves; and (b) the Unified Information Technology System to be implemented and its interoperability with other registers to be ensured.

69. Furthermore, the Committee recommends that the State party set up a national forensic databank²⁴ that is interoperable with other existing genetic profile banks in Mexico and in other countries. The State party should encourage the national authorities to submit reference sample profiles from the family members of disappeared persons so that they may be sought in existing systems by comparing the DNA reference samples from their families with the DNA profiles of unidentified human remains within the national database systems of the countries potentially concerned by the cases.²⁵ The State party should also promote the establishment of agreements, mechanisms and practices with all neighbouring countries in order to increase opportunities for the cross-referencing of genetic data while ensuring full respect for the principles governing individual data protection in accordance with article 19 of the Convention.

70. The State party should ensure that all unidentified deceased persons are buried in individual graves and that detailed information on those persons is recorded in an operational database. In addition, it should ensure that the bodies of unidentified deceased persons will not be turned over to universities or other entities from which they could disappear.

²² The Committee takes note of the information received after the visit to the effect that, on 31 March 2022, the President of Mexico, Andrés Manuel López Obrador, signed the reform initiative proposing the establishment of the National Centre for Human Identification. According to the information provided, the proposal was transmitted to the legislative branch in order for the necessary participatory process involving the families of disappeared persons, civil society and experts to be initiated.

²³ A multidisciplinary forensic identification system for cases of disappearance, the purpose of which is to analyse all available forensic information, with priority being given to technical procedures that increase the probability of identification.

²⁴ General Act, art. 19.

²⁵ See, in particular, the Humanitarian DNA Identification Database of the Centre for Human Identification of the University of North Texas (United States of America).

71. **The Committee invites the State party to adopt protocols for the different forensic disciplines, including a protocol on reporting the identification and dignified handover of the remains of disappeared persons.**

G. Facilitate access to searches, truth, justice and reparation using a differential approach

72. The failure to apply existing legal and institutional frameworks, as mentioned earlier, is seriously limiting access to searches, truth, justice and reparation. This situation is compounded by the passive attitude adopted by many judicial institutions with respect to disappearances. In addition, according to information received by the Committee, the current arrangement for the distribution of powers between the State at the federal level and the states in regard to victim support gives rise to inequalities in terms of access to the rights to justice and truth. This is because the services offered and the support provided depend, in many cases, on the regulations, practices and decisions adopted at the state level.

73. This situation is particularly worrisome for certain vulnerable population groups, such as women, children, indigenous people, persons with disabilities, migrants, older persons, persons living in rural areas and LGBTIQ+ persons, who face geographic, language and discriminatory barriers, among others. During the Committee's visit, for example, one victim recounted how difficult it was to explain to her niece, who is deaf, that her father had been disappeared: "It is always difficult to explain when a person has simply disappeared. For a child who cannot hear, it is even worse. We do not know sign language, and neither do the authorities in charge of the case. We asked for support, but the person who does know sign language almost never comes. The child just cries, cries and cries, or remains silent ... Nobody knows what to do".

74. **In view of the above, the Committee recommends that the State party guarantee victims' equal access to searches, justice, truth and reparation by reviewing, where appropriate, the distribution of powers between the State at the federal level and the states in the area of victim support.**

75. **In this context, the State party should take the specific needs of victims into account and address those needs using a differentiated approach. It should also address the causes of existing barriers by, inter alia, launching wide-ranging campaigns on preventing and combating discrimination.**

H. Recognize the role of victims and duly address their support and protection needs

76. The progress described in the present report could not have been achieved without the persistence and daily struggle of the victims. The central role of victims is clearly established in article 24 of the Convention and in the guiding principles for the search for disappeared persons, as well as in national law (the General Victims Act and the General Act on Enforced Disappearance). However, the level of participation by victims in the search and investigation efforts seems to depend mainly on the wishes of the public officials in charge of the case.

77. At the same time, the families and loved ones of the disappeared persons continue to perform search and investigation functions that are the responsibility of the State. Without prejudice to the support they receive from the National Search Commission,²⁶ in many cases, they continue to carry out these activities without the support of the authorities and without the protection they need. The Committee welcomes the progress achieved through the Protection Mechanism for Human Rights Defenders and Journalists. However, the protection needs of victims are not adequately addressed. The Committee deeply regrets that, from December 2010 to date, at least 13 people involved in searches have been killed (six of them

²⁶ Between 8 February 2019 and 4 November 2021, the National Search Commission carried out 2,260 day-long field searches in 28 states and 314 municipalities, including 18 water-based searches.

since 2018),²⁷ allegedly in retaliation for their search activities. In addition, there are dozens of daily security incidents such as monitoring, surveillance, persecution, disappearances and torture aimed at victims or their supporters for reporting a disappearance or participating in search and investigation activities.

78. In early 2013, the General Victims Act entered into force. Pursuant to the Act, the National Victim Support System was created to facilitate institutional coordination, and the Executive Commission for Victim Support was created as a decentralized (semi-autonomous) body of the Federal Administration headed by an official appointed by Congress. The Executive Commission operates a network of 32 comprehensive support centres located throughout the country.

79. In cases involving disappeared persons, the Executive Commission for Victim Support and local victim support commissions have competence in a number of areas, such as referral to health institutions, the provision of psychological support, legal representation in the investigation process, covering travel expenses for the review of investigation files and the costs of relocation as a result of attacks or threats. However, almost nine years after its adoption, the General Victims Act has been strongly criticized for its disappointing results.

80. First, the National Victim Support System met only once in 2015. As a result, institutions are not sharing responsibility for support in areas such as health, social development or education; and the Executive Commission for Victim Support does not have the means to involve other institutions in the process, leaving the victims unaided.

81. Second, although, in principle, the Executive Commission for Victim Support deals only with support and reparation in federal cases, it may intervene exceptionally if the state concerned does not have the means to uphold the rights of the victims.²⁸ However, some of the people interviewed during the visit reported that intervention in local cases is generally discretionary.

82. Several of the people the Committee talked to complained that the policy of support and reparation for victims is too narrowly focused on cash payments, with reparation understood only as compensation. This has meant that, despite the dramatic situation in which the victims find themselves, the support they receive is extremely limited and does not meet their real needs. Thousands of them are left with no support at all.

83. The lack of resources of the victim support commissions was also mentioned repeatedly: five states²⁹ still do not have such a commission, while most of the commissions that do exist lack human and financial resources. The budget of the Executive Commission for Victim Support has been reduced in recent years, which increasingly limits its capacity for intervention. Additionally, the budget fund created under the General Victims Act in the guise of a trust fund was abolished by the Government in 2020, along with a large number of other public trust funds. This has left the budget for victim support in a state of uncertainty and has made it impossible to cover the expenses incurred by victims, such as the cost of travelling to Mexico City to consult their case files.

84. Many legal advisers are handling hundreds of cases, which prevents them from providing proper assistance to victims. In addition, some people the Committee talked to pointed out that the criteria for granting support are not adapted to victims of disappearance. For example, the academic results required to gain access to a scholarship are very difficult to achieve in a family context shattered by a disappearance. As a result, the children of disappeared persons often have to abandon their studies, a situation that becomes a factor in their revictimization.

85. The Executive Commission for Victim Support is supposed to assume the costs of reparations out of its own funds, since the institutions and agencies responsible for human rights violations do not cover them. However, it lacks the resources to do so. In fact, in most

²⁷ During the preparation of the present report, the Committee learned with great sadness of the murder of Ana Luisa Garduño Juárez on 27 January 2022.

²⁸ See General Victims Act, art. 86.

²⁹ Aguascalientes, Baja California Sur, Campeche, Hidalgo and Oaxaca.

cases, the Executive Commission and the state commissions do not process requests for reparations.

86. Several people complained that officials of the Executive Commission for Victim Support and the state commissions do not act as representatives of the victims and that they do not always have the knowledge necessary to properly advise the victims of disappearance. As there is no legal aid system for victims, several non-governmental organizations and associations have implemented projects to fill this institutional gap. However, their support depends on temporary resources, which limits their capacity to intervene.

87. Many victims also mentioned the difficulties they face in accessing the medical services they need to treat the health problems they suffer as a result of disappearances, such as depression, cardiovascular disease, severe hormonal disorders, cancer, etc. and few victims receive the psychological support they need. In this regard, the transgenerational impacts of disappearance and the situation of the children of disappeared persons are of particular concern. Multiple testimonies reported cases of depression and suicide. As one grandmother commented: “My grandchildren can’t understand that their parents were disappeared. They are convinced that they were abandoned. This makes them desperate and they have lost touch with reality. My 11-year-old grandson is now involved in organized crime. He thinks they will give him news of his parents. I am desperate. The children of disappeared persons are the forgotten ones of the system”.

88. The Committee also received allegations of persecution of victims’ representatives, in the form of investigations ordered and carried out arbitrarily into victims, human rights defenders and journalists. The San Fernando case is a prime example of this. The Committee is concerned about such practices, which constitute a violation of the rights of such individuals and engage the responsibility of the State.

89. The Committee condemns in the strongest terms the acts of vandalism that were committed at a memorial for disappeared persons in Guadalajara after it conversed with victims’ associations during the visit.

90. **The Committee reminds the State party of its obligation to prevent and punish actions that criminalize, intimidate, persecute or stigmatize disappeared persons, their families or the people who support them, including through awareness-raising campaigns.³⁰ It should also ensure that cases of aggression and intimidation are investigated and that the perpetrators are punished in order to eradicate impunity for these acts.**

91. **In addition, the Committee urges the State party to strengthen the victim protection system without delay so as to ensure the safety of family members and those who help them. To this end, the State party should strengthen the Protection Mechanism for Human Rights Defenders and Journalists, as well as federal and state-level victim protection mechanisms. In this context, the State party should carry out, as a matter of priority, risk assessments for associations and family members involved in searches and investigations and in supporting victims of disappearance, and ensure a rapid and effective response to security incidents.**

92. **The Committee considers it a priority for the state and federal authorities to establish executive commissions for victim support in all states where no such commissions exist and to provide the material and substantive support that the Executive Commission for Victim Support and local victim support commissions require to carry out their work.**

93. **The Committee also considers it urgent to reform the functioning of the victim support system. It invites the State party to review the General Victims Act and the criteria for the allocation of support applied by the Executive Commission for Victim Support in order to increase the number of beneficiary families, diversify the type of support offered and ensure that it is fully adapted to the needs of the victims, based on**

³⁰ [CED/C/MEX/OAI/1](#), para. 27.

a differentiated approach. Such reviews should involve the establishment of principles and mechanisms to prevent any form of abuse of the system.

94. **In addition, the State party should clarify the procedures and responsibilities of the institutions and the executive branch, ensuring they are truly involved.**

95. **Also, the State party should ensure that all the authorities act on the basis of clear criteria in line with article 24 of the Convention, in order to facilitate the participation of victims and their access to information in all proceedings related to their cases.**

96. **The State party should ensure that an effective legal aid system is in place for victims, and that it is available whenever necessary in proceedings related to their cases.**

97. **In addition, there is an urgent need to develop a national reparations programme, as provided for in the draft amendment to the General Victims Act. The programme should promote a comprehensive vision of reparations, with a differential approach, covering all the forms of reparation provided for in article 24 (5) of the Convention and clarifying the institutional responsibilities of all the authorities involved.**

98. **The Committee also considers it essential that the State party ensure the immediate cessation of any practice of illegal or arbitrary investigation of victims, human rights defenders and journalists involved in search and investigation efforts, and that it investigate and punish such practices.**

99. **The Committee also recalls that solidarity and empathy with victims must be a priority for society as a whole.**

100. **No one who has cooperated with the Committee or provided it with information may be subjected to intimidation or reprisals. States parties have a primary responsibility to prevent such acts from being committed against individuals and groups who seek to cooperate, cooperate or have cooperated with the Committee.³¹**

I. Protect public officials involved in searches and investigations

101. During the visit, the Committee also received witness accounts of the situation of insecurity and its impact on public officials in charge of searches and investigations. Several of the people interviewed reported an increase in acts of monitoring, surveillance, persecution, threats and torture committed against them. These incidents have forced the National Search Commission to suspend several searches in Guanajuato, Michoacán, Sinaloa, Sonora and Tamaulipas. The National Search Commission and local commissions count on the support of federal or state security forces on search days. However, this protection does not cover other vulnerable points, such as the road to the search site, places that offer overnight accommodation or the homes of local people and, therefore, their families.

102. When they have to postpone action for security reasons, officials must also manage the legitimate frustration of victims. As one official who was interviewed said: “We want to get on with it, to search for and locate the victims, hopefully alive. But when the lives of family members and officials are at stake, we must accept our limitations. Often, victims think that we bring up the risks as an excuse for not doing our job. That is not the case. We share their frustration, which haunts us day and night, but we are not superheroes”.

103. **The State party should guarantee permanent protection for public officials engaged in searches and investigations and should establish a comprehensive protection programme for them. Particular account should be taken of the inherent risks in places where organized crime groups have warned that public officials will not be allowed to continue their activities or carry out their work.**

³¹ See Human Rights Council resolution 42/28 and [CED/C/8](#).

J. Addressing shortcomings in registers as a strategy for preventing and eradicating disappearances

104. The Committee notes that the strategies implemented by the State party thus far have addressed acts of enforced disappearance from the standpoint of their consequences, without combating or dealing with their causes. The prevention of disappearances should be a cross-cutting component of national policy in this regard.

105. Throughout the present report, emphasis has been placed on the importance of keeping registers, not only to clearly identify and highlight the different forms of disappearance that occur in the country, but also to establish efficient strategies for searches, investigations, victim support and the eradication of this scourge. Registers are also an essential tool in helping to prevent disappearances.

106. The records of persons deprived of their liberty require special and immediate attention in this regard. While all federal and state detention centres and migrant holding centres visited by the Committee keep registers, these do not always contain the information required under articles 17 and 18 of the Convention. Moreover, several months may pass between a person's arrival at a centre and the entry of his or her data in the register. The Committee also witnessed "technical problems" with these registers, which prevent access to data that have supposedly been recorded. This kind of shortcoming affects the reliability of the results of queries submitted in the search for a disappeared person. In addition, the lack of interoperability between the registers of persons deprived of their liberty and the National Register of Missing and Disappeared Persons, the databases of the National Institute of Migration and other registers means that the time needed to consult the registers is incompatible with the need for urgent action if the disappeared person is to be located.

107. The Committee is concerned that euphemisms such as "rescued persons" or "temporarily housed" are used to refer to migrants detained in migrant holding centres, which results in their not being included in the registers of persons deprived of their liberty.

108. A fingerprint database is also an essential tool in the search for and identification of disappeared persons. In this regard, the Committee recognizes the importance of the cooperation agreement between the National Electoral Institute and the National Search Commission, which makes it possible to identify disappeared persons and to identify corpses and human remains by comparing fingerprints with the records of the National Electoral Institute. However, this system is inoperative for minors, who cannot obtain an electoral identification card, and for persons who have not applied for such a card. The only means of identifying these persons are birth certificates, which do not contain the information necessary to carry out cross checks in cases of disappearance.

109. **The Committee urges the State party to adopt comprehensive preventive measures to address and tackle the causes of the disappearance of persons and to aim at its eradication. To this end, it should take into account the context analysis conducted during search and investigation efforts, in order to identify risk factors, patterns and criminal practices. Similarly, federal and state authorities should refine the analysis of information related to persons who were located alive (profiles, time elapsed between disappearance and location, circumstances in which they were located, etc.).**

110. **The Committee urges the State party not to use euphemisms that conceal the true status of persons detained in migrant holding centres, whose details should be recorded in the registers of persons deprived of their liberty, in accordance with article 17 of the Convention.**

111. **The Committee reiterates its recommendations³² and urges the State party to: (a) ensure immediate access by any competent authority, and particularly search commissions, to all detention registers and registers of persons deprived of their liberty; (b) create a complete, reliable, up-to-date and confidential unified register that includes the details of all persons deprived of their liberty, including those in migrant holding centres, with control and monitoring mechanisms for data verification; and (c) establish**

³² CED/C/MEX/CO/1, para. 35; and CED/C/MEX/OAI/1, para. 31.

effective controls on the registration of persons deprived of their liberty in private institutions such as hospitals, psychiatric residences, day centres, detoxification and rehabilitation centres for drug users, and assistance and alternative care institutions for children and adolescents and persons with disabilities. These controls should include a census of such institutions and the registration of persons resident there.

112. The Committee urges the State party to establish a single register for the identification of persons in which fingerprints, photographs and personal data from birth to death that are relevant for the purpose of identification are entered. Until such time as a single identity card is available, an interoperable computer system should be implemented so that the fingerprint comparison procedure can be carried out expeditiously. In both cases, the State should take into account the provisions of article 19 of the Convention on the protection of personal data.

II. Conclusion

113. In order for disappearance to cease to be the paradigm of the perfect crime in Mexico, it is urgent to respond to all the issues identified in the present report, both for cases that date back some time and for those perpetrated recently.

114. To this end, prevention should be at the heart of national policy and should be conceived as a State policy that addresses all the points highlighted in the present report with a short-, medium- and long-term perspective based on identifying the structural causes of enforced disappearance.

115. National prevention and eradication policy should not be limited to operational prevention, aimed only at preventing specific threats of disappearances and other human rights violations, or only at reducing ongoing disappearances. It is about preventing systemic violations and combating impunity for acts of enforced disappearance, both past and present.

116. Lastly, the Committee expresses its appreciation for the cooperation and facilities provided by Mexico before and during the visit. It also trusts that the State party will fulfil its obligations under the Convention, implement the recommendations contained in the present report and address the scourge of enforced disappearance in Mexico. The Committee reiterates its full willingness to cooperate in this process.

117. Pursuant to rule 97 (2) of the Committee's rules of procedure, the State party has four months in which to submit any observations it may wish to make in relation to the present report. These observations will be published on the Committee's web page. After this period has passed, the Committee will follow up on the implementation of its recommendations in accordance with article 29 (4) of the Convention and rule 98 of its rules of procedure, in coordination and cooperation with the State party and the various actors involved.
