

## **Mexico's Disappeared: The Enduring Cost of a Crisis Ignored**

Source: ["Executive Summary"](#), *Mexico's Disappeared: The Enduring Cost of a Crisis Ignored*, Human Rights Watch, 2013, pp. 1-10.

When Enrique Peña Nieto took office on December 1, 2012, he inherited a country reeling from an epidemic of drug violence that had taken the lives of more than 60,000 Mexicans in six years. The "war on drugs" launched by his predecessor, Felipe Calderón, had produced disastrous results. Not only had it failed to rein in the country's powerful criminal groups, but it had led to a dramatic increase in grave human rights violations committed by the security forces sent to confront them. Rather than strengthening public security, these abuses had exacerbated a climate of violence, lawlessness, and fear.

Throughout most of his presidency, Calderón denied security forces had committed any abuses, despite mounting evidence to the contrary. Only in his final year did he acknowledge that human rights violations had occurred, and take a handful of positive—though very limited—steps to curb some abusive practices. However, he failed to fulfill his fundamental obligation to ensure that the egregious violations committed by members of the military and police were investigated and the perpetrators brought to justice.

That responsibility now falls to President Peña Nieto. And nowhere is it more urgent than in cases where people have been taken against their will and their fate is still unknown. What sets these crimes apart is that, for as long as the fate of the victim remains unknown, they are ongoing. Each day that passes is another that authorities have failed to find victims, and another day that families continue to suffer the anguish of not knowing what happened to a loved one.

Human Rights Watch has documented nearly 250 such "disappearances" that have occurred since 2007. In more than 140 of these cases, evidence suggests that these were enforced disappearances—meaning that state agents participated directly in the crime, or indirectly through support or acquiescence. These crimes were committed by members of every security force involved in public security operations, sometimes acting in conjunction with organized crime. In the remaining cases, we were not able to determine based on available evidence whether state actors participated in the crime, though they may have.

In nearly all of these cases, authorities failed to promptly and thoroughly search for the victims or investigate the cases. Prosecutors rarely carried out basic investigative steps crucial to finding missing persons, too often opting instead to blame the victims and, reflecting the low priority they place on solving such crimes, telling families to conduct the searches on their own. When prosecutors did investigate, their efforts were undermined by delays, errors, and omissions. Searches and investigations were further hindered by structural problems such as overly narrow laws and the lack of critical tools like a national database of the disappeared.

The inept or altogether absent efforts of authorities to find people who are taken add to the suffering of victims' families, for whom not knowing what happened to their loved ones is a source of perpetual anguish. Many relatives put aside everything else in their lives to search for the missing, a quest they feel they cannot abandon until they learn the truth. Making matters worse, victims' families may lose access to basic social services and benefits—such as healthcare and childcare—tied to the victim's employment, forcing them to fight costly and emotionally-draining battles to restore the benefits.

The nearly 250 cases documented in this report by no means represent all the disappearances that occurred in Mexico during the Calderón administration. Quite the opposite, there is no question that there are thousands more. Officials in Coahuila, for example, told Human Rights Watch that 1,835 people had disappeared in that state alone from December 2006 to April 2012. More alarming still, a provisional list compiled by the Ministry of the Interior and the Federal Prosecutor's Office—which was leaked in November 2012—contains the names of more than 25,000 people who were disappeared or went missing during the Calderón years, and whose fates remain unknown. While the list's information is incomplete and its methodology flawed, the number leaves little doubt as to the unprecedented scale of the current wave of disappearances.

During the years the Calderón administration ignored this mounting “disappearance” problem, the country failed to take serious steps to address it. The result was the most severe crisis of enforced disappearances in Latin America in decades. If the Peña Nieto administration repeats this mistake—and fails to set out a comprehensive, effective plan to investigate past disappearances and help prevent them in the future—cases of disappearances will almost certainly continue to mount. And thousands of victims' families will continue to endure the agony of not knowing what happened to their loved ones.

A different approach is possible. Human Rights Watch witnessed this in the state of Nuevo León, where government officials and prosecutors, responding to pressure from victims' families and human rights defenders, have broken with a pattern of inaction and incompetence, and begun to seriously investigate a select group of disappearances. Their efforts have helped win back the trust of victims' relatives and, with it, their collaboration, which has proven critical to identifying new leads and gathering valuable evidence. While at this time results in these investigations remain limited and very few of the disappeared have been found, the approach provides a blueprint for overcoming some of the greatest obstacles to resolving disappearance cases.

Ultimately, the success of this and other state-level efforts will depend in large measure on whether the federal government is willing and able to do its part. This is, after all, a national problem, often involving federal security forces and organized crime groups that operate across state lines. The mass graves discovered in one state may well contain the remains of people disappeared in others. A comprehensive strategy—rooted in nationwide efforts such as the creation of unified, accurate databases of the disappeared and unidentified remains—is critical to give prosecutors, law enforcement officials, and families the tools they need to find the missing and bring those responsible for their disappearances to justice.

### **Enforced Disappearances**

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about detainees' whereabouts at the headquarters of security forces and public prosecutors' offices, they are told that the detentions never took place.

In some instances, evidence suggests that a specific security force carried out multiple disappearances using the same tactics, within a narrow period of time, and in the same geographical area. For example, Human Rights Watch collected witness testimony and photographic and video evidence showing that members of the Navy committed more than 20 abductions in June and July 2011, in the border states of Coahuila, Nuevo León, and Tamaulipas. Almost all of these people were arbitrarily detained by members of the Navy in their homes. The Navy initially denied having taken the men, only to contradict itself later by admitting in news releases that it had come into contact with several of the men before they disappeared. The individuals have not been seen since they were arrested. The common modus operandi in these cases suggests that these crimes may have been planned and coordinated, or at the very least could not have taken place without the knowledge of high-ranking Navy officials.

In cases where state agents work with organized crime in carrying out disappearances, the collaboration may take one of many different forms. Most commonly, security forces arbitrarily detain victims and then hand them over to criminal groups. Police, soldiers, and investigators may also work with criminal groups to extort the families of the victims, or tell those groups when victims' relatives report disappearances—information that abductors then use to harass and intimidate families. In more than a dozen cases, evidence pointed to state agents taking advantage of information obtained from families to pose as kidnappers and demand ransom from victims' relatives.

In addition to these enforced disappearance cases, we also documented 100 other cases of disappearances. In these cases, individuals were taken against their will—often by armed men—and their whereabouts remain unknown. We are not aware of evidence of the participation of state actors in these crimes. However, given the widespread involvement of police and military personnel evidenced in other disappearances, in the absence of thorough investigations, it is impossible to rule out the participation of state actors in these cases. In any case, although these “disappearances” carried out purely by private individuals as a criminal act—unlike “enforced disappearances”—do not fall under the definition of the International Convention for the Protection of All Persons from Enforced Disappearances, the state has a responsibility to investigate all disappearances, regardless of the perpetrator. Furthermore, under international law and Mexico's newly passed Victims' Law, the government has an obligation to provide victims of crimes with an effective remedy—including justice, truth, and adequate reparations.

### Investigative Failures

Our research shows that authorities routinely fail to respond in a timely fashion when victims, their families, or witnesses report abductions while they are taking place. And when victims' relatives or others report disappearances, prosecutors and law enforcement officials rarely take immediate action to search for the victim or the perpetrators. In spite of requests by families, they do not trace victims' cell phones, track their bank transactions, obtain security camera footage (which is often automatically deleted at regular intervals), or take other time-sensitive actions. Instead, prosecutors and law enforcement officials regularly misinform families that the law requires a person to have been missing for several days before a formal complaint can be filed, and advise them to search for missing people at police stations and military bases—placing the family at risk; or prosecutors preemptively assert they lack the legal jurisdiction to investigate the case. These groundless delays and omissions result in

irreparable losses of information that could potentially have saved the lives of victims and helped locate the people who abducted them.

Making matters worse, when prosecutors, judicial police, and law enforcement officials attend to families of the disappeared, they regularly tell them the victims were likely targeted because they were involved in illicit activities, even when there is no evidence for such assertions. Authorities use this unfounded presumption as a pretext for not opening investigations, and alienate and harass individuals whose cooperation often could have played a critical role in finding the missing person. While it is reasonable for authorities to investigate the background of a victim as a possible lead, Human Rights Watch found that officials repeatedly assumed the criminal guilt of victims before conducting any preliminary investigation, and held onto such views in the face of clear evidence to the contrary.

If and when prosecutors open investigations, they regularly ask victims' families to take investigative steps, such as interviewing witnesses and tracking down suspects, which should be carried out by officials. It is appropriate and indeed necessary for prosecutors to collaborate with victims' relatives in investigating disappearances. Yet in case after case, Human Rights Watch found that they relied disproportionately, or even entirely, on families to carry out key investigative tasks. In a vicious cycle, families take on more of the authorities' duties because they know that investigators will not investigate on their own. And rather than fulfilling their investigative responsibilities, prosecutors and law enforcement officials become more accustomed to passing them off to victims' relatives. Not only are families not trained for such tasks, but carrying them out can also put them at considerable risk: in several cases, families' investigative efforts—encouraged by prosecutors—resulted in their being victims of threats and attacks.

In addition to relying excessively on families, prosecutors fail to carry out basic investigative steps. Among the most common lapses documented by Human Rights Watch were: failing to interview the victims' family members, witnesses, or others who could have provided relevant leads; failing to interview possible suspects; failing to pursue obvious lines of investigation, such as obtaining the names of police officers and soldiers assigned to units implicated in disappearances; and failing to visit the scene of the crime to collect evidence. Even in cases where justice officials carried out basic investigative steps, they often waited so long to complete them that possible leads dissipated.

Prosecutors and law enforcement officers also misplaced key evidence, such as DNA samples of victims' relatives, and made errors in compiling information critical to the case, such as recording inaccurate details about when or where victims disappeared. In some cases, police and justice officials fabricated evidence—claiming to have carried out interviews that never occurred, for example—while in others they manipulated or destroyed key evidence, suggesting that they may have been working to protect those responsible for the crimes.

Beyond failing to resolve individual cases and exacerbating a general climate of impunity, these investigative failures allow security forces and criminal groups that carry out multiple disappearances to strike again. In several cases, Human Rights Watch found compelling evidence that the same state agents—often in collaboration with criminal groups—carried out multiple disappearances in separate incidents. In these cases, prosecutors and law enforcement officials neglected to pursue evidence that, had it been adequately investigated, may have prevented additional people from being disappeared.

### **Impact on Victims' Families**

Disappearances have a profound impact on virtually every aspect of the lives of victims' families. Families described not knowing what happened to their loved ones as a source of perpetual anguish—one deepened by the lackluster efforts of prosecutors to find their relatives. Many described an overriding sense of obligation to set aside the other parts of their lives in order to dedicate themselves fully to searching for their loved ones. Relatives reported suffering serious emotional and psychological effects as a result of their loss—including depression and the constant fear that another loved one would be taken next. Several relatives of the disappeared in the cases documented here, including at least one child, attempted to commit suicide. Disappearances also take a heavy toll on relationships among victims' surviving relatives, who cope in different and at times conflicting ways, with disputes sometimes arising over sensitive issues such as whether to keep looking for the missing.

Families who do keep searching for the missing, publicly discuss their cases, or press authorities to investigate often are subject to harassment, threats, and attacks. These hostile acts are often aimed at dissuading relatives from pressing for accountability, and play on relatives' terror of losing another loved one. Furthermore, such hostile acts terrorize not only the people they target, but also other relatives of the disappeared and members of the public, who fear that calling for justice will put them at risk.

In Mexico, disappearances also have devastating financial consequences for victims' families, with particularly significant impact on vulnerable groups such as children and families living in poverty. The overwhelming majority of disappeared persons in the cases documented by Human Rights Watch were working class men, who were often the sole wage earners in households with several children. In their absence, their spouses and partners were forced to take immediate measures to adapt to the loss of income and provide for their families. This hardship is aggravated by the system of social services in Mexico, whereby the receipt of some services are conditional upon a member of the household being employed. Therefore, a disappearance can lead to the suspension of access to social benefits such as healthcare and childcare. In order to maintain access to these crucial services, relatives were forced to initiate a costly and protracted bureaucratic process to obtain recognition that the disappeared person was missing or dead, which heightened their suffering

The Special Prosecutor's Office for Attention to Victims of Crimes (PROVÍCTIMA) was set up in 2011 to assist the families of victims emotionally, economically, and legally, with a special focus on helping the families of the disappeared. Most of the families interviewed by Human Rights Watch had never come into contact with the agency, and had little to no understanding of the services it offered. Meanwhile, more than 30 families of victims who had sought assistance from PROVÍCTIMA told Human Rights Watch that the agency failed to deliver on commitments it had made—such as providing medical aid for relatives' operations. Furthermore, the overwhelming majority of these families said PROVÍCTIMA pressured relatives to accept that their loved ones were dead, even though no evidence had been uncovered to substantiate that conclusion, exacerbating their suffering.

### **A New Approach: the Example of Nuevo León**

Nuevo León has been one of the states hardest hit by disappearances in recent years, with estimates ranging from over 600 (by official estimates) to more than 1,000 people disappeared (according to local human rights defenders) since the beginning of the Calderón administration. In 2010 and 2011, Human Rights Watch carried out several factfinding visits to Nuevo León to investigate enforced disappearances and other abuses, and observed a climate of near-total impunity similar to what we had found in several other states of Mexico. Despite clear evidence of enforced disappearances, state prosecutors consistently failed to prosecute the members of the military and police who had committed them.

Victims and their families grew deeply disillusioned with authorities, while even well-intentioned prosecutors had little incentive to investigate these crimes. In a vicious cycle of distrust and dysfunction, the less that victims and officials collaborated in solving these crimes, the more entrenched the climate of impunity became.

Then came the shift. Catalyzed by a grassroots victims' movement and partnered with a local human rights group, families of the disappeared collectively demanded that authorities begin to take the investigations seriously. Under considerable pressure, state officials agreed to work with the families in investigating their cases. At first, both sides were distrustful. However, when prosecutors—motivated by families to investigate and held accountable when they did not—began to genuinely look into the crimes, they gradually began to win back the trust of the victims' relatives. And families, in turn, began to collaborate more openly with prosecutors. The combination of real efforts by prosecutors and the guiding hand of families gave rise to a new dynamic, which allowed investigations to move forward for the first time in years.

Progress in individual investigations, however small, made it possible to believe that these horrific crimes, many of which appeared to implicate state agents, could be solved. A virtuous cycle started to take the place of a vicious one: the more prosecutors investigated, the more they earned the trust of victims' families, and the more investigations advanced. For their part, prosecutors took the solid investigative tactics and skills they had learned working on one case or another and applied them to other disappearances on their docket. Over fifty suspects have been charged in seven of the cases tackled through the "working meetings" with families and human rights defenders. Even in those cases in which suspects have not been charged, the investigations have progressed, as prosecutors have pursued long-neglected steps—such as summoning suspects for questioning, canvassing for witnesses, and pressing telephone companies to hand over victims' cell phone records—with a renewed sense of urgency and purpose.

This qualitative work on individual cases has been coupled with broader institutional and legal reforms aimed at strengthening the capacity of authorities to prosecute these crimes, such as passing legislation that criminalizes enforced disappearances, assigning special judicial police to investigate disappearances, and drafting an investigation manual that lays out fundamental steps that every prosecutor should take when investigating a disappearance.

For all of the progress that has been made in investigating disappearances in Nuevo León, the challenges that remain to effectively investigating disappearances and finding those who have gone missing are daunting. Authorities whose input is critical to advancing investigations often fail to cooperate with the efforts of prosecutors to solve cases—or worse, intentionally obstruct them. Some families, frustrated with the limited progress in their investigations, and understandably skeptical of authorities' commitment given their previous experiences, have lost faith in the process and stopped cooperating with prosecutors. And state prosecutors have been alarmingly slow to apply the solid investigative practices developed in the "working meetings" to the hundreds of other disappearances that are not directly monitored by families and human rights defenders, in some cases repeating the same chronic investigative errors and omissions in new cases.

Due to these and other serious obstacles, advances in the investigations have been limited. The fate of the overwhelming majority of the disappeared remains unknown. And despite having charged more than 50 suspects in investigations tied to the "working meetings," prosecutors have yet to obtain a conviction. Nevertheless, the step of breaking through a climate of disillusionment and distrust in select cases is real.

In that way, the working process in Nuevo León provides a blueprint for how some of the greatest challenges to investigating not only disappearances, but all human rights violations in Mexico, can be overcome.

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anguish. Many relatives put aside everything else in their lives to search for the missing, a quest they feel they cannot abandon until they learn the truth. Making matters worse, victims' families may lose access to basic social services and benefits—such as healthcare and childcare—tied to the victim's employment, forcing them to fight costly and emotionally-draining battles to restore the benefits.

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### **Impact on Victims' Families**

Disappearances have a profound impact on virtually every aspect of the lives of victims' families. Families described not knowing what happened to their loved ones as a source of perpetual anguish—one deepened by the lackluster efforts of prosecutors to find their relatives. Many described an overriding sense of obligation to set aside the other parts of their lives in order to dedicate themselves fully to searching for their loved ones. Relatives reported suffering serious emotional and psychological effects as a result of their loss—including depression and the constant fear that another loved one would be taken next. Several relatives of the disappeared in the cases documented here, including at least one child, attempted to commit suicide. Disappearances also take a heavy toll on relationships among victims' surviving relatives, who cope in different and at times conflicting ways, with disputes sometimes arising over sensitive issues such as whether to keep looking for the missing.

Families who do keep searching for the missing, publicly discuss their cases, or press authorities to investigate often are subject to harassment, threats, and attacks. These hostile acts are often aimed at dissuading relatives from pressing for accountability, and play on relatives' terror of losing another loved one. Furthermore, such hostile acts terrorize not only the people they target, but also other relatives of the disappeared and members of the public, who fear that calling for justice will put them at risk.

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### **A New Approach: the Example of Nuevo León**

Nuevo León has been one of the states hardest hit by disappearances in recent years, with estimates ranging from over 600 (by official estimates) to more than 1,000 people disappeared (according to local

human rights defenders) since the beginning of the Calderón administration. In 2010 and 2011, Human Rights Watch carried out several factfinding visits to Nuevo León to investigate enforced disappearances and other abuses, and observed a climate of near-total impunity similar to what we had found in several other states of Mexico. Despite clear evidence of enforced disappearances, state prosecutors consistently failed to prosecute the members of the military and police who had committed them. Victims and their families grew deeply disillusioned with authorities, while even well-intentioned prosecutors had little incentive to investigate these crimes. In a vicious cycle of distrust and dysfunction, the less that victims and officials collaborated in solving these crimes, the more entrenched the climate of impunity became.

Then came the shift. Catalyzed by a grassroots victims' movement and partnered with a local human rights group, families of the disappeared collectively demanded that authorities begin to take the investigations seriously. Under considerable pressure, state officials agreed to work with the families in investigating their cases. At first, both sides were distrustful. However, when prosecutors—motivated by families to investigate and held accountable when they did not—began to genuinely look into the crimes, they gradually began to win back the trust of the victims' relatives. And families, in turn, began to collaborate more openly with prosecutors. The combination of real efforts by prosecutors and the guiding hand of families gave rise to a new dynamic, which allowed investigations to move forward for the first time in years.

Progress in individual investigations, however small, made it possible to believe that these horrific crimes, many of which appeared to implicate state agents, could be solved. A virtuous cycle started to take the place of a vicious one: the more prosecutors investigated, the more they earned the trust of victims' families, and the more investigations advanced. For their part, prosecutors took the solid investigative tactics and skills they had learned working on one case or another and applied them to other disappearances on their docket. Over fifty suspects have been charged in seven of the cases tackled through the "working meetings" with families and human rights defenders. Even in those cases in which suspects have not been charged, the investigations have progressed, as prosecutors have pursued long-neglected steps—such as summoning suspects for questioning, canvassing for witnesses, and pressing telephone companies to hand over victims' cell phone records—with a renewed sense of urgency and purpose.

This qualitative work on individual cases has been coupled with broader institutional and legal reforms aimed at strengthening the capacity of authorities to prosecute these crimes, such as passing legislation that criminalizes enforced disappearances, assigning special judicial police to investigate disappearances, and drafting an investigation manual that lays out fundamental steps that every prosecutor should take when investigating a disappearance.

For all of the progress that has been made in investigating disappearances in Nuevo León, the challenges that remain to effectively investigating disappearances and finding those who have gone missing are daunting. Authorities whose input is critical to advancing investigations often fail to cooperate with the efforts of prosecutors to solve cases—or worse, intentionally obstruct them. Some families, frustrated with the limited progress in their investigations, and understandably skeptical of authorities' commitment given their previous experiences, have lost faith in the process and stopped cooperating with prosecutors. And state prosecutors have been alarmingly slow to apply the solid investigative practices developed in the "working meetings" to the hundreds of other disappearances that are not directly monitored by families and human rights defenders, in some cases repeating the same chronic investigative errors and omissions in new cases.

Due to these and other serious obstacles, advances in the investigations have been limited. The fate of the overwhelming majority of the disappeared remains unknown. And despite having charged more than 50 suspects in investigations tied to the “working meetings,” prosecutors have yet to obtain a conviction. Nevertheless, the step of breaking through a climate of disillusionment and distrust in select cases is real. In that way, the working process in Nuevo León provides a blueprint for how some of the greatest challenges to investigating not only disappearances, but all human rights violations in Mexico, can be overcome.