

# MEXICO

Ayotzinapa

## FACTSHEET

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Deutsche  
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## ENFORCED DISAPPEARANCE IN MEXICO

*“Mexico knows more about how many tons of petroleum it exports daily than how many disappeared persons there are in the country. This fact illustrates the way in which Mexico establishes its priorities.”*

(Ariel Dulitzky, Chairman of the UN Working Group on Enforced or Involuntary Disappearances)<sup>1</sup>

Because of the extremely high number of persons who have disappeared without trace, Mexico has become the focus of a number of international human rights organisations working on this issue.<sup>2</sup> During the period of office of former President Felipe Calderon (2006-2012) more than 27,000 cases of enforced disappearance were registered. This figure however only reveals part of the problem: Nobody, including the state authorities, knows for sure, how many people have fallen victim to this crime in Mexico, nor has the question of who is responsible for such crimes been addressed. Thus the whereabouts and the fate of the victims remains unknown.

### *What do you understand by enforced disappearance? - Mexico's obligations under International Law*

According to Art. 2 of the *“International Convention for the Protection of All Persons from Enforced Disappearance”*, which came into law on December 23rd 2010:

*“enforced disappearance” is considered to be arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.*

This definition reveals the complexity of enforced disappearance: It unites multiple violations of human rights including arbitrary detention, torture, extra-legal execution as well as violation of the right to life, to liberty and to safety of the individual, to equality before the law, to an effective remedy as well as to a fair and

public hearing by an independent and impartial tribunal (art. 3 and 5 to 10 of the Universal Declaration of Human Rights). Furthermore it is worth mentioning: If enforced disappearance is a systematic or generalised practice, it may be classified as a crime against humanity according to Art. 5. Furthermore Art. 24, par. 1 makes specific reference to the relatives. If they have suffered harm as the direct result of an enforced disappearance they are also considered victims of enforced disappearance.

Because of the massive impunity in Mexico the relevant Mexican human rights organizations extended their activities against enforced disappearance to an increasing degree at an international level already in the 1990-ties. In 2009, the Inter-American Court of Human Rights held Mexico responsible for the enforced disappearance of Rosendo Radilla Pacheco.<sup>3</sup>

Furthermore, the UN Working Group on Enforced or Involuntary Disappearances, which was established in 1980, enquired the Mexican government on the initiative of the relatives of disappeared persons in 412 cases until 2010.

On March 18th 2008 Mexico ratified the UN Convention for the Protection of All Persons from Enforced Disappearance. Mexico however rejected to receive and consider communications from individuals or State Parties (art. 31 and 32).

The UN Committee on Enforced Disappearances (CED), established in 2011, recommended to Mexico's state report 2015<sup>4</sup> more efficient measures against enforced disappearance and criticised the absence of a uniform register and preventive measures as well as effective criminal investigations in order to identify the responsible persons and to take criminal proceedings.<sup>5</sup>

<sup>1</sup> Originally Dulitzky said: “México sabe mejor cuántos galones de petróleo exporta al día, que cuántas personas desaparecidas tiene en su país. Esto pone en su dimensión cuáles son las prioridades del Estado Mexicano.” <http://aristeguinoticias.com/1411/mexico/mexico-sin-un-plan-para-buscar-a-los-desaparecidos-ariel-dulitzky-en-cnn/>

<sup>2</sup> See reports from AI and HRW in 2013: <https://www.amnesty.org/en/documents/AMR41/025/2013/en/>, 4.6.2013 and <https://www.hrw.org/report/2013/02/20/mexicos-disappeared/enduring-cost-crisis-ignored>.

<sup>3</sup> See: <http://cmdpdh.org/casos-paradigmaticos-2-2/casos-defendidos/caso-rosendo-radilla-pacheco-2/>

<sup>4</sup> see <http://www.mexiko-koordination.de/downloadarchiv/verschwindenlassen/149-staatenbericht-mexiko/file.html>.

<sup>5</sup> See the final observations by the Committee, [http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/MEX/INT\\_CED\\_COB\\_MEX\\_19564\\_S.pdf](http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/MEX/INT_CED_COB_MEX_19564_S.pdf)



## Enforced Disappearance in Mexico

Even though the officially published number of 27,000 disappeared persons during Calderon's period of office has not been proved beyond doubt, one fact is undisputed:

Enforced disappearance in Mexico is a massive and systematic practice, which the government has not proved capable of tackling adequately to date. There is no domestic law against enforced disappearance<sup>6</sup> and thus no nationwide definition of the crime which has come into force, no nationwide uniform register of disappeared persons, no established search records, in order to track down victims who might still be alive, and no DNA data bank. Nor has the government so far spoken about the extent of any active involvement of state participants, above all security forces. Although enforced disappearance has meanwhile been defined as a crime in 23 out of 32 federal states, there was sentencing in only 6 cases between 2006 and 2013 (compare Fn.3).

In contrast to the common practice in the military dictatorships in Latin America and during the years of the "dirty" war in Mexico in the 1970ties with supposed 600 cases of enforced disappearance contemporary enforced disappearance in this country can no longer be ascribed to purely political motives. Additionally to male and female representatives of the organized civilian society today a great part of the Mexican population is affected.<sup>7</sup>

### Ayotzinapa: Turning point in dealing with enforced disappearance?

The enforced disappearance of 43 prospective teachers in Iguala (Federal State of Guerrero) on September 26th 2014 – also known as the "Ayotzinapa case" evoked a massive wave of protest in the Mexican population. The civilian society demanded the end of impunity, corruption and the complicity between state authorities and organized crime. With the report of experts of the GIEI ("Grupo Interdisciplinario de Expertos Independientes", sent to Mexico with a mandate by the Inter-American Human Rights Commission) on September 6th 2015 the massive deficits in the investigation and the incorrectness of the version in force of the sequence of events are proved.<sup>8</sup> The whereabouts of the disappeared students is unknown until today and none of the suspects has been accused of the offence of enforced disappearance.<sup>9</sup>

The Ayotzinapa case has become a symbol for the dealing of the Mexican authorities with enforced disappearance, especially towards the relatives concerned. Their right to truth has fundamentally and systematically been violated through missing and inappropriate information. Despite all these deficits of all the authorities concerned in dealing with enforced disappearance and the missing political willingness which have become obvious and

internationally known through this case, the Mexican government continues its present course.

**The international community of states is summoned to react to it.**

### Recommendations

The German Government and the EU should give the following recommendations:<sup>10</sup>

- The Mexican government shall present a national strategy for the solution of the violation of human rights, the fight against impunity, the realization of the rights of the victims and a programme for the protection of enforced disappearance.
- The programme, which serves the prevention of enforced disappearance and the search for disappeared persons, should be oriented to the recommendations of the Working Group on Enforced or Involuntary Disappearances. It shall comprise the establishing of a uniform nationwide register of all disappeared persons, DNA data banks and the establishing of search records.

The German Government should

- consult the Mexican civil society regularly about the planning and implementation of German rule of law projects regarding enforced disappearance in Mexico.
- stop the negotiations on a security agreement between Germany and Mexico as long as the mentioned national strategy for the fight against impunity and for the protection from enforced disappearance have not been passed and a recognizable change of Mexico's human right politics by the Mexican government is not visible.

The European Union should

- deal the subject of enforced disappearance in the human rights dialogue of the EU with Mexico separately and intensively and carry out a monitoring system on the implementation of the above mentioned programme, the recommendations of the CED and that of the team of experts GIEI.
- introduce a human rights clause in the currently negotiated global agreement between the EU and Mexico, which is accessible and operable for the civilian society. Furthermore a monitoring system should be worked out for the implementation of human rights and should be included in the global agreement, which also comprises measures for the protection from enforced disappearance.

<sup>6</sup> See the law initiative from September 2015: <http://www.excelsior.com.mx/nacional/2015/09/10/1045062>.

<sup>7</sup> Analysis of the situation in Mexico: „Verschwindenlassen in Mexiko: Ein systematisches Verbrechen“ (Enforced disappearances in Mexico: A systematic crime), for download in German: [www.mexiko-koordination.de](http://www.mexiko-koordination.de) and the annual report of the „Campaña Nacional Contra la Desaparición Forzada“, [http://hastaencontrarlos.org/IMG/pdf/informe\\_campa%C3%B1a\\_nacional\\_2014\\_1\\_.pdf](http://hastaencontrarlos.org/IMG/pdf/informe_campa%C3%B1a_nacional_2014_1_.pdf)

<sup>8</sup> See <http://prensagieiaiotzi.wix.com/giei-ayotzinapa#!prensa/c1rv5> for download of the GIEI report.

<sup>9</sup> Only the remains of one of the 43 students was identified by forensic medical investigation.

<sup>10</sup> See further recommendations in the analysis on enforced disappearances (in German): „Verschwindenlassen in Mexiko: Ein systematisch begangenes Verbrechen“, pp. 22-23, [www.mexiko-koordination.de](http://www.mexiko-koordination.de).