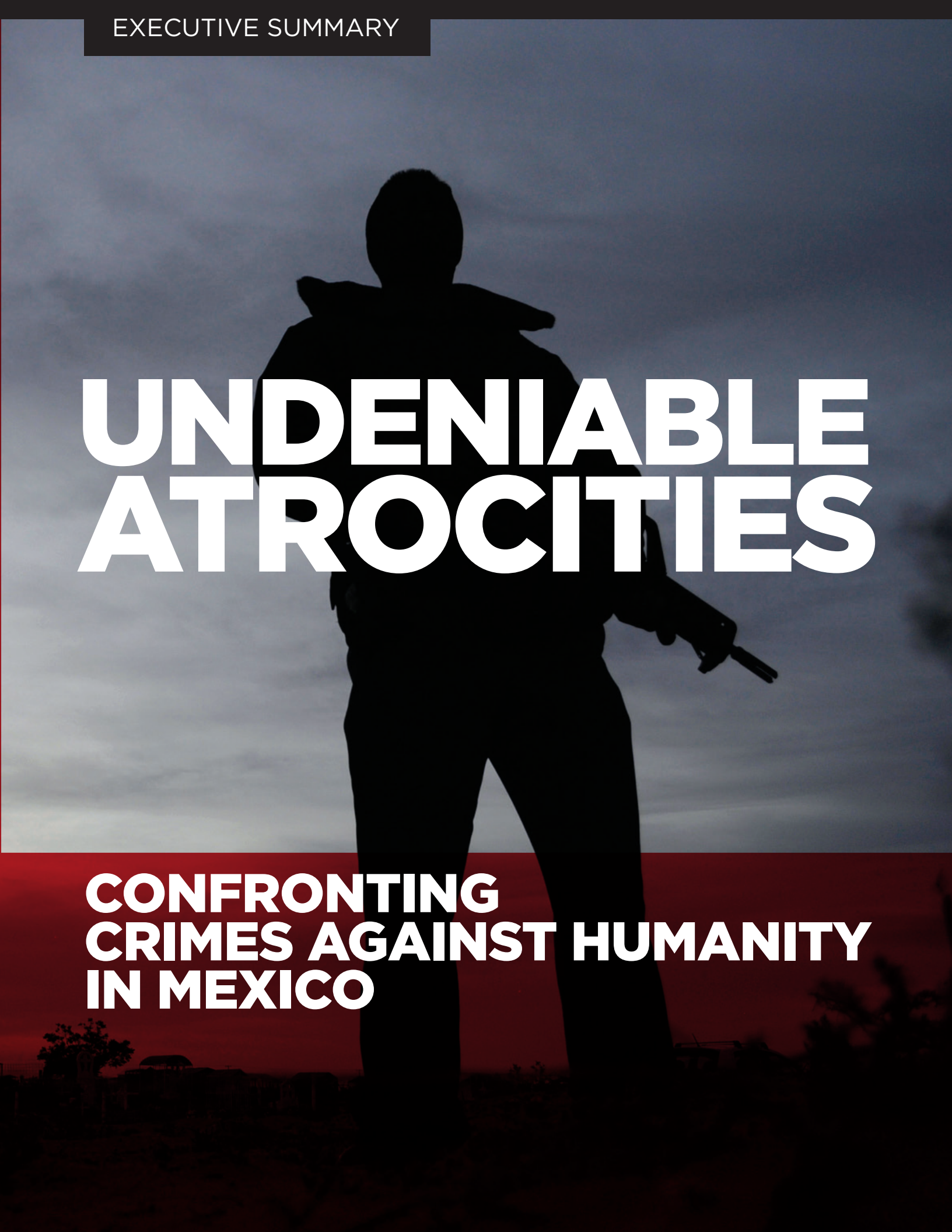
EXECUTIVE SUMMARY



UNDENIABLE ATROCITIES

CONFRONTING CRIMES AGAINST HUMANITY IN MEXICO

"The International Criminal Court is an option if Mexico persistently fails to investigate and prosecute atrocity crimes. A far better outcome is for the Mexican government to pursue domestic prosecutions itself, whether the perpetrators are government actors or criminal groups.... Under international law, the primary obligation to investigate and prosecute atrocity crimes rests with Mexico."

EXECUTIVE SUMMARY AND RECOMMENDATIONS

AYOTZINAPA. TLATLAYA. SAN FERNANDO. These places in Mexico are known for the atrocities committed there—they are perhaps the best known of the country's open wounds. But there are many others, perhaps less well known, such as Ojinaga, Allende, and Apatzingán. Nine years after the Mexican government first deployed federal armed forces to combat organized crime, civilians continue to suffer: killings, disappearances, and torture are carried out both by cartels and by the federal and state forces who are supposedly fighting them. From December 2006 through the end of 2015, over 150,000 people were intentionally killed in Mexico. Countless thousands have disappeared.

The Open Society Justice Initiative and five independent Mexican human rights organizations have spent three years examining the extent and nature of this crisis. We have concluded that there is a reasonable basis to believe that both state and non-state actors have committed crimes against humanity in Mexico.

This "reasonable basis" standard is used by the prosecutor of the International Criminal Court (ICC) to determine whether to move to open an investigation. Some Mexican individuals and organizations—including some of the partners in this report—have already filed communications with the ICC Office of the Prosecutor (OTP), urging it to pursue an investigation in the country. ICC intervention in Mexico is not, however, this report's purpose; instead, it is to ensure that these atrocity crimes are prosecuted to the full extent of the law in Mexican courts, regardless of the perpetrators. This is particularly important when such violence is carried out by government security forces, whose duty it is to combat crime, not perpetrate it. Resorting to criminal acts in the fight against crime is a contradiction, and one that fatally undermines the rule of law.

Seeking accountability before the ICC is an option if Mexico persistently fails to investigate and prosecute atrocity crimes. But a far better outcome is for the Mexican government to pursue domestic prosecutions itself, regardless of whether the perpetrators are government actors or criminal groups. Under international law, the primary obligation to investigate and prosecute atrocity crimes rests with Mexico; the Mexican government's ratification in 2005 of the Rome Statute (which created the ICC) affirms this responsibility. Moreover, the ICC, located in The Hague, can never equal the advantages of proximity, breadth of inquiry, or lasting impact on the development of the rule of law that credible domestic proceedings would bring.

Mexico has also made numerous other relevant treaty commitments within the Inter-American and United Nations systems, and has been a champion of human rights standards on the international stage. It has been a reliable voice for human rights in many other countries around the world. Mexico has ample resources and human capital to effectively prevent, prosecute, and punish atrocity crimes—most of all those carried out by its own forces. The question is whether Mexico has the political will.

Successive Mexican governments have almost completely failed to ensure accountability for atrocities carried out by federal and state actors, or by organized crime. Political obstruction—beginning with government denial of the extent and nature of the problem—is the overwhelming reason for this failure. By identifying the main barriers to effective criminal justice for atrocity crimes in Mexico, this report intends to assist the Mexican state and people in overcoming them.

To ensure accountability for atrocity crimes, it is necessary for the Mexican government to continue promoting significant but slow-moving reforms to the justice sector, as well as improving its technical capacity. But technocratic fixes will go only so far in addressing what are fundamentally political problems. The government must act without delay to acknowledge the gravity of the situation: it must initiate urgent, extraordinary measures, including the invitation of international assistance to ensure independent, genuine investigations and prosecutions.

That recommendation forms the core of this three-year, independent investigation of atrocity crimes and accountability in Mexico, spanning the presidencies of both Felipe Calderón (December 1, 2006–November 30, 2012) and Enrique Peña Nieto (December 1, 2012–present). This report reviews crime nationally from December 2006 through December 2015, but in examining the hurdles to justice, also includes information from field research in five of Mexico's 32 federal entities: Coahuila, Guerrero, Nuevo León, Oaxaca, and Querétaro.

THE REPORT BREAKS NEW GROUND by synthesizing and analyzing a broad range of existing information and uncovering—through the use of freedom-of-information law requests—new facts on atrocity crimes, international criminal responsibility, and the causes of impunity. It offers the first extensive analysis of crimes against humanity in Mexico by examining the activities of federal security forces since their expanded domestic deployment in December 2006. It also examines this question with regard to a non-state actor that has perpetrated some of the worst violence Mexico has seen: the Zetas cartel.

The report provides the first systematic analysis of the barriers to criminal accountability for atrocity crimes at the federal level. However, it does not systematically assess technical hurdles to accountability, including skill and resource shortcomings, because the research concluded that these are secondary to political obstruction and cannot be sufficiently redressed until political obstruction ends.

This report was written and primarily researched by the Justice Initiative, with extensive contributions from Mexican and international experts in international justice, right to information, and Mexican law. In addition, five national and local Mexican human rights organizations provided crucial analysis and additional research throughout a three-year collaborative process. These organizations are: the Mexican Commission for the Defense

and Promotion of Human Rights (*Comisión Mexicana de Defensa y Promoción de los Derechos Humanos*), the Diocesan Center for Human Rights Fray Juan de Larios (*Centro Diocesano para los Derechos Humanos Fray Juan de Larios*), I(dh)eas Human Rights Strategic Litigation (*I(dh)eas Litigio Estratégico en Derechos Humanos*), Foundation for Justice and Rule of Law (*Fundación para la Justicia y el Estado Democrático de Derecho*), Citizens for Human Rights (*Ciudadanos en Apoyo a los Derechos Humanos, CADHAC*).

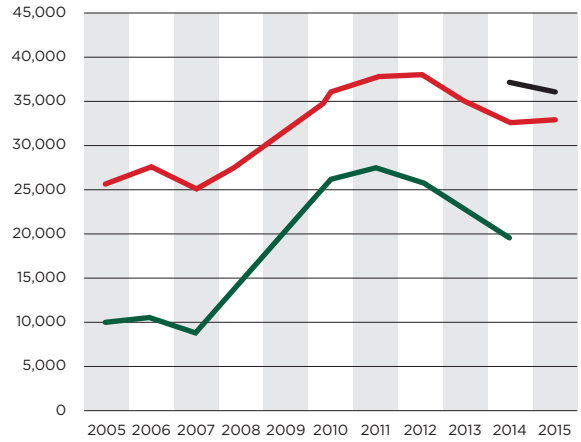
DIMENSIONS OF THE CRISIS

DATA ON CRIME AND JUSTICE IN MEXICO is notoriously incomplete and unreliable, with a bias toward undercounting the extent and gravity of atrocities. Yet even on the basis of the partial data that is available, it is undeniable that atrocities in Mexico are widespread.

Reported killings in Mexico began rising in 2007 with the implementation of a new national security strategy to combat organized crime. From 2007 to 2010, Mexico was the country with the highest rate of increase in intentional homicides. The annual number of reported intentional killing (*homocidios dolosos*) peaked in 2011 at 22,852 before subsiding somewhat to levels still markedly higher than pre-2006. From December 2006 through the end of 2015, over 150,000 people were intentionally killed in Mexico. Evidence strongly suggests that this increase was driven by organized crime violence and the state's security strategy, which relied on the extrajudicial and indiscriminate use of force. If anything, official statistics on killings undercount the true toll: tens of thousands of disappearances remain unsolved and hundreds of clandestine and mass graves remain insufficiently investigated. The prosecution of homicide is rare; there were convictions in only about one of every ten homicide cases from the beginning of 2007 through 2012. Federal prosecutors issued indictments in only 16 percent of homicide investigations they opened between 2009 and July 2015.

HOMICIDE IN MEXICO

INEGI data on annual homicides and SNSP data on annual total homicide investigations in Mexico (intentional and non-intentional), and SNSP data on annual victims of homicide.

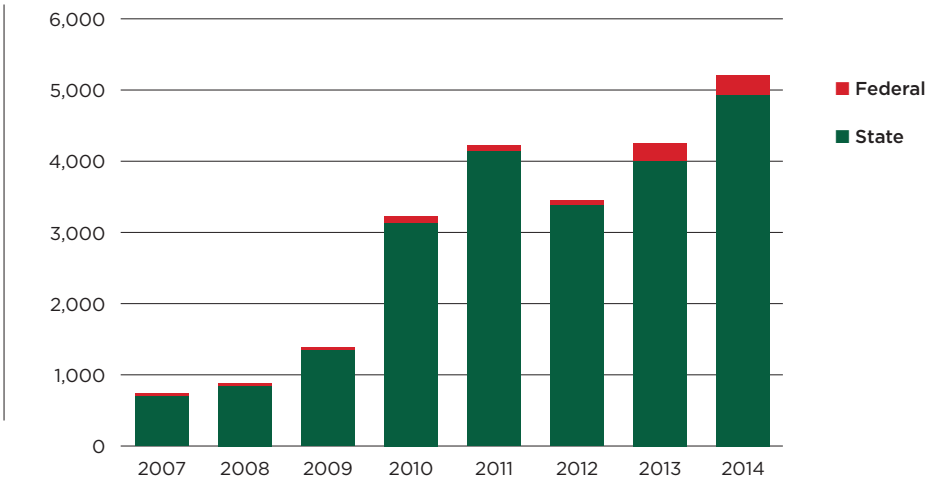


Nobody knows how many people have disappeared in Mexico since December 2006. The oft-cited figure of 26,000 is misleading and largely arbitrary—a flawed government accounting of missing persons. Recorded numbers of missing persons have steadily risen since 2006, reaching an annual peak of 5,194 disappearances in 2014. But these figures fail to distinguish among categories of disappearance, and include persons missing for non-criminal reasons. Nevertheless, there is strong reason to believe that the true number of persons missing for criminal reasons is significantly greater. Victims who are fearful of retaliation against their missing family members, or who are afraid for their own security, often do not report disappearances to authorities. Victims from rural areas, with few economic resources and no easy access to prosecutors, are less likely to report disappearances. Prosecutors have also often inappropriately reclassified cases involving state perpetrators—enforced disappearances—as "kidnapping," at a time when these crimes have reached alarming levels. A respected government statistical survey of Mexican households estimated that there had been nearly 103,000 kidnappings in 2014 alone. This does not include kidnappings of migrants in transit to the U.S. border, numbering many thousands annually. Of a rough estimate of 580,000 total kidnappings from the end of 2006 through 2014, there is no way to know how many could be categorized as other forms of criminal disappearance, including enforced disappearances.

It is clear is that there has been very little accountability for criminal disappearances, and almost none for enforced disappearances—those perpetrated by the police, military, or other agents acting on behalf of, or in collusion with, the state. According to the highest government claim, as of February 2015 there had been only 313 federal investigations of and 13 convictions for enforced disappearance. Although many cases of military-perpetrated enforced disappearances have been documented, it took until August 2015 for a single soldier to be convicted of the crime.

REPORTED MISSING PERSONS

Reports of missing persons, Registro Nacional de Datos de Personas Extraviadas o Desaparecidas, RENPED.



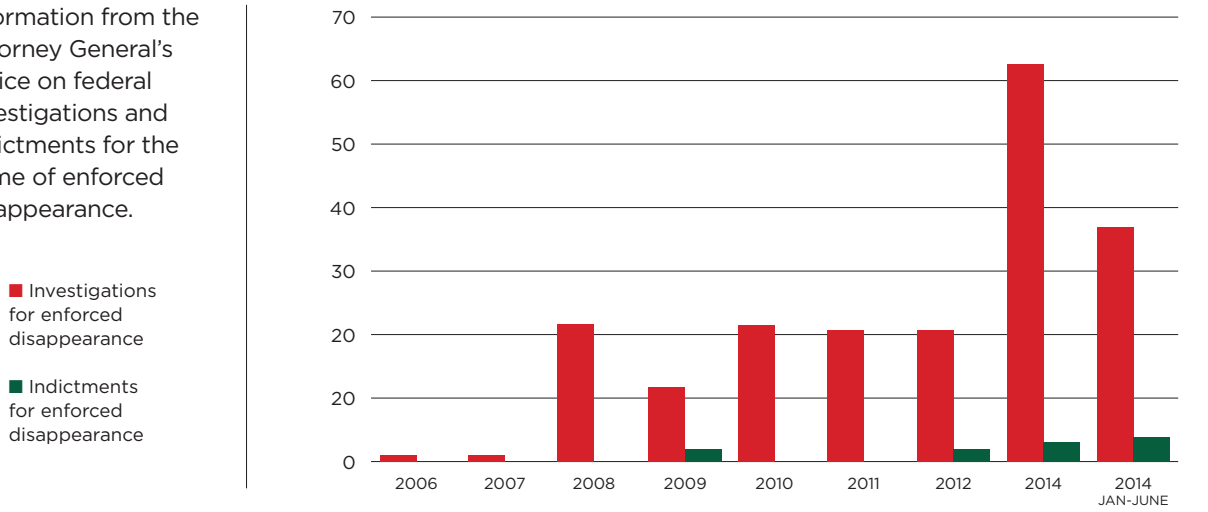
Complaints to the National Human Rights Commission regarding torture and ill-treatment more than quadrupled in the six years after the launch of the government's national security strategy. The commission received 9,401 complaints of torture and ill-treatment from January 2007 through December 2015. This is a partial and imperfect indication of the problem, and government data is deeply flawed. Officials responsible for collecting data on torture and ill-treatment, including prosecutors and police, have been heavily implicated as perpetrators. Many jurisdictions have inadequate definitions of the crimes, or none at all. Yet the figures from the National Human Rights Commission and many cases documented by civil society organizations suggest a broad practice, including the routine use of torture and ill-treatment by police, military, and prosecutors to obtain coerced confessions and testimony that they and many Mexican judges accept as evidence. Much of this abuse occurs during pretrial detention, including the prolonged form called *arraigo*, following the detention of suspects allegedly "caught in the act" (*flagrancia*) or in "urgent cases" without judicial authorization or oversight. Torture and ill-treatment are similarly inflicted with almost absolute impunity. By the highest available government figures, from 2006 through the end of 2014, there had been 1,884 federal investigations for torture, but only 12 indictments and eight judgments. For torture perpetrated from January 2007 through April 2015, there were only six convictions.

CRIMES AGAINST HUMANITY

BASED ON THE INTENSITY AND PATTERNS OF VIOLENCE committed since December 2006, there is compelling evidence that the murders, enforced disappearances, and torture committed by both federal government actors and members of the Zetas cartel

FEDERAL INVESTIGATIONS AND INDICTMENTS FOR ENFORCED DISAPPEARANCE

Information from the Attorney General's Office on federal investigations and indictments for the crime of enforced disappearance.



constitute crimes against humanity. This analysis finds that the situation in Mexico meets the legal definition of crimes against humanity as defined in the Rome Statute of the International Criminal Court (to which Mexico has been party since January 2006), as well as the jurisprudence of the ICC and other international tribunals.

Article 7 of the Rome Statute defines crimes against humanity as a number of different acts committed "as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack." Eleven underlying acts are listed, including murder, torture, and enforced disappearance. The Statute further defines an "attack" as "a course of conduct involving the multiple commission of acts…against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack." This means that crimes against humanity can be perpetrated by government forces, as well as by organized armed groups.

Importantly, investigating and prosecuting atrocities as crimes against humanity, rather than as ordinary domestic crimes, enables criminal responsibility to be examined up the chain of command, so that it can include those who either gave orders, or those who failed to take action to prevent or punish crimes which they knew (or should have known) were being committed.

Every government is responsible for the security of its people. Consistent with that responsibility, Mexico's federal government has pursued a legitimate goal: subduing organized crime. But it has done so through a policy that deployed the military and federal police to use overwhelming extrajudicial force against civilian populations perceived to be associated with criminal cartels, without adequate regulations on the use of force, and with almost no accountability for any of the abuses that followed.

Moreover, these failures to appropriately limit the use of force and establish accountability were not an accident—rather, they have been an integral part of the state's policy. As a result of this policy, federal forces have committed numerous acts of murder, enforced disappearance, and torture that have shown clear patterns in how they were committed. These were neither isolated nor random acts. The victims include criminal cartel members, but they also include many "false positives": civilians accused without basis of involvement in organized crime, often tortured into incriminating themselves and others, and frequently disappeared or murdered. Other civilians have been caught in the crossfire of a reckless strategy, killed as "collateral damage" in the battle between the government and the cartels. The magnitude of murder, disappearance, and torture over a number of years meets the legal threshold of being "widespread." The extent, patterns, and intensity of the crimes strongly suggest that they have also been "systematic." For these reasons, this analysis finds that the situation in Mexico meets the legal definition of crimes against humanity as defined in the Rome Statute, as well as the jurisprudence of the ICC and other international tribunals.

Under international criminal law, non-state actors can also commit crimes against humanity. The actions of the Zetas cartel, analyzed in this report, most clearly fit the legal definition, but further investigations may conclude that other cartels have also committed crimes against humanity. The Zetas cartel qualifies as an "organization" under the Rome Statute because of its hierarchical structure, its control over territory, and its capability to carry out widespread or systematic attack against civilians; it has expressed an intention to

ELEMENTS OF A CRIME

NUEVO LEÓN: 2010

ON THE EVENING OF MARCH 19, 2010, students Javier Francisco Arredondo Verdugo and Jorge Antonio Mercado were just leaving the campus of the Institute of Technology and Higher Studies in Monterrey, Nuevo León. They were confronted by members of the Army, who shot them to death. The military initially sought

to justify the killings by claiming that the students were "hitmen" who had opened fire on the soldiers, "pointing to weapons allegedly found on them as evidence."

However, following protestations from the victims' friends and family members, the CNDH investigated the matter and concluded that the soldiers had planted the weapons on the bodies of the deceased "with the aim of altering the crime scene to suggest the students were gunmen." Furthermore, subsequent autopsies showed that "both victims suffered physical abuse before dying, and that one student's gunshot wounds were inflicted at point blank range, execution-style." The CNDH ultimately concluded that the shootings resulted from the use of "arbitrary" force by a military unit referred to as "Nectar Urbano 4," which was under the command of the Secretariat of National Defense.The attack took place during the federal-led joint security operation (operativo conjunto) "Noreste Nuevo León-Tamaulipas" in Nuevo León, which aimed to counter organized crime and provide public security.

According to the ICC's Elements of Crimes, a murder amounts to a crime against humanity when: (i) a perpetrator kills or causes the death of one or more persons; (ii) the conduct was committed as part of a widespread or systematic attack directed against a civilian population; and (iii) the perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack against a civilian population.

In this case, the killings were carried out by members of the military who claimed the victims were "hitmen" and who attempted to support this claim by planting weapons on the students, suggesting that they engaged in extrajudicial use of force against persons suspected of being connected to organized crime.

These are characteristics shared with many other unlawful killings by federal forces across a range of years and many different locations, indicating that the killings of Arredondo and Mercado were part of a widespread or systematic attack.

The killing of just two victims is sufficient to constitute a crime against humanity, as long as the killings were connected to the larger attack: the use of indiscriminate and extrajudicial force against persons perceived as being connected to organized crime. It is only the attack, and not the individual enumerated acts, that need to be "widespread or systematic."

launch such attacks, and has done so in fact. The Zetas appear to have pursued a policy of controlling territory through violence in order to force other criminal actors to pay them a portion of their profits. In the course of this policy, the Zetas have committed a brutal string of atrocities, including murder, torture, and disappearances that follow identifiable patterns. The cartel has targeted civilian populations to maintain territorial control through terror. The cartel's commission of numerous acts of murder, disappearance, and torture over a period of years, in a highly organized fashion, strongly suggests that the Zetas committed these crimes in a manner that is widespread and systematic.

This report does not identify individual suspected perpetrators among federal government actors or members of the Zetas cartel. To do so would require the gathering of additional testimony, documentation, and other evidence sufficient to establish actual or constructive knowledge on the part of perpetrators. Did someone directly order these crimes to be committed? Did senior officials know, or should they have known, that these crimes were being committed? Did they act to prevent the crimes or punish perpetrators? These are among the additional factors that Mexico's justice system must investigate. A full investigation of this kind could expose the criminal accountability not just of direct perpetrators, but of those ultimately responsible for policies that have led to widespread or systematic attacks on Mexico's civilian population.

OBSTACLES TO CRIMINAL ACCOUNTABILITY AT THE FEDERAL LEVEL

WHY HAS THERE BEEN SO LITTLE JUSTICE FOR ATROCITY CRIMES IN MEXICO?
The roots are complex, but fundamentally political. They begin with the rhetoric of denial and deflection that has characterized both the Calderón and Peña Nieto administrations. Senior officials have consistently denied and minimized the scale and nature of killing, torture, and disappearance and they have made sweeping, unfounded assertions that victims of these crimes are themselves criminals. Instead of reckoning with the problem, senior officials have engaged in a pattern of attacking United Nations and Inter-American Commission on Human Rights officials, civil society organizations, and others who highlight atrocity crimes. At times, under public pressure, officials have made promises that too often remain unfulfilled.

Downplaying atrocity crimes is a central element of Mexico's history of impunity. A government that does not want to recognize disappearances, killings, and torture—especially by state actors—obscures data on the extent of these crimes. Families have looked on in frustration and anger as government officials have counted disappearances with incomplete data or unclear criteria, and then announced wildly divergent estimates of the disappeared. The government has made virtually no systematic attempts to locate clandestine or mass graves, or to exhume and account for the bodies in the scores of the graves that have been found across the country. Similarly, statistics on torture often come from the very agencies implicated in committing these offenses. When they are investigated at all, numbers are often twisted through the routine re-categorization of torture and ill-treatment as lesser crimes.

THE SAME POLITICAL LEADERS WHO DENY AND MINIMIZE ATROCITY CRIMES HAVE ALSO FAILED TO PROPERLY INVESTIGATE THEM. IN PRACTICE, THIS HAS MANIFESTED ITSELF IN SEVERAL WAYS:

1. The government accepts the continued use of torture by prosecutors and police to mete out extrajudicial punishment, to manufacture "evidence" to support criminal prosecutions, and to search for disappeared individuals. Apart from the fact that torture is a crime in itself and prohibited in all circumstances, it is also a notoriously unreliable investigative tool that has led to perverse outcomes: imprisonment of the innocent, impunity for the guilty, and abandonment of the disappeared, kidnapped, and trafficked, whose fates are not properly investigated.

2. Successive governments have sought to protect the Army and Navy from credible criminal investigation for atrocity crimes. Reforms in this area, as yet incomplete, were largely forced by decisions of the Inter-American Court of Human Rights and Mexico's Supreme Court of Justice that curtailed the use of flawed military courts. But senior government officials have still resisted an end to military jurisdiction in cases of human rights abuse against civilians, and federal prosecutors have participated in cover-ups of military atrocities.

3. The Calderón and Peña Nieto administrations have promoted militarized policing. This has resulted not only in the reckless use of force by federal and state-level police forces, but has contributed to their lack of skill at conducting criminal investigation by means other than coercion and torture.

4. Federal prosecutors have avoided prosecuting state and non-state actors for atrocity crimes. Prosecutorial obstruction has taken various forms: reclassifying atrocity crimes as lesser offenses, miring investigations in bureaucratic confusion, discouraging victims from filing complaints, and tampering with or fabricating evidence. This has been possible in large part because forensic and witness protection services are not independent, but located within the implicated prosecution office itself.

5. When pressed on criminal accountability for atrocities, the Calderón and Peña Nieto governments have demonstrated a pattern of launching initiatives and reforms with great fanfare, only to starve them of resources and political support. Various special mechanisms and plans have failed to locate the disappeared and provide victims of crime with support, representation, and reparation.

6. The executive branch has largely failed to work with Congress and the states to prioritize laws and protocols that could establish jurisdictional clarity and institutional rationality within the criminal justice system. This maintains plausible deniability for federal and state officials who can avoid or actively obstruct the investigation and prosecution of atrocity crimes through the manipulation of complexities in Mexico's federal system and federal-level bureaucracy.

ELEMENTS OF A CRIME

JALISCO: 2010

AS A GROUP OF MEN AT A HOUSE in Jalisco were preparing to go work in the countryside one morning in October 2010, Army forces broke in without a warrant, and after an hour, drove away in Ministry of Defense vehicles with six of the house's occupants. The men were never presented to any authority and have never been seen again. The military claimed it was responding to reports of "illegal activities" at the house, and delivered guns, cars, and ammunition to federal organized crime prosecutors. An investigation by the CNDH found no evidence to support the contention that the men had engaged in illegal activities. Rather, the CNDH concluded that the Army was responsible for the enforced disappearance of the six victims. Family members of the disappeared told the CNDH they had received threats from the military.

Article 7(2)(i) of the Rome Statute defines the crime of "enforced disappearance of persons" as "the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time." The conduct must also be connected to a widespread or systematic attack against a civilian population.

Here, the victims were detained by members of the Army, by its own admission and as corroborated by witnesses. As the CNDH also concluded in reaching its determination of enforced disappearance, the Army has refused to provide information on the whereabouts of the victims to their families, and the perpetrators have withheld information on the circumstances of detention and fate of the victims. The victims disappeared over five years ago, thus constituting a "prolonged period." Finally, the military's attempt to portray the men as criminals by delivering guns, cars, and ammunition to federal organized crime prosecutors suggests that they committed the illegal acts in connection with the security policy to fight organized crime.

Based on the evidence, it appears that the Jalisco disappearances share similarities with many others perpetrated by federal forces in multiple locations over a period of years, and therefore amount to enforced disappearances as a crime against humanity.

INSUFFICIENT ASSURANCES OF REFORM

MEXICO'S CRISIS OF ATROCITY AND IMPUNITY has taken place against a backdrop of general, far-reaching criminal justice reform, as well as recent proposals that are more specific to atrocity crimes. Congress and the Calderón administration launched a transition from a largely inquisitorial to an adversarial justice system at federal and state levels in 2008, which is supposed to be implemented by mid-2016. A unified, national criminal procedure code will likewise supplant a confusing patchwork of mostly inferior codes this year. Both measures, if properly implemented, promise to strengthen safeguards against the use of torture in criminal investigation. Congress has also cleared the way for passage of general laws on torture and enforced disappearance, which could address shortcomings in the current laws, and the federal government has promised to create new protocols for the investigation of disappearances

Relevant institutional reforms are also underway. In 2018, the federal Attorney General's Office, *(Procuraduría General de la República,* PGR*)* will transition to a *Fiscalía General de la República (*FGR*)*, led by an attorney general with a nine-year term, whose appointment and removal relies not just on the president, but also the Senate. Current proposals in Congress would make forensic services independent of the prosecution, but it is unclear whether they enjoy sufficient support to pass. No proposals to make witness protection services independent of federal prosecutors exist.[29] Police reform discussions have focused on where command should lie (at municipal, state, or federal levels), with insufficient attention to the crucial issues of police accountability and the militarized nature of policing.

Successful reform also relies on institutional accountability, which has been weak. Internal oversight mechanisms within the PGR have been ineffective. While Congress has passed some important reforms, it has long failed to adequately define atrocity crimes and crimes against humanity in domestic law, end military jurisdiction over all human rights abuses, ensure the independence of forensic and witness protection services, and safeguard the integrity and qualification of executive appointees to key justice sector positions. Within the judiciary, Mexico's Supreme Court of Justice and other federal courts have issued important rulings that ended military jurisdiction over most human rights abuses, and that hold promise to strengthen defense rights and reduce the incidence of torture. But the federal judiciary's record as a defender of human rights remains mixed. And state-level courts have frequently failed to dismiss evidence obtained through forced confessions or to order the investigation of alleged torture and ill-treatment, even in courts already operating under the new adversarial system.

The National Human Rights Commission has brought some atrocities to light—often under pressure from civil society organizations—but could do much more. It is well-financed, but has a weak mandate, which its leadership has further limited for what appear to be political reasons. This has taken the form of a tendency to downgrade the severity of the complaints it receives, as well as a reluctance to issue or follow up on recommendations that ascribe responsibility for human rights violations to specific state authorities.

Especially in the absence of stronger institutional accountability, the impact of legal and institutional reforms that have already been adopted will take time to assess. Considered against a history of failed justice sector reforms, it would be naïve to believe that

these approved reforms or pending new proposals will necessarily lead to substantial improvement in criminal accountability for atrocity crimes.

The administration of President Enrique Peña Nieto, which came into office in 2012 hoping to shift public focus to economic reform and modernization, has found that it cannot escape Mexico's twin crises of atrocity and impunity. The Mexican public, long disillusioned by the criminal justice system, has become even more skeptical of state authority and is unlikely to place faith in new, untested promises of reform. Demonstrating clear political will and ability to end the crisis would require the Mexican government to take a bold step—one that harnesses international goodwill toward Mexico, and injects the criminal justice system with objectivity and expertise as essential building blocks of public trust.

RECOMMENDATIONS

TO DEMONSTRATE POLITICAL WILL AND INSPIRE GENUINE HOPE for an end to Mexico's ongoing crisis of atrocity and impunity, bold steps are needed. Central to these must be the creation of an internationalized investigative body, based inside Mexico, which is empowered to independently investigate and prosecute atrocity crimes as well as cases of grand corruption. To create this entity, Mexico should engage in broad consultations, including with civil society. Such a body would have the mandate to:

- independently investigate atrocity crimes and cases of grand corruption and introduce cases in Mexican courts;
- provide technical assistance to the Attorney General's Office/Fiscalía and investigative police;
- develop justice sector reform proposals for consideration by the Mexican government, Congress, and public;
- produce public reports on the state of justice sector reform and the rule of law in Mexico, as well as progress on criminal justice for disappearances, torture, and killings.

Furthermore, the entity would need to be empowered to enter into witness protection agreements with trusted domestic agencies and outside states. Its mandate would be renewable, and of sufficient length in the first instance—meaning longer than one presidential term—to ensure that it has adequate time to conduct complex investigations, research, and reporting.

In the immediate term, the government should also undertake three additional measures to address the impunity crisis:

1. URGENTLY CREATE INTEGRATED TEAMS TO INVESTIGATE DISAPPEARANCES.

The government should create integrated units within the office of the deputy prosecutor for human rights to search for disappeared persons and prepare criminal charges against perpetrators. The units should be multidisciplinary, including prosecutors, police investigators, and social workers, and should have primacy in all investigations they open. Special emphasis should be put on context and crime pattern analysis. All staff should be vetted by the

National Commission on Human Rights and civil society organizations for past human rights abuses. The units should operate under the scrutiny of an oversight board made up of the attorney general, president of the National Human Rights Commission, a designee of the Congress, and civil society representatives, including victims' groups. The units and oversight board should hold regular meetings with families of the disappeared, to share updates on cases, identify common challenges, and solicit ideas and feedback. The UN Office of the High Representative should be invited to send a representative to each meeting. Separately, each unit should discuss its active cases with family members on a monthly basis to provide updates on investigative steps taken and identify next steps. The oversight board should have responsibility for entering into agreements domestically and internationally to seek technical assistance for the units to address general capacity building needs, or gaps in specific cases. Results on the cases under investigation must be made public.

2. MAKE FORENSIC SERVICES AND WITNESS PROTECTION AUTONOMOUS, OUTSIDE OF THE ATTORNEY GENERAL'S OFFICE.

Congress should pass legislation creating an independent national forensic institute, outside of the Attorney General's Office and Interior Ministry, and in place of existing forensic agencies at the federal and state levels. The institute should have a mandate to conduct independent forensic examinations for prosecutors and defense counsel. It should have an oversight board made up of the president of the National Human Rights Commission, a representative selected by the medical faculty of the National Autonomous University of Mexico *(Universidad Nacional Autónoma de México, UNAM)*, and an independent forensic expert experienced in Mexico who is selected by representatives of civil society.

Congress should also pass legislation making the Witness Protection Center autonomous from the Attorney General's Office and Federal Police. Judicial oversight over the work of the center, including decisions to grant and terminate protection measures, should be strengthened. All staff should be required to meet clear minimum standards and be vetted by the National Human Rights Commission and civil society organizations for past involvement in human rights abuses. There should be a clear firewall protecting access to operational information, and strengthened accountability for the performance and professionalism of the center's staff.

3. WITHDRAW THE MILITARY FROM PUBLIC SECURITY OPERATIONS AND PASS LEGISLATION THAT REGULATES THE USE OF FORCE.

The president should announce a plan to withdraw the military from public security operations, in concert with police reforms that aim to strengthen community policing and police investigative capacities. Furthermore, Congress should urgently:

- pass legislation that regulates the use of force in accordance with international standards;
- transfer jurisdiction over all human rights violations to the civilian justice system (including violations committed against other members of the military);
- establish the primacy of civilian investigations for human rights abuse over the military investigation of violations of the military code, where cases involve the same underlying incidents.

Since the Mexican government escalated its war on organized crime at the end of 2006, over 150,000 Mexicans have been intentionally murdered. Countless thousands of others have been tortured; no one knows how many have disappeared. Caught between government forces and organized crime cartels, the Mexican people have suffered as atrocities and impunity reign.

Based on three years of research, over 100 interviews, and previously unreleased government documents, *Undeniable Atrocities* finds a reasonable basis to believe that government forces and members of criminal cartels have perpetrated crimes against humanity in Mexico. The report comprehensively examines why there has been so little justice for atrocity crimes, and finds the main answers in political obstruction.

Given the lack of political will to end impunity, new approaches must be taken. *Undeniable Atrocities* argues for a series of institutional changes, most importantly the creation of an internationalized investigative body, based inside Mexico, with powers to independently investigate and prosecute atrocity crimes.

OPEN SOCIETY FOUNDATIONS