

Third visit of the Interdisciplinary Group of Independent Experts to Mexico: First findings and specific recommendations

In its third report to the public opinion, members of the Interdisciplinary Group of Independent Experts (GIEI in Spanish, and “The Group” from now on) named by the Inter-American Commission on Human Rights, presented its first findings on the work they have undertaken for the Ayotzinapa case, as a request from the victim’s relatives and the Mexican State.

On the basis of numerous testimonies and crossings of information, the Group revealed that on the night of September 26th, the students arrived long after the event of the DIF’s* president concluded, and that the attack occurred somewhere else. Since the beginning, the authorities knew that they were students of the Normal from Ayotzinapa who were asking for money and taking buses.

Among the activities carried out and presented by the Group, are the following: a workshop with the families of the normalistas; an agreement between the relatives and the Federal Police to reactivate the search and involve the parents as well; the development of work proposals for the CEAV (Executive Committee of Assistance to Victims) and the Ministry of Interior in the attention to the families and victims; as well as a criteria for the protocol of action for the Attorney General (PGR) in cases of enforced disappearances.

In regard to the progress of the petitions filed in previous visits, the Group announced the following: the implementation of numerous inquiries requested to the authorities is still pending; efforts to make direct interviews to members of the 27th Battalion continue, a formula suggested by the Government did not satisfy the group’s request; and the agreements of medical care for the victims are to be met expeditiously.

The Group expressed its concern about the fragmentation of the investigation in 13 different criminal cases within 6 Courts. The Group recommended the authorities to unify the criminal investigation in order to have a complete and comprehensive view of the crimes committed. As to allow an effective communication between the defendants and their lawyers and families. Such a measure would enable the families to have a real access to justice. Furthermore, the fragmentation poses the risk that evidence may be lost, concluded the Group. Also, the Group recommended to investigate other crimes committed such as torture, attempted murder and obstruction of justice.

During the press conference, Carlos Beristain and Claudia Paz, gave lecture of the following report:

1. Search for the missing 43 normalistas.

1.1 *New steps in the search process.* By request of the authorities and relatives, the Group arranged and facilitated a meeting between a large group of the normalistas’ relatives and Enrique Galindo, General Commissioner of the Federal Police of Mexico. Such meeting was held on May 5th, 2015, in which it was agreed to continue the search process until there is certainty of the fate of the missing normalistas; to ensure the adequate training, means and legal guarantees to conduct the search; and to ensure the participation, information and the monitoring of the searches with the relatives. Both parties reached a formal agreement in which the Group acted as a witness. The Group expects that the agreements are complied and that the process resumes as soon as possible. To do this, a Working Group will be created and the information will be facilitated to the Group, to which both parties expressed their appreciation for their good offices.

* National System for Integral Family Development.

2. Investigation

2.1 New proceedings. As part of its mandate to assist in the investigation, the Group proposed to the PGR to perform new proceedings to complete the information of the records. Although the Group has already received some results of the proceedings requested in their previous visits, they emphasized the need to supplement them due to the fact that numerous proposals remain pending.

2.2 Interviews with agents of the State. The Group keeps managing with the authorities the interviews with military personnel of the 27th Battalion. Initially, the authorities suggested that such interviews would be carried out through the PGR. Later the Group was informed that it was not possible to do so through the PGR, and that the Group will have a response in the next days regarding this petition. The Group emphasizes that it did not ask to interview the members of the Battalion through the PGR, but instead in a straightforward manner in order to complete the information out of the judiciary sphere. After a month and a half of the request, the Group reiterates the importance that the implementation of these direct interviews has to complete the investigation; therefore, it expects the cooperation of all the parties in order to carry them out in their next visit, in accordance with the mandate of the Group.

It has also asked for interviews with the staff of the Federal and Ministerial Police, which, according to various testimonies, were present in some of the scenarios in the first part of the events occurred on the 26th.

2.3 Avoid the fragmentation of the investigation. After a review of the investigation, the Group notices with concern the dispersion in both the processes and the arraignment of the suspects linked to the Ayotzinapa case. There are more than 13 criminal cases in six different courts in various cities of the country (Matamoros, Iguala, Cuernavaca, Toluca, Jalisco), and that the alleged perpetrators are in prisons in different cities (Tepic, Jalisco, Altiplano). The Group suggests: reunifying the investigation in order to avoid losing an integral vision of the facts, so as to avoid hindering the encounter between the arraigned, the relatives and their legal representatives; and to overcome the distances and to facilitate the victim's access to justice, avoid situations of insecurity and to facilitate an appropriate access to the process. It is also necessary to prevent the risk of loss of evidence related to the facts. It is required to cluster the criminal procedures in order to investigate and prosecute in a comprehensive manner the facts of Ayotzinapa. The Group considers that this measure is essential to avoid the risk of this fragmentation and highlights the importance of taking into account the patterns of action, the context and the connectedness of the crimes committed, which is key to determining the responsibility and the method of operation.

2.4 Type of crime to investigate. The Group previously pointed out that the crimes to investigate are of enforced disappearance, not of kidnapping, but stresses that also there were other serious violations of human rights, and crimes, among them: 1) torture (e.g. in the case of Julio César Mondragón Fontes); 2) attempts of murder; 3) concealment, obstruction of justice and abuse of authority; 4) inadequate use of the force; 5) battery and threats suffered by the normalistas that survived the attack. These crimes should also be adequately investigated.

2.5 Scenarios of the events of September 26th and 27th, 2014. The work of the Group has been focused on analyzing the development of the facts on more than 10 scenarios and moments on September 26th from the existing information in the records and the information gained from the Group itself.

Such analysis has made it possible to generate a greater knowledge of the places where the relevant facts, the attacks against the normalistas, members of Los Avispones and other people, the six buses and other vehicles, as well as the arrests carried out and its circumstances.

Also, the Group has studied the first actions against the normalistas, regardless of the probable criminal responsibility of Mr. Abarca and Ms. Pineda, and their intentions. From the analysis of the information made by the Group it follows that the students arrived some time after the DIF's president event finalized on the 26th, and that the attack occurred somewhere else. The authorities knew, since the beginning, that they were students of the Normal from Ayotzinapa, who were asking for money and taking buses for their activities.

3. Attention to the victims

3.1 *Work with the relatives.* From May 3rd to May 5th, 2015, the Group conducted a workshop with a group of 60 family members of the missing normalistas, injured and killed of the Ayotzinapa case. During the workshop, individual testimonies were taken on the experience of the families and the figure of the normalistas themselves. This space of listening and documentation was very important, and the Group thanks the families and their availability for this. It was also discussed the challenges that the time elapsed, the lack of answers, the pressures and the attempts of manipulation by others (already reported earlier) pose to the families in their attempt to find answers in the search for their sons. This work has strengthened the relationship of the Group with the families and the trust to carry out its mandate to investigate and find out the truth. Likewise, the Group continues collecting testimonies of normalistas that survived the attack and informing them of its activities.

3.2 *General care to the victims.* The Group suggested to the CEAV a number of recommendations regarding the care and treatment of the families of the normalistas killed, the students injured and the families of the 43 disappeared. Other suggestions included:

- 1) To have a complete mapping of the victims of the case, which has not been carried out after 7 months of the events.
- 2) To give progressive steps towards a close relationship with the victims and relatives in order to generate confidence.
- 3) To make a proposal for the care of the victims and to inform them about their rights in a personalized manner.

The CEAV welcomed in a positive way these suggestions and has informed to the Group of its efforts to carry them out. The Group has also made arrangements with the Ministry of Interior to carry out, in a prompt and appropriate manner, the recommendations and agreements on attention to the relatives of the normalistas, through a Mobile Health Unit with sufficient provisions and attending to the required conditions of security and accessibility, as well as referral to other levels of care in hospitals in the area, and in agreement with the victims of the case.

3.3 *Health care for severe cases.* On the medical treatment of Aldo Gutiérrez (the student still in a coma due to a shot in his head) the promise to have a prompt second opinion is still pending. However, the mechanism to give attention to the rest of the families has been set up, with a first medical assessment to identify the impacts and specific health needs. The authorities re-assured that they will keep the attention on Edgar Vargas (the student severely injured in his face) and his family until its complete restoration. In the case of the relatives of Julio César Mondragón (one of the students tortured and killed) the authority committed to provide care and both identify and meet the needs of the family. The Group considers that these are the first steps to establish a future care program that responds to the needs and aspirations of the victims. The authorities have asked to the Group to provide, to the extent of their potential, the contacts and guidance to ensure that these actions are possible and it has been told to develop a document for the victims in order to provide them with more clarity about their rights and practical implementation to make them effective.

3.4 *Secondary victimization against relatives.* On some forms of secondary victimization by third parties that have suffered the relatives of the normalistas and that the Group reported to the authorities a few weeks ago for its investigations and prevention, the Ministry of Interior has pointed out that it has already submitted a complaint to the competent authorities. The Group has requested to the authorities that before they carry out direct actions, they should report to the families to avoid putting them at risk. The Group hopes that these steps will help to prevent and punish any manipulation towards the relatives.

4. Public Policies on disappearances of persons in Mexico.

4.1 *Investigation and search protocol.* As part of its mandate, the Group sent its comments regarding to the project of “Homologated Protocol for the Investigation of the Crime of Enforced Disappearance”. Its recommendations seek to help obtain a precise tool explaining in a simple manner the legal framework, its objectives, homologated policies for operation, the procedure, and the formats and the interagency coordination.

The Protocol must be explicit in determining that no obstacle, be it legal or formal, for the search and investigation are established. It must prioritize the access to all kinds of information or places. Immediate inspections are of the outmost need, respecting the necessary legal guarantees. The search of disappeared must be a priority and not secondary to the investigation. The Protocol must have a clear and explicit formulation of objectives and be oriented to give a rapid, coordinated and effective response to both new cases as existing ones, applying a criteria of diligent performance, coordination between authorities and including an analysis of the context and modus operandi of the perpetrators in order to determine the search strategy, research and reparation on these cases. The inter-agency co-ordination capacity to ensure that the proceedings are conducted in a prompt and adequate manner, providing information to the families of the different proceedings undertaken.

4.2 *Constitutional Reform and the Law on Enforced Disappearance.* The Group welcomed the adoption of the constitutional reform by the Congress, since it will allow in the near future the adoption of a law on disappearance. The Group will remain on watch in order to ensure that such law responds to the international standards and best practices regarding that crime.

These are the actions that the Group has continued to take for the development of its mandate, which are considered central to promote changes that will help Mexico to prevent, investigate and punish the serious problem of the disappearance of persons.

We appreciate the interest of the media and society on our work, and we hope to present new developments from June.

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