BROKEN JUSTICE

IN MEXICO'S GUERRERO STATE

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The Open Society Justice Initiative bears sole responsibility for any errors or misrepresentations.

ABBREVIATIONS USED IN THIS REPORT

CAT	United Nations Committee Against Torture
CECOP	Council of Communities Against the la Porta Dam
CETEG	State Coordinator for Education Workers of Guerrero
CIDAC	Research Center for Development
CIDE	Center for the Investigation and Teaching of Economics
CNDH	National Human Rights Commission
CODDEHUM	Commission for the Defense of Human Rights of the State of Guerrero
DF	Federal District
DNA	deoxyribonucleic acid
ENVIPE	National Poll on Victimization and Perception of Insecurity
FIDH	International Federation for Human Rights
INEGI	National Institute of Statistics and Geography
NGO	Non-Governmental Organization
OMCT	World Organization Against Torture
UN	United Nations
UNDOC	United Nations Office on Drugs and Crime
PGJE	General Prosecutor's Office of Justice for the State of Guerrero, now the Fiscalía of Guerrero
PGR	Federal Office of the General Prosecutor
PRD	Party of the Democratic Revolution

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ABBREVIATIONS (CONTINUED)

PRI	Institutional Revolutionary Party
RedTDT	National Network of Human Rights Civil Society Organizations "All the rights for all people"
RENPED	National Registry of Information on Missing or Disappeared Persons
RTI	Right-to-information request
SEGOB	Federal Ministry of the Interior
SEIDO	Federal Specialized Prosecution Office against Organized Crime
SETEC	Technical Secretariat for Justice Sector Reform
TSJ	Supreme Court of Justice of the State of Guerrero
UPR	Universal Periodic Review

METHODOLOGY

THE OPEN SOCIETY JUSTICE INITIATIVE, through its international and Mexican staff, has been working with local partners on justice reform in Mexico since 2004. Focus areas have included the right to personal liberty, the right to be free of arbitrary and/or excessive pretrial detention, the right to information, and the right to truth. Our work has been conducted through intensive collaboration with government entities and civil society. In 2012, a new Justice Initiative project undertook research into atrocities* committed in Mexico since 2006, when the federal government deployed armed forces to fight organized crime. The aim has been to understand the scale of atrocities, namely killings, disappearances, and torture; the extent to which perpetrators have been held accountable; and the reasons why there has been so little justice for the victims of these crimes. In conducting this work, the Justice Initiative has sought to meld local expertise with its experience gained through conducting previous, similar studies in the Democratic Republic of Congo, Uganda, and Kenya.

In addition to the federal level, the Justice Initiative selected five states for research: Coahuila, Nuevo León, Oaxaca, Querétaro, and Guerrero. The five represent a cross-section of Mexican geography, levels of violence, economic development, and political party control. Guerrero, which is the focus of the present report, stood out among the five as the state with the greatest political and structural challenges to securing redress for atrocities and massive human rights violations. These problems, including one of the highest rates of killings in Mexico, have roots in such longstanding factors as the marginalization of rural, poor, and indigenous people, and newer factors, including Guerrero's central place in the production and trafficking of narcotics. The disappearance of 43 students on September 26, 2014 underscored the legacy of violence in Guerrero, the state's failure to credibly respond, and concerns about its future stability. This has prompted the Justice Initiative and partner organizations to publish this stand-alone report on the challenges facing Guerrero. A forthcoming report will explore similar issues at the federal level, and include information from research in the other four states.

Throughout this project, the Justice Initiative has worked in concert with Mexican civil society partners. In Guerrero these are the Center for Human

* "Atrocities" are commonly understood to mean crimes of terrible cruelty, but are not defined in Mexican or international law. This report uses the term in its plain meaning, and specifically focuses on the crimes of killings, torture, and enforced disappearance (disappearances perpetrated by state actors, or with their involvement, acquiescence, or at their command).

Rights Miguel Agustín Pro Juárez (Centro de Derechos Humanos Miguel Agustín Pro Juárez, Centro Prodh), an NGO based in the Fedral District that has documented high-profile human rights cases in Guerrero, and provided assistance to victims, and the Center for Human Rights of the Mountain Tlachinollan (Centro de Derechos Humanos de la Montaña Tlachinollan), an NGO with deep roots in the state that works in one of the most impoverished regions of Guerrero, where human rights violations are commonplace. These partners provided strategic advice, research leads, and specific data. For the Justice Initiative, research in the state has been conducted, at different stages, by three Mexican attorneys with experience in litigation and human rights.

In February 2013, the Justice Initiative's executive director undertook an exploratory visit to Mexico, which overlapped with intensive research by a Mexican lawyer who conducted 52 in-depth interviews. In these and subsequent interviews, interlocutors were provided the option of speaking with full attribution, or providing information without full disclosure of their identities, in some cases due to security concerns, and in others because they were officials concerned about potential retribution.

A JUSTICE INITIATIVE RESEARCH TEAM, composed of Mexico-based and international staff and consultants, conducted a first visit to Chilpancingo in December 2013 for initial assessments and interviews with state officials and civil society representatives. With key issues identified, the team undertook a second research trip to Guerrero in the week prior to the student disappearances of September 2014. Meanwhile, the Justice Initiative conducted legal analyses, including assessments of the situation in Guerrero measured against international standards. The team also filed dozens of official requests for information with various entities of the federal and state governments, in accordance with federal and state right-to-information laws. Answers to these requests, filed from 2013 into 2015, together with answers to information requests filed by Centro Prodh and Tlachinollan, form an important basis for this report's findings. Other sources include government documents, Mexican and international academic studies and civil society reports, media articles, and recommendations of the Guerrero State Commission on Human Rights and the National Commission for Human Rights. In April 2015, staff of the Justice Initiative, Centro Prodh, and Tlachinollan spent a day in Chilpancingo reviewing a draft of this report and formulating its recommendations together. The report was then finalized on the basis of this feedback, extensive internal review, and additional research.

EXECUTIVE SUMMARY

FOR PARENTS, SIBLINGS, AND FRIENDS, the disappearance of each of 43 Ayotzinapa students on September 26, 2014 caused unfathomable pain and tremendous suffering. For the broader populace of the state of Guerrero, that day's disappearances caused shock, pain, and anger—but perhaps not surprise. Atrocities and violent crime in Guerrero have been commonplace at least as far back as Mexico's 1969-1979 Dirty War.[1] An official state truth commission has determined that crimes committed by federal forces and others in Guerrero during that period constituted crimes against humanity. With the rise of drug cartels and the launch of a new federal security policy to counter organized crime in 2006, residents of Guerrero have been increasingly caught in the crosshairs of state and cartel violence.

Evidence strongly suggests that some state institutions, including the police, have been infiltrated by organized crime. Meanwhile, elite families maintain powerful control over public institutions that have neglected poor, rural, and indigenous populations, feeding both cartel recruitment and popular discontent. If Guerrero's citizens are no longer surprised by the regularity with which atrocities are committed, by now they are also used to the state justice system's nearly comprehensive failure to hold perpetrators to criminal account.

The Open Society Justice Initiative, in partnership with the Center for Human Rights Miguel Agustín Pro Juárez (Centro de Derechos Humanos Miguel Agustín Pro Juárez) and the Center for Human Rights of the Mountain Tlachinollan (Centro de Derechos Humanos de la Montaña Tlachinollan), set out to understand the dimensions of Guerrero's serious crime problem—specifically killings, enforced disappearances, and torture—and to identify the reasons that Guerrero's criminal justice system has so badly failed the victims of these crimes. The resulting report provides the first comprehensive analysis of the political will and technical capacity in the state to investigate, prosecute, and hold fair trials for alleged perpetrators of killings, enforced disappearances, and torture.

THIS PUBLICATION PRECEDES A FORTHCOMING REPORT by the Justice Initiative in partnership with Mexican human rights organizations that will examine the same questions at the level of Mexico's federal government. The findings on Guerrero are being published separately in order to inform public debate ahead of the first anniversary of the Ayotzinapa disappearances, and

before the state's inauguration of a newly-elected Congress on September 13, 2015; in addition, a newly elected governor will take office on October 27, 2015.

The new Congress and incoming Governor Héctor Astudillo Flores take charge of a state in which 19,434 homicides were reported to prosecutors between 2005 and 2014—a staggering total in a state with a population of only 3.4 million.[2] A landscape of uninvestigated clandestine and mass graves, many of which were discovered following the 2014 Ayotzinapa disappearances, strongly suggests that the actual rate of killing has been far higher. From the beginning of 2005 through April 2015, state prosecutors opened 7,965 preliminary investigations for intentional homicide, leading to 1,601 indictments (20% of investigations) and 764 convictions (9.6% of investigations).[3] Although the state Human Rights Commission[4] documented 90 involuntary and enforced disappearance cases between 1990 and 2014—two-thirds of these since 2006—and state prosecutors have opened investigations into 44 additional cases, they have never indicted anyone for these enforced disappearances.[5] Likewise, despite 54 cases of torture that the state Human Rights Commission documented from 1994 through 2014, not a single arrest warrant, let alone an indictment, has ever been issued for any perpetrator of these crimes.[6] Statistics and interviews suggest that prosecutors and prosecution police in Guerrero routinely engage in torture and other ill-treatment in order to mete out extrajudicial punishment and obtain coerced confessions as a basis for criminal investigations.

Why has there been so little justice for atrocities in Guerrero? This report identifies the primary cause as political. Under Governor-elect Astudillo's predecessors, the justice system has been unduly influenced by an authoritarian executive that has not respected the legal autonomy or independence of institutions, and has sought to manipulate them through inappropriate and irregular means. Further, the same investigative police force heavily implicated in committing serious crimes has been tasked with investigating them. Until recently, the prosecutor's office was an appendage of the executive, and appeared more interested in minimizing the incidence of serious crime than prosecuting it. Defense counsel capacities and infrastructure are weak, with too few defenders, especially in poor, rural, and indigenous areas. This has presented a key obstacle to the prevention and punishment of torture. The judiciary is insufficiently independent of the executive, illustrated by an interior minister who was simultaneously on temporary leave as president of the state judiciary. The state Congress has failed to adequately scrutinize the power of the executive and, in 2014, was complicit in former Governor Angel Aguirre's irregular neutralization of the one state institution that had served as a check on impunity for grave violations of human rights: the state Human Rights Commission.

Although the main sources of serious crime and impunity in Guerrero are political, the new governor will take the reins of a state with other grave shortcomings. Many prosecutors and police lack basic skills needed to prevent and solve crimes. The judiciary is largely untested in dealing with atrocities, and still adapting to the adversarial system. In Guerrero, the federally-mandated transition to the adversarial system has been slow.[7] The substantive legal framework is adequate for the prosecution of enforced disappearance, but falls short in its definition of torture and in other respects. The state has jurisdiction over the crimes of killings, enforced disappearance, and torture, but, under often ill-defined circumstances, federal prosecutors may assert jurisdiction over these same crimes. This often results in the manipulation of jurisdictional ambiguity. Security presents a major challenge. Although a satisfactory framework for witness protection exists on paper, witnesses—especially witnesses to human rights violations—remain endangered. The witness protection system relies on individuals and institutions that have been implicated in serious crime, lack training in the proper protection of witnesses, and are not adequately held accountable for their performance. Human rights defenders, activists, and journalists who have pressed for or inquired about justice for serious crimes have come under attack. Overcrowded state prisons are dens of torture and killing. Prosecutors and judges face threats from criminal cartels.

The election of a new governor provides an opportunity to acknowledge the scale and nature of the crisis, appraise past failings, and chart bold actions to investigate and prosecute killings, enforced disappearances, and torture in Guerrero. This would begin to build trust with a disaffected citizenry. To do so, Governor Astudillo and Guerrero's newly elected Congress should take actions in five key areas:[8]

1. **STRENGTHEN SYSTEMIC ACCOUNTABILITY IN THE JUSTICE SECTOR.** The new government should ensure an independent, strong, well-resourced, and transparent Human Rights Commission; improve the collection and transparency of data on the justice system; create an independent deputy prosecutor for human rights abuses and atrocities; make forensic services independent of political authorities and the prosecutor; strengthen defense rights; strengthen the "Technical Committee for Analysis and Evaluation" created under the torture law; strengthen judicial independence, including by barring judges "on leave" from serving in the executive branch; and ensure investigation and prosecution of Dirty War crimes, including those identified by the Truth Commission of Guerrero.

2. **STRENGTHEN THE LEGAL FRAMEWORK.** The new Congress should: amend the state torture law, bringing it into line with international standards by adopting the definition of torture in the Inter-American Convention to Prevent and Punish Torture and incorporating provisions on the criminal liability of senior officials who fail to exercise their authority to prevent torture; formally include the criminal offenses of torture and enforced disappearance in the state criminal code in order to remove any excuse prosecutors use to avoid enforcing special laws; make perpetration by state actors an aggravating circumstance for homicide; and accelerate the implementation of the adversarial system.

3. **STRENGTHEN SECURITY.** The new government and Congress should redefine policing and restructure police forces with greater emphasis on community policing, criminal investigation, judicial pluralism and greater accountability; strengthen witness protection; act to reduce prison violence and overcrowding; provide security guarantees for human rights defenders; and strengthen security protocols at justice institutions.

4. **CREATE INTEGRATED, MULTI-DISCIPLINARY TEAMS TO INVESTIGATE DISAPPEARANCES.** The new government should create integrated units, including prosecutors, investigators, and social workers, to search for disappeared persons and conduct related criminal investigations.

5. **LOCATE, EXHUME, AND INVESTIGATE CLANDESTINE AND MASS GRAVES.** The Fiscalía should: coordinate with federal authorities to produce a publicly available map of all clandestine and mass graves found in Guerrero; deploy new technology to locate clandestine and mass graves; and seek national and international assistance for the timely exhumation and investigation of such graves.

I. INTRODUCTION: GUERRERO'S HISTORY OF ATROCITY

AS WORD SPREAD ABOUT THE MASS GRAVES, DOZENS OF FAMILIES OF THE DISAPPEARED RUSHED FROM AROUND GUERRERO AND NEIGHBORING STATES TO THE RURAL TEACHERS' COLLEGE ON THE OUTSKIRTS OF GUERRERO'S CAPITAL, CHILPANCINGO, IN LATE SEPTEMBER 2014. IN THE COUNTRYSIDE SURROUNDING THE NEARBY CITY OF IGUALA, FEDERAL AND STATE AUTHORITIES HAD LOCATED PITS CONTAINING THE CHARRED REMAINS OF AT LEAST 28 BODIES, SOME OF THEM DISMEMBERED.[9] THE MASS GRAVES WERE AMONG THE MANY DISCOVERED IN GUERRERO IN RECENT YEARS, BUT THEY WERE THE FIRST TO GARNER SIGNIFICANT ATTENTION OUTSIDE THE STATE, BECAUSE OF WHAT THEY WERE THOUGHT TO HOLD.[10]

About ten days prior to the discovery, six people, including three students from a rural teachers' college renowned for its activism, were shot and killed in Iguala. Video documented some student activists who survived the shooting being driven away in police trucks.[11] In all, 43 students were missing. State police initially arrested 22 municipal police allegedly involved in the disappearances and killings.[12] The National Human Rights Commission announced that it would investigate. Desperate families of the 43 disappeared students—about a third of the first-year class at Raul Isidro Burgos Teachers' College of Ayotzinapa—were demanding that Governor Ángel Aguirre find their children.[13] President Enrique Peña Nieto addressed the country, promising federal participation in "[…]fully solving this case, finding those responsible and strictly applying the law."[14] But by the time federal prosecutors asserted jurisdiction, the students had been missing for 10 days.[15]

The days that followed were marked by continuous revelations of atrocity and a heightening of social tensions[16] as one clandestine grave after another failed to yield the bodies of the 43 students and authorities failed to provide information on their whereabouts. After the government announced that there were no DNA matches with any of the disappeared students' relatives among the bodies found in the first graves, officials, vigilante organizations (autodefensas), and the families themselves continued the search. What they discovered in the hills surrounding Iguala was a landscape of clandestine graves, some containing multiple bodies.[17]

As the unearthing of these unrelated graves suggests, the crimes of September 2014 were just the latest in a longer history of atrocities in Guerrero. When they came under attack, the Ayotzinapa students were in Iguala to raise funds and commandeer buses to take them to Mexico City for a commemoration of an infamous massacre of students on October 2, 1968, during Mexico's "Dirty War" of the 1960s and 70s.[18]

The Dirty War's toll was heavy in Guerrero. Between the late 1960s and 1979, state agents perpetrated crimes against humanity, including extrajudicial killing, enforced disappearance, torture, inhuman treatment, displacement, and other grave human rights violations in Guerrero.[19] The Dirty War was an exercise in widespread and systematic repression, in which the state pursued a policy of exterminating those it termed "guerillas." Accordingly, the state granted security forces virtually unlimited powers to counter guerilla activities and subdue and control civilian populations suspected of supporting guerrilla or subversive movements.

Even with the Dirty War's end, and then the end of one-party rule by the Partido Revolucionario Institucional (PRI) at the federal level in 2000, government corruption, neglect, and oppression continued.[20] The guerilla movement in Guerrero and elsewhere in southern Mexico had arisen largely in response to the poverty and feudal characteristics long present in the region.[21] A small group of elites—the caciques—have concentrated wealth in their hands, passing down their fortunes and the reins of state power through the generations.[22] Thriving at the expense of the majority of the population, the caciques remained the locus of power in Guerrero, but now frequently exercised it through a variety of political parties. State disregard for the needs of vulnerable communities continued to represent a failure of democratic accountability in Guerrero, and it continued to foster political discontent.

SEPTEMBER 2014 WAS NOT THE FIRST TIME THAT AYOTZINAPA STUDENTS DIED AT THE HANDS OF GOVERNMENT FORCES. AT A PREVIOUS PROTEST AGAINST INSUFFICIENT STATE SUPPORT FOR THE SCHOOL IN DECEMBER 2011, SOME 300 STUDENTS BLOCKED PART OF THE HIGHWAY FROM CHILPANCINGO TO THE RESORT TOWN OF ACAPULCO.[23] FEDERAL AND STATE POLICE RESPONDED WITH EXTREME FORCE, ULTIMATELY FIRING LIVE AMMUNITION AT STUDENTS THROWING STONES AND MOLOTOV COCKTAILS. THREE PERSONS, INCLUDING TWO STUDENTS, WERE EXTRAJUDICIALLY KILLED, AT LEAST ONE WAS TORTURED, AND DOZENS MORE WERE INJURED.

Given the power of the caciques and the government security forces' penchant for violence, expressing demands in the street and defending human rights has long been dangerous for the people of Guerrero. But protesting became even more dangerous with the rise of drug cartels in the region. Guerrero's climate, topography, and location make it well-suited to marijuana and poppy cultivation. The state is responsible for an estimated 50-70% of all heroin produced in Mexico.[24] The business has become increasingly lucrative as demand has increased in the United States. From the mid-1990s until 2008, the Beltrán Leyva Cartel had a near monopoly on drug production and trafficking in Guerrero. It splintered into smaller groups in 2008-9, and ceded ground to encroaching competitor cartels from other states. At the same time, these cartels—built around drug cultivation, production, and trafficking—have diversified into a wide array of organized criminal activities, including extortion and kidnapping.[25]

The 2014 Ayotzinapa disappearances brought outside attention to what was already well known within the state: that many authorities have been infiltrated by organized crime organizations.[26] According to a leaked report from the Office of the Federal Prosecutor, 26 out of 80 identified criminal groups in Mexico are settled in Guerrero.[27] Government intelligence documents state that at least 12 mayors in Guerrero—eight of them from the governing Party of the Democratic Revolution (*Partido de la Revolución Democrática*, PRD)—were suspected of having connections to drug cartels.[28] Following the Ayotzinapa disappearances, the Army took control of 13 municipalities in Guerrero "due to lack of trust in municipal security forces."[29]

One analyst claims that organized crime has a "permanent presence" in at least 65 of the state's 81 municipalities.[30]

Even as the state of Guerrero itself was being extensively infiltrated by criminal organizations, state officials were echoing the federal government's portrayal of violence as caused by organized crime, and also a sign that the security strategy launched by President Felipe Calderón in late 2006 was succeeding. State and federal governments have often portrayed the victims of violence as criminals—especially when those victims were found to have been killed by state agents.

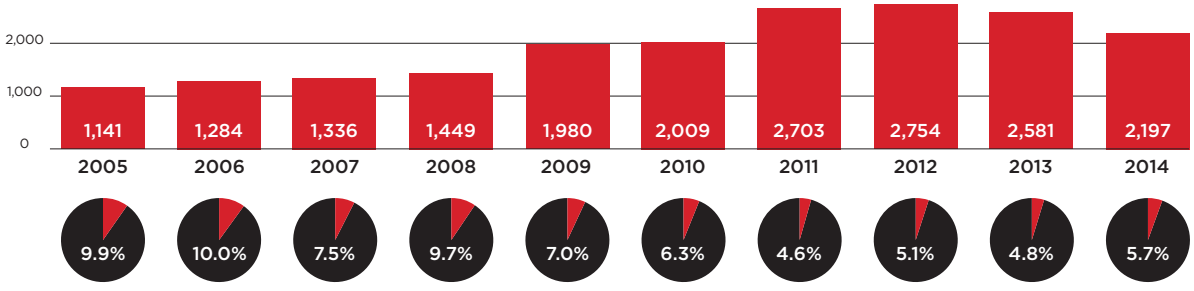
The September 2014 killings and disappearances of the Ayotzinapa students resonated to such a great extent in Guerrero and across Mexico in part because they so clearly refuted this longstanding government narrative. The 43 students were clearly not members of organized crime, but rather the embodiment of their families' sacrifices and hopes for a better future. The country and the world looked on as distraught, outraged families demanded answers from the state and federal governments. Refusing government payments that looked like a desperate attempt to contain the protests, these families from rural, largely indigenous areas abandoned their jobs and farms to comb the hills for clues to their boys' disappearance, speak to the media, and demand accountability.[31] In the weeks following the killings and disappearances in Guerrero, students and average citizens across Mexico took to the streets to express their disgust and demand change.

Politicians scrambled to respond. More than a month after the attack on the students, President Peña Nieto agreed to meet with the families of the disappeared. During that meeting, he also agreed to a 10-point plan for investigating the case, as requested by victims.[32] Finally, he addressed the nation to promise a raft of reforms on security and justice issues.[33] Facing mounting street protests in Guerrero, Governor Aguirre was forced to take a leave of absence, which later became permanent.[34] Members of various political parties, including the PRD mayor of Iguala, had been deeply implicated in the disappearances and tied to organized crime.[35]

With all of the promises of reform sparked by new attention to old problems, could Guerrero find a way to deliver justice for atrocities, including those of September 2014? The record was not encouraging. Guerrero has among the highest homicide rates in Mexico. According to data from the federal Ministry of Interior, there were a total of 19,434 homicides reported to Guerrero prosecutors from 2005 through 2014.[36] Data from the Fiscalía (as Guerrero's state prosecutor's office has been called since August 2014),[37] show how little accountability there has been for these killings.[38] Of all homicides

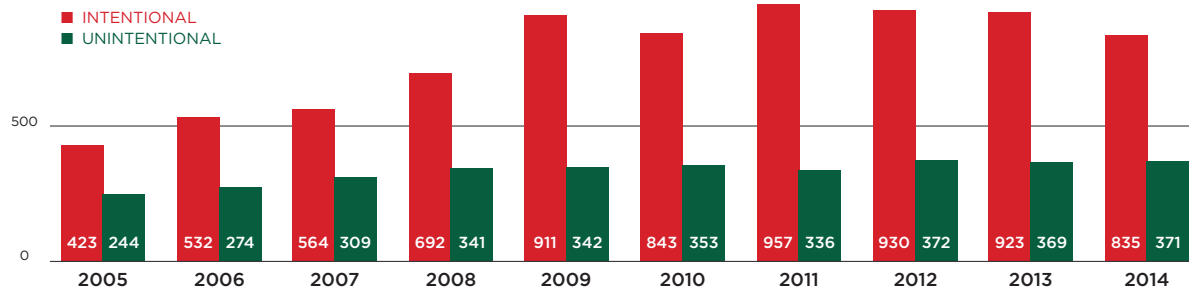
HOMICIDE IN GUERRERO

TOTAL NUMBER OF REPORTED HOMICIDES

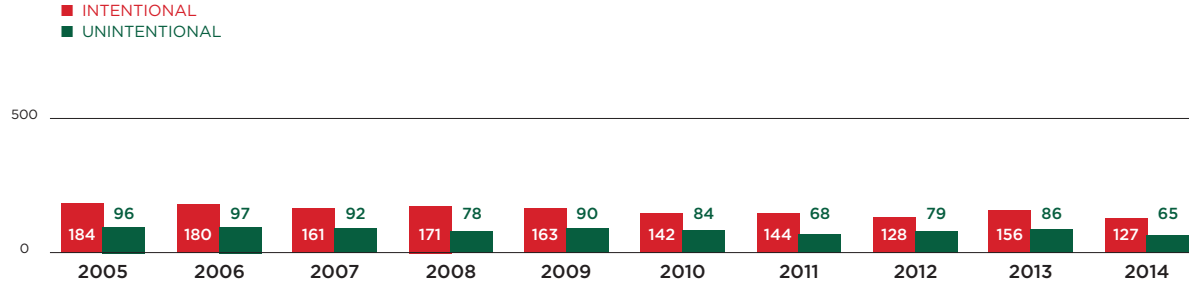


TOTAL NUMBER OF HOMICIDE CONVICTIONS AS A PERCENTAGE OF REPORTED KILLINGS

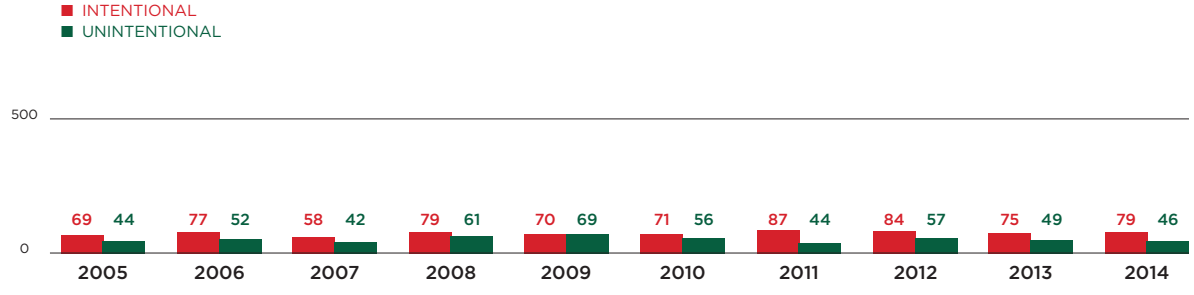
NUMBER OF HOMICIDE INVESTIGATIONS



NUMBER OF HOMICIDE INDICTMENTS



NUMBER OF HOMICIDE CONVICTIONS



reported to state prosecutors each year from 2005-2014, the percentage of total reported killings resulting in criminal conviction for intentional homicide (homicidio doloso) or unintentional homicide (homicidio culposo) has never risen above 10%—and fell to half this rate in the three years with the highest reported numbers of homicides (2011 through 2013).

While impunity for homicide in Guerrero has been widespread, impunity for enforced disappearance has been total. By its nature, establishing a number of total cases of enforced disappearance depends, among other things, upon family members or friends feeling confident enough to report a disappearance to the authorities, and upon the resourcing of the state Human Rights Commission and other actors to independently document crimes. Given the low level of trust in Guerrero's criminal justice system (see data below), and the limited resources available to the Human Rights Commission or independent civil society organizations, the total number of reported cases very likely underestimates the total.

How many enforced disappearances have been documented? A local civil society organization, Comité de Familiares y Amigos de Secuestrados y Desaparecidos y Asesinados en Guerrero, documented 293 disappearances between April 2005 and May 2011, with indications of state actors' involvement in about 200 cases, or nearly 70%.[39] The state Human Rights Commission documented 90 involuntary and enforced disappearance cases between 1990 and 2014, and related to these, between 1990 and 2013 made 21 formal recommendations to state authorities it deemed responsible for human rights violations.[40] For 87 of these cases, a breakdown of the authority alleged responsible is available: investigative police (who work with the prosecution): 38 cases; Mexican Army: 17 cases; Federal Police: 15 cases; state security police: 15 cases; municipal police: 16 cases; and "others": 9 cases.[41]

AS OF DECEMBER 2014, PROSECUTORS HAD OBTAINED RESULTS IN NONE OF THESE CASES, AND INDEED HAD NOT EVEN OPENED INVESTIGATIONS INTO THEM.[42] THE FISCALÍA HAS REPORTED THE OPENING OF 44 CRIMINAL INVESTIGATIONS FOR ENFORCED DISAPPEARANCE INTO CASES THAT WERE NOT REFERRED FROM THE STATE HUMAN RIGHTS COMMISSION, BUT NONE OF THOSE HAVE RESULTED IN INDICTMENTS OR ARREST WARRANTS. AS OF FEBRUARY 2015, NINE CASES HAD BEEN CLOSED WITHOUT ACHIEVING INDICTMENTS AND 35 CASES REMAINED OPEN.[43] WITHOUT ANY TRIALS OR JUDGMENTS FOR GUERRERO'S MANY ENFORCED DISAPPEARANCES, ABUSIVE POLICE, PROSECUTORS, AND OTHER STATE AGENTS HAVE A GREEN LIGHT TO DISAPPEAR MORE VICTIMS.

As is the case with enforced disappearances, establishing accurate numbers on the use of torture by police, army, and prosecutors in Guerrero is difficult, given the presumed bias against reporting in an environment of distrust of state officials. But the lack of accountability for cases that are reported is clear. Of some 54 cases of torture documented by the state Human Rights Commission from 1994 through 2014, no one has ever been held accountable. There were only six criminal investigations for torture between 2006 and 2014. The Fiscalía of Guerrero has neither issued indictments, nor obtained a single arrest warrant for charges of torture.[44] In Guerrero, it seems you can literally get away with murder—or enforced disappearance, or torture.

In the immediate aftermath of the September 2014 Ayotzinapa disappearances, before he took "leave," Governor Aguirre promised that the perpetrators of the student disappearances would be "punished with the full weight of the law."[45] Even beyond the state's record of impunity, this promise rang hollow given the many systemic obstacles to effective and fair justice in Guerrero. The state's justice system has never functioned well. With the rise of the Beltrán Leyva Cartel, its successors and competitors, police, prosecutors, and other officials were often paid to avert their eyes or actively facilitate illicit business aims. As the relative peace of a cartel monopoly gave way to more chaotic competition, justice sector officials found themselves both induced and pressured to collaborate, and also vulnerable to retaliation from rival organizations. For many officials the answer has been to simply

abandon their responsibilities and cede control over entire communities to criminal organizations, or alternatively to fed-up civilians who have formed their own community defense forces (policías comunitarias).[46]

After years of being warped by the caciques, the cartels, and corrupt officials, Guerrero's justice system presents a lengthy list of challenges. As this report will document, the many obstacles to justice for atrocities in Guerrero include the widespread use of torture; a pervasive lack of accountability; weak capacity and misallocated resources; a flawed legislative framework ill-suited to prosecuting atrocities by direct perpetrators, let alone pattern crimes that might be tied to higher authorities; manipulation of jurisdictional ambiguity; and lack of security for legal proceedings.

Guerrero's justice system has long been frayed. The events of September 2014 pulled at its loose threads of feudalism, authoritarianism, criminality, corruption, blatant impunity, and incompetence. The system's sudden unraveling, for all Mexico and the world to see, sparked protest and raised the prospect of political instability. It may also have opened an opportunity. Guerrero risks sinking into deeper crisis and dysfunction unless new leaders are willing to acknowledge fundamental failings, then embark on a reform path requiring them to challenge entrenched criminal and political interests. Only such a dramatic shift could one day result in an end to Guerrero's long history of atrocity.

II. JUSTICE THROUGH TORTURE?

IN THE VIDEO, A HALF-NAKED, BLINDFOLDED MAN COWERS AGAINST A BARE WALL, BEGGING "PLEASE STOP," AS THREE LAUGHING OFFICERS OF THE ACAPULCO TOURIST POLICE TAKE TURNS BEATING HIM WITH A NIGHT STICK, AND ONE GRABS THE MAN'S GENITALS. THE INCIDENT IS SURELY NOT HOW STATE AUTHORITIES WOULD LIKE TO PORTRAY LAW AND ORDER IN THE FAMOUS RESORT, WHICH HAS ALREADY SUFFERED FROM PERCEPTIONS THAT STATE AND MUNICIPAL POLICE COLLUDE WITH ORGANIZED CRIME.

And it would have gone unnoticed by the public if the officers' supervisor—Juan Carlos Alvarado Coronado, the chief operating officer of the municipal police of Acapulco—hadn't recorded the abuse, which allegedly occurred in December 2013. Alvarado disappeared two weeks later; his body was found in March 2014.[47] The next month, someone uploaded the video to YouTube.[48]

A second video appeared on YouTube the following day, on April 4, 2014. It was purportedly recorded on April 2, 2014 in the "Office of the Secretary of Security."[49] It shows the three officers from the first video explaining to an interrogator off-camera—in an interview and context that do not appear to comply with legal standards or respect for due process—that the beatings in the first video occurred before Acapulco Police Chief Alfredo Álvarez Valenzuela had taken office. From the context, it appears that the interrogator is Álvarez himself.[50]

Why would police document their own crimes with the first video, and then upload a second video so quickly to deny the involvement of Police Chief Alfredo Álvarez? A third video held the key.[51] Uploaded on April 3, 2014, the same three officers are seen again, this time in an interview with the media. In it, they explain that they escaped from detention after the filming of the second video, and they also offer a damning account of the first. According to the three,

the beating occurred after Álvarez took office. Álvarez himself had come to the detention facility with his bodyguards and personally beaten the detainee. As Álvarez left the detention facility, they said, he instructed the recording to be made so that he could check later to ensure the officers followed his orders to continue the abuse. The victim, a homeless man, had allegedly molested a girl on the beach, but the family didn't want to press charges. According to the officers, Álvarez told them that beatings "are the way to treat such persons," and they said Álvarez had his "own school and methods." Further, the three officers told the reporters they feared that they would be disappeared just like their colleague Alvarado and said that they had been obliged to sign statements falsely stating that the incident took place before Álvarez came into office. The same day the third video was posted, Álvarez convened a press conference to deny any involvement in the torture, and to announce the opening of a criminal investigation against the three officers.[52]

With the beating on the internet for all to see, the state prosecutor's office pursued a case against Álvarez and another officer appearing in the first video on charges of enforced disappearance and abuse of authority against the victim, who prosecutors say they are unable to locate. On July 25, 2014, the Navy arrested Álvarez in Mexico City,[53] but when the case against him came to court days later, the judge dismissed it, saying that the prosecution lacked evidence to prove the elements of the alleged crimes, and that the torture was perpetrated before Álvarez became Acapulco Police Chief.[54] The ruling added to the murkiness of a case that prosecutors said they would appeal. Whatever the motivations of the municipal officials making the complaints, the case's dismissal did nothing to dampen public suspicions that once again a powerful official had evaded the law under dubious circumstances.

Torture and abuse by state authorities are common in Guerrero. From 2008 through April 2014, the state Human Rights Commission received 101 complaints of presumed acts of torture or cruel or degrading punishment perpetrated by state authorities.[55] From 1994 through January 2013, the body issued a total of 54 recommendations on torture to Guerrero state authorities deemed responsible; 48 of those were addressed to the General Prosecutor's Office (later known as the Fiscalía) because the state Human Rights Commission found that its officers had perpetrated torture.

The Acapulco incident helps to illustrate two reasons why many police and prosecutors have engaged in such a broad practice of torture, ill-

treatment, and other abuses, sometimes with the complicity of their federal counterparts.[56] They appear to be pursuing two perverted notions of "justice," both of them in violation of state, national, and international law.

First, the episode illustrates a longstanding practice of police and prosecutors in Guerrero punishing perceived criminals and political opponents without formal charges or any form of judicial scrutiny.

ACCORDING TO A 2012 REPORT FROM THE NATIONAL HUMAN RIGHTS COMMISSION, THE SAME DYNAMIC WAS APPARENT IN THE AUTHORITIES' DECEMBER 2011 CLASH WITH PROTESTING AYOTZINAPA STUDENTS. AFTER FIRING ON THE STUDENTS, FEDERAL AND STATE POLICE DRAGGED AWAY 42 OF THEM TO DIFFERENT LOCATIONS AND SUBJECTED THEM TO BEATINGS AND TORTURE.[57] ONE OF THE SENIOR OFFICERS INVOLVED IN THE ATTACK AGAINST THE STUDENTS WAS NONE OTHER THAN ALFREDO ÁLVAREZ. ÁLVAREZ WAS AT THAT TIME A COMMANDER OF THE FEDERAL POLICE, IN CHARGE OF A FEDERAL SECURITY OPERATION CALLED "GUERRERO SEGURO."[58]

In an institutional culture where police are expected and encouraged to mete out extrajudicial punishment through beatings and torture, it can be no surprise when authorities go a step further and disappear or murder perceived troublemakers. This was an obvious problem well before the September 2014 disappearance of 43 Ayotzinapa students at the hands of police brought worldwide attention to the issue. As noted above, in 38 of 87 cases of enforced or involuntary disappearance documented by the state Human Rights Commission from 1990 through 2014, the authorities it deemed responsible were investigative police, working under the prosecution.[59]

Second, the three surviving police officers expressed fear of being disappeared just like their supervisor, and explained that they were forced, through physical and psychological threats, to be interrogated in the office of Mr. Álvarez, and sign a document in his presence stating that the incident happened before he took office.[60] Such treatment could amount to torture.[61] If true, this would not be exceptional in a state where there are strong indications that prosecutors and police regularly use torture and other forms of ill-treatment to generate "evidence."

The National Commission of Human Rights (Comisión Nacional de los Derechos Humanos, CNDH) documented this dynamic in relation to the 2011 Ayotzinapa case, after students partially blocked a highway. According to the CNDH report on the incident, state investigative police took one student, Gerardo Torres Pérez, to the state prosecutor's office, and from there to a location where he was beaten, threatened, and forced to fire a gun and handle spent shell casings.[62] On the basis of those fingerprints, the police charged Torres with using firearms (although following an uproar, he was released the following day).[63]

The president of the Justice Commission in Guerrero's state Congress says that many investigators have "entrenched bad practices," and should be replaced. According to him, Prosecutor Iñaki Blanco Cabrera (who resigned in the wake of the 2014 Ayotzinapa disappearances) had informally engaged in discussions about moving investigative police into administrative positions and recruiting new ones.[64]

Even if new investigators replaced the old, little is likely to change without a new incentive structure. As long as prosecutors and police think they can get away with punishing opponents outside the law, or obtain convictions through coerced confessions, few are likely to learn and apply professional legal and investigative skills. One key to changing incentives would be a functioning system of accountability for prosecutor and police actions.

III. A SYSTEM WITHOUT ACCOUNTABILITY

IN THEORY, THERE ARE MULTIPLE TYPES OF ACCOUNTABILITY FOR THE PERFORMANCE OF PROSECUTORS AND POLICE IN GUERRERO THAT SHOULD PREVENT ABUSES OF POWER WHILE ALSO ALLOWING THEM TO CREDIBLY INVESTIGATE AND PROSECUTE ATROCITIES. THESE LAYERS OF ACCOUNTABILITY INCLUDE FORMAL LEGAL RESTRICTIONS ON THE PROSECUTION, FORMAL INDEPENDENCE OF THE PROSECUTOR, THE POSSIBILITY FOR THE DEFENSE TO CHALLENGE PROSECUTORIAL ACTIONS, AN INDEPENDENT JUDICIARY, AN INDEPENDENT HUMAN RIGHTS COMMISSION, AND OVERSIGHT BY THE STATE CONGRESS. YET IN GUERRERO, MANY OF THESE POTENTIAL CHECKS HAVE LONG BEEN MERE FICTIONS OF AN AUTHORITARIAN SYSTEM THAT HAS SOUGHT TO NEUTRALIZE POTENTIAL SOURCES OF SCRUTINY, SILENCE CRITICS, REPRESS CHALLENGERS, AND USE PROSECUTORIAL AND POLICE MANDATES TO SERVE THE POWERFUL AND CONNECTED.

III.A. LACK OF INDEPENDENT INVESTIGATIONS

Despite the National Human Rights Commission's explicit recommendation to Guerrero authorities to investigate the well-documented cases of torture and other grave human rights violations committed during the December 2011 Ayotzinapa confrontation, Guerrero authorities have failed to hold those perpetrators, or any others, accountable for torture.

Purportedly, the failure to investigate torture as such is largely because until January 2014, the definition of the crime of torture in Guerrero was set forth in the law of the Human Rights Commission of Guerrero[65] and not in the state criminal code. Authorities cited this technicality in refusing to prosecute torture.[66] When the state Human Rights Commission issued torture recommendations that obligated the prosecutor's office to investigate, the deputy prosecutor for human rights of the Fiscalía of Guerrero was the one responsible for "reclassifying" torture as illegal deprivation of liberty, illegal detention, injuries, abuse of power or the "closest" crime in the criminal code that would allow the opening of an investigation.[67] Yet, based on the limited nature of information provided by the Fiscalía about the extent of justice in such "reclassified" cases, it would appear that it is reluctant to reveal the extent to which these other offenses have been prosecuted.[68] In conjunction with the very low number of investigations of torture itself, this raises serious questions about whether even these lesser charges are being pursued. Of the state Human Rights Commission's recommendations on torture, 88% have been addressed to the state prosecutor's office.[69] Thus, it appears that prosecutors have been unwilling to pursue investigations against themselves and their colleagues.

Further suggesting that reluctance rather than the legal gap was responsible for the lack of investigations into alleged torture, there was no apparent uptick in investigations even after January 2014, when torture was defined outside of the law of the Human Rights Commission of Guerrero through a special torture law passed in January 2014 (see discussion in the following section). One year later, in January 2015, prosecutors had opened only one investigation into torture.[70] Other complaints were ignored. For example, after the police arrested Marco Antonio Suástegui Muñoz, a community activist leading opposition to the construction of a dam, he claimed he was beaten and threatened during his arrest, before being charged with attempted murder.[71] Despite his complaint of torture, as of January 2015 the prosecutor's office had failed to open a criminal investigation into the torture accusation.[72] Rather, in violation of his right to an adequate defense, Guerrero authorities transferred him to a prison in Nayarit state, where he was unable to consult an attorney of his choice.[73]

The near-absolute impunity for human rights abuses and atrocities committed by many police and prosecutors comes as no surprise, in part because those tasked with investigating the offenses work in the implicated institutions.[74] While there exists a special unit within the state prosecutor's office mandated to prosecute human rights violations committed by public servants, housed under a deputy prosecutor for human rights,[75] this

unit consists of officers from the same investigative police force (Policía Investigadora Ministerial) against which multiple accusations of torture and other rights abuses have been lodged.

A new torture law, adopted in January 2014, offered some promise of change. It created a "Technical Committee for Analysis and Evaluation" to advise on the investigation of alleged cases of torture and monitor their progress.[76] On paper, the new committee promises some measure of oversight to spur investigations into torture allegations and monitor follow-through. It also has human and material resources available to it.[77] Based on its date of entry into force, the law established deadlines for the installation of the committee (March 30, 2014), the approval of a special protocol for the investigation of torture to be proposed by the prosecutor's office (May 29, 2014), and the issuance of regulations to the torture law (July 28, 2014). However, as of July 2015, none of these steps had been taken and the committee had not convened once.[78]

In the absence of any semblance of an independent institution to oversee torture investigations, alleged cases of torture (and other atrocities committed by authorities) are left to the discretion of the Fiscalía. It has sought to justify its inaction through insistence on narrow interpretations of law and viable evidence. Without regard to international standards, or even Guerrero's own law,[79] officers involved in torture investigations take an artificially narrow view of what constitutes torture. As one state government official explained: "If at all, torture can only be committed by investigative police during the period of investigation. It's only torture for purposes of confession. [...] After the arrest warrant is issued, you can't speak of torture, but abuse of authority or other charges."[80] According to one government official, the prosecution takes a narrow interpretation of how allegations of torture can be proved, with the Istanbul Protocol[81] considered the only means of obtaining evidence. But the prosecution has no capacity to conduct Istanbul Protocols. It must rely on recommendations from the state Human Rights Commission, which may conduct the Istanbul Protocol. It can also proactively turn to the federal Office of the General Prosecutor (Procuraduría General de la República, PGR) and the National Commission of Human Rights (CNDH) to conduct the protocol.[82] In 2014, the PGR assisted the State Prosecutor's Office of Guerrero in the performance of 12 Istanbul Protocols, resulting in only one positive finding of physical torture.[83]

In the June 2014 case of anti-dam activist Marco Antonio Suástegui Muñoz, who claims he was tortured, officials say that forensic experts had determined that there was no torture, so there was no criminal investigation

of the allegation.[84] However, such a "forensic" determination consisted of only a cursory medical examination conducted by federal and state officers.[85] Indeed there are forensic doctors available to conduct examinations, as well as doctors in the prisons,[86] but despite their formal legal autonomy, in practice they all answer to the prosecutor's office.[87] So do forensic experts (peritos oficiales). Officials in both services within the prosecutor's office are poorly paid, and seen by many as being susceptible to corruption.[88] According to one legislator, Prosecutor Blanco came into office promising to improve working conditions for police and forensic experts so that they would not take bribes, but then did nothing in this regard.[89] When the state Human Rights Commission sent a draft law for the creation of an "Autonomous Institute of Legal Medicine and Forensic Sciences" (Instituto Autónomo de Medicina Legal y Ciencias Forenses) to former Governor Zeferino Torreblanca he apparently referred it to Congress, but representatives failed to debate or vote on the proposal.[90]

Prosecutors in Guerrero can point to formal checks on their actions, and claim that there is adequate oversight. Within the office, decisions not to file charges must be reviewed by the prosecutor and Deputy Prosecutor of Regional Control and Criminal Procedures.[91] If prosecutors do decide to proceed with a case, they must seek judicial confirmation of the indictment. However, it remains unclear how often these mechanisms have been used.[92]

Finally, there is an inspector general (visitador) in the state prosecutor's office, who is mandated to exercise supervision and control, and conduct inspection and evaluation visits at the units and offices of the prosecution. However, the general inspector can only "formulate observations and recommendations to the prosecutor" for the functioning of the institution.[93]

III.B. LACK OF PROSECUTORIAL AUTONOMY

WHEN A SYSTEM OPERATES WITHOUT FUNCTIONING LEGAL CHECKS, IT STRAYS EASILY FROM SERVING ITS INTENDED PURPOSE. WHO CONTROLS SUCH A SYSTEM WHEN IT IS NOT PROPERLY ACCOUNTABLE TO DEMOCRATIC INSTITUTIONS? TYPICALLY, THE ANSWER IS: THOSE WHO CONTROL APPOINTMENTS, METE OUT DISCIPLINE, AND CAN OFFER OR WITHHOLD REWARDS. THAT COULD BE THE EXECUTIVE, BUT COULD ALSO BE OUTSIDE ACTORS WHO OFFER GREATER COMPENSATION OR POSE GREATER THREATS. THIS HAS BEEN THE CASE IN GUERRERO. FAILURE TO IMPLEMENT PROPER INTERNAL CONTROLS IN THE PROSECUTOR'S OFFICE HAS OPENED THE DOOR TO CORRUPTION, DOMINATION BY THE EXECUTIVE, AND INFILTRATION BY ORGANIZED CRIME.

Until August 2014, the Prosecutor's Office of Guerrero was formally a part of the state executive.[94] The governor proposed a shortlist of three candidates to the state Congress, which selected the prosecutor. However, the governor could dismiss the prosecutor at any time, and was also responsible for appointing and dismissing deputy prosecutors at the prosecutor's recommendation. The prosecutor could dismiss prosecution agents and "trusted employees" (trabajadores de confianza) only with the governor's prior consent.[95]

In practice, the governor has had even stronger control over appointments than those formally foreseen in law. Guerrero governors have filled key positions with "officers in charge" for protracted periods of time instead of through formal appointments that require congressional approval.[96] It can be no surprise that officials appointed to high office due to their political connections rather than substantive expertise are loyal to the agendas of the politicians to whom they owe their jobs. In the absence or lack of implementation of civil service laws and professional tracks for prosecutors and police, this dynamic has extended to more junior officials, whose hiring, promotion, and potential dismissal have hinged on adherence to the agendas of their bosses.

Strong executive control over prosecutions has had consequences. The state prosecutor's failure to prosecute perpetrators of crimes related to

the December 2011 Ayotzinapa incident, in line with the recommendation of the National Human Rights Commission, appears to fit with former Governor Ángel Aguirre's preferences.[97] After Alfredo Álvarez (at the time a federal police officer) failed to appear before a state congressional hearing on the matter, Governor Aguirre failed to insist on justice in the case.[98] To the contrary, he appointed Álvarez to the position of police chief of the municipality of Acapulco—the position from which he would allegedly order new acts of torture—disregarding the autonomy of municipal officers to appoint the chief of municipal police.[99]

In addition to political meddling, security and criminal justice institutions are vulnerable to infiltration by organized crime. As he struggled to fend off his impending ouster following the disappearance of 43 Ayotzinapa students in 2014, Governor Aguirre himself stated that the majority of police forces in the state had been either coopted or infiltrated by organized crime.[100] Further, within the prosecutor's office, the investigative police are widely perceived to serve organized crime interests.[101]

In April 2014, the Congress of Guerrero amended the state Constitution and in August 2014 passed a new organic law of the prosecution to enhance the independence of the prosecutor's office. The new office (Fiscalía) is supposed to be autonomous from the executive, enjoying financial independence and answering to a five-member council. Four of the five members, including the Fiscal, will be drawn from prosecutors and police, with the fifth to be appointed by Guerrero's bar associations.[102]

The process of selecting a prosecutor under the new system begins with an open call for applications.[103] The Congress sends a list of qualified applicants to the governor, who returns a shortlist of three individuals to the Congress. It appoints the prosecutor by two-thirds majority. The governor may still dismiss the prosecutor, although the Congress can object. The governor also appoints deputy prosecutors nominated by the prosecutor. The prosecutor appoints all other officers. The new law also establishes a civil service mechanism for promotions along career tracks. According to a lawmaker involved in the plan, the new office will have more respect for the presumption of innocence, have greater responsibility and authority in investigating crimes, and will benefit from more training.[104] However, the law has no provision for lustration of officers implicated in past human rights abuses.

The reform came into effect on September 30, 2014,[105] although transitional provisions meant that a new prosecutor (Fiscal) was not supposed to be appointed until after a new governor took office in 2015.[106] By chance, however, the law took effect just as unprecedented world attention was

focusing on Guerrero's crisis of disappearance, murder, corruption, and impunity. Following the resignations of Governor Aguirre and Prosecutor Iñaki Blanco, the whole process was initiated early, in November 2014. It culminated on December 20, 2014 in the appointment of Miguel Ángel Godinez Muñoz as the new Fiscal of Guerrero.[107] The new structure offers some hope of improvement and a more independent prosecutor. Time will tell whether Godinez and his successors are willing to assert their independence from the executive.

Until now, the prosecution has taken political cues from the executive, and accordingly shown great reluctance to admit to problems of atrocities and human rights abuses in the state. For example, one state official told the Open Society Justice Initiative in September 2014 that, "torture and disappearances are not a problem in Guerrero."[108] He further explained that alleged enforced disappearances of human rights defenders or activists are actually just related to "internal quarrels," and in some cases of disappearance, "it turns out that the disappeared just went away with a friend."[109]

Such attitudes find parallels among powerful congressional leaders involved in justice issues. Jorge Camacho, president of the Justice Commission in Guerrero's state Congress, said that despite dozens of enforced disappearance cases documented by the state Human Rights Commission, to his knowledge there had been no reports of enforced disappearances in Guerrero. He noted that there had been an increase in kidnappings in the state, attributing this to successful government strategies to take on drug trafficking by organized crime, which in turn forced these organizations to diversify their activities. Interviewed eight days before the September 2014 Ayotzinapa killings and disappearances that exposed to the world a startling depth of organized crime infiltration of state institutions, he lauded the prosecution's success in finding missing persons and taking apart organized crime groups. "When criticized by international organizations, the prosecution can point to results."[110]

III.C. LACK OF DEFENSE RIGHTS

WHERE TECHNICALLY COMPETENT AND ADEQUATELY RESOURCED, DEFENSE COUNSEL INSISTING ON THE RIGHTS OF SUSPECTS AND ACCUSED PERSONS CAN ACT AS ONE IMPORTANT CHECK ON PROSECUTION ABUSES. YET IN GUERRERO THERE HAS BEEN A BROAD FAILURE TO PROVIDE ADEQUATE DEFENSE, INCLUDING THROUGH CHALLENGING EVIDENCE OBTAINED THROUGH TORTURE. THE HIGH NUMBERS OF PRETRIAL DETAINEES HELD IN GUERRERO'S PRISONS—REPRESENTING 60% OF THE TOTAL INMATE POPULATION AS OF SEPTEMBER 2014[111]—MAY, IN PART, BE A REFLECTION OF THE POOR STATE OF DEFENSE RIGHTS.[112]

Public defenders are poorly paid and work under difficult conditions, with few material resources. According to one state legislator, "Public defenders earn the least and work the most."[113] Public defenders have heavy workloads of around 100 cases each, and they are called upon to represent clients in criminal, family law, and civil cases, which impedes their ability to provide a quality defense.[114] The situation is much worse in rural areas. In one of the state's judicial districts, Morelos, there are just three public defenders to serve eight municipalities.[115] The dearth of legal assistance is particularly acute in indigenous communities due to a lack of bilingual public defenders, translation services, or adequate infrastructure.[116] These problems are exacerbated by prosecutors' lack of respect for adherence to jurisdictions; in some cases, they have brought charges against individuals far from the location where alleged crimes were committed.[117]

Before August 2014, the Institute of Public Defense (Instituto de Defensa Pública del Estado de Guerrero) was a theoretically autonomous office (Organismo Público Descentralizado), but Guerrero's governor was the president of its governing board and the institute's advisory council included a representative of the executive.[118] In practice, the institute is dependent on the Ministry of Interior,[119] and ultimately relies on the will of the governor and the Congress for funding.[120] Such arrangements are common, but problematic, in the Western Hemisphere.[121] They are more problematic in places such as Guerrero, where the executive has been so extensively linked to violations of defense rights, including the use of torture. Any potential for bar associations to assist in providing defense is undermined by their

fractured nature and rivalries.[122] As of September 1, 2014, the Institute of Public Defense is under the authority of the Judicial Council and has a five-member advisory council appointed by the Judicial Council.[123]

When asked about the poor state of legal aid in Guerrero, the president of the Justice Commission in Guerrero's state Congress said that the body would provide additional funds for defense in 2015.[124] However, his counterpart on the Human Rights Commission said that Congress had no pending proposals to address the problem.[125]

Beyond the state's failure to provide adequate resources for legal aid, many defense counsel in Guerrero are deficient in basic legal skills.[126] They are not familiar with international criminal law and have no experience defending complex cases. The problem is intertwined with the lack of adequate resources, including the lack of legal trainings for the defense that could increase their comfort with international law and complex cases.

Three changes at the federal level can be expected to lead to some enhanced protections for defense rights. Mexico's gradual introduction of an adversarial system—the New Criminal Justice System (Nuevo Sistema de Justicia Penal, or NSJP)—in conjunction with a new, unified criminal procedure code adopted by the federal Congress in March 2014, should strengthen the presumption of innocence and introduce new safeguards.[127] They create a right of access to defense counsel from the moment of detention, and render inadmissible confessions that are made in the absence of defense counsel, or in violation of fundamental rights. And in February 2014, Mexico's Supreme Court of Justice ruled that states could no longer apply a prolonged form of pretrial detention called arraigo, which has been associated with torture and other ill-treatment.[128]

III.D. LACK OF JUDICIAL INDEPENDENCE

EVEN IF THERE WERE A PROSECUTOR'S OFFICE WILLING TO BRING CASES OF TORTURE, DISAPPEARANCE, AND KILLINGS TO COURT, AND EVEN IF THERE WERE SUFFICIENT DEFENSE COUNSEL WITH ADEQUATE RESOURCES TO PROTECT AGAINST PROSECUTORIAL ABUSES, FAIR AND EFFECTIVE TRIALS FOR ATROCITIES WOULD STILL REQUIRE THE VITAL ELEMENT OF AN INDEPENDENT JUDICIARY.

Indeed, Guerrero does have some of the safeguards important to an independent, honest judiciary. The Organic Law of the Judicial Branch (Ley Orgánica del Poder Judicial del Estado de Guerrero) establishes a system of random assignment of cases to judges, as well as disciplinary procedures.[129] The judicial branch has an ethics code,[130] and all judiciary officials must disclose their financial assets.[131] Furthermore, at request of the plenary of local courts, the president of the local courts, and the state Judicial Council (Consejo de la Judicatura), a general inspector carries out regular and random inspections of courts and judicial dockets.[132] Nevertheless, the result of such visits is limited to delivery of reports and records to the Judicial Council, which shall proceed "as appropriate."[133]

Jorge Salazar Marchán, the president of the Human Rights Commission in the state Congress described the judiciary as perhaps "the most corrupt institution in Guerrero," and expressed the view that "the framework of the judiciary would have to change in order to counter the problem."[134] Others agree and say that such corruption is seen in the everyday, routine functioning of the judiciary, with judicial officers expecting personal payments for copying files or performing other services, and local lawyers routinely obliging.[135] These assessments mirror popular sentiment. According to the 2014 National Survey of Victimization and Perception of Public Security, 53.4% of Guerrero's citizens had no or little trust in local judges, and 62.7% believe them to be corrupt.[136] Nepotism in the judiciary is rampant. Striking judiciary workers have complained that in the absence of a qualifications and a career track defined in civil service laws, judges have hired 30-50 family members.[137]

The executive branch's control of the judiciary in Guerrero can be seen in the story of Minister of the Interior Jesús Martínez Garnelo.[138] When Martínez joined the executive branch by becoming interior minister in June 2013, he

managed to retain his position as president of the state judiciary, on leave. What was to have been a two-month, temporary arrangement was extended indefinitely in September 2013. Ángel Aguirre Herrera, a local deputy and son of then-Governor Aguirre, was in charge of the legislative procedure to approve Martinez's indefinite leave.[139] Martínez was widely believed to still control the reins of judicial power in Guerrero from his position as Governor Aguirre's powerful interior minister.[140] He reportedly still had family members working within the judiciary.[141]

When Alberto López Celis, the new president of the Guerrero state judiciary, resisted this arrangement, Martínez allegedly pressed López to apply for a leave of absence from his positions as president of local courts and as magistrate. An acting judge, Lambertina Galeana, took López's place.[142] Many suspected that it was not Galeana who took control the judiciary's administration and finances, but rather its once-and-future president, Interior Minister Jesús Martínez Garnelo.[143]

It was the Ayotzinapa disappearances a year later that ultimately led to an end to the arrangement. When, under immense pressure, Governor Aguirre himself took a leave of office in the wake of the disappearances, Martínez briefly served as officer in charge (encargado de despacho) of state executive authority[144] before the state Congress named Rogelio Ortega Martínez as governor on October 26, 2014.[145] The executive branch's control of the judiciary through Martínez's dual position as senior member of the executive and judiciary president in-waiting finally ended when Ortega named a new interior minister days later.[146]

In addition to the local factors that undermine judicial independence in Guerrero, there remain formal channels for potential executive branch influence that mirror those found in other judicial systems around the world. Under the state Constitution and the Organic Law of the Judicial Branch of the State of Guerrero (Ley Orgánica del Poder Judicial del Estado de Guerrero), the governor retains a role in the appointment of many judges and judiciary staff, some of which are subject to ratification by the Congress.[147] The judiciary must also submit its proposed annual budget to the governor, who includes it as part of his overall government funding proposal to the Congress each year.[148]

Finally, when the executive branch cannot control the judges in Guerrero, it ignores them. In the case of Marco Antonio Suástegui Muñoz, the community leader arrested after opposing a dam project, the state government moved him from a state prison to a federal maximum security prison without bothering to consult a judge.[149] Suástegui had to file an amparo with a federal

judge to challenge his transfer, which the federal judge determined was illegal due to a lack of judicial order.[150]

If they are to play their crucial role in ensuring that Guerrero can effectively and fairly handle cases of torture, disappearances, killings, and other atrocities, the state's judges and judicial bodies will need to begin asserting and defending their independence.

III.E. NEUTRALIZING THE HUMAN RIGHTS COMMISSION

Hipólito Lugo Cortés was the chief investigator of the state Human Rights Commission when the body's founding president, Juan Alarcón Hernández, died in December 2013. Under applicable law, the Council of the Human Rights Commission promptly appointed Lugo as interim president.[151] Lugo, however, had already raised government hackles by doing the forbidden: discussing in civil society forums whether atrocities in Guerrero could qualify as crimes against humanity under international criminal law.[152] Then, following the deaths of 15 inmates at three Guerrero prisons in January 2014, he made comments to the media about dire prison conditions in the state,[153] which prompted the National Human Rights Commission to issue a press release on the matter.[154] The same day that Lugo's comments appeared in the media, Governor Aguirre—in violation of the legally defined procedure—informed the state Human Rights Commission that Lugo was to be removed as interim president and that Ramón Navarrete Magdaleno should be made officer in charge (encargado de despacho). The Human Rights Commission's technical committee grudgingly approved Navarrete's appointment a week later, also without following the established legal procedure.[155]

With this irregular action, Governor Aguirre gutted the effectiveness of the lone state institution to challenge government actors' involvement in the commission of grave violations of human rights and the justice sector's near total failure to deliver justice for atrocities committed by any kind of perpetrator. By multiple accounts, that was precisely his intent.[156]

The effectiveness of the state Human Rights Commission was already cramped through a lack of funds provided by the governor and Congress.[157] Budget constraints have limited the commission's ability to conduct investigations in accordance with the Istanbul Protocol in cases of alleged torture.[158] Budget constraints—and the lack of political will they represent—have also limited the effectiveness of the commission's Committee for the Investigation of

Involuntary Disappearances of Persons.[159] The committee is mandated to collect and coordinate information in cases of involuntary disappearance, and follow up on investigations with various government agencies. In 2007, the committee proposed to then-Governor Zeferino Torreblanca the creation of a special prosecutor to investigate 537 criminal complaints (denuncias) between 1961 and 1979, and evidence sufficient to prosecute 255 of these Dirty War cases.[160] The executive never reacted to the proposal.

The state Human Rights Commission has actually been effective in the past, investigating and making recommendations on many atrocities allegedly perpetrated by Guerrero state agents over the years: 101 investigations into presumed cases of torture or cruel and degrading treatment from 2005 through early 2014; 54 recommendations for torture between 1994 and early 2013; and 90 investigations into disappearances from 1990 through early 2014.[161] It has spoken out on issues of crime and corruption in prisons and other state institutions, and also pressed for relevant reforms. In 2005, the commission engaged with civil society organizations in successfully proposing and advocating passage of a Law on Enforced Disappearances that conforms to international standards.[162]

BUT AFTER AGUIRRE INSTALLED NAVARRETE, THE STATE HUMAN RIGHTS COMMISSION WAS NEUTERED. AFTER NAVARRETE TOOK OVER, REMAINING COMMISSIONERS STOPPED SHARING INFORMATION OR EVEN GOING TO MEETINGS FOR FEAR OF SENSITIVE INFORMATION FINDING ITS WAY TO THE GOVERNOR. FOR SIMILAR REASONS, THE COMMISSION'S COUNCIL FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS WAS COMPLETELY PARALYZED.[163] PREVIOUSLY, WHEN THE COMMISSION MADE RECOMMENDATIONS FOR TORTURE, IT HAD SOME CAPACITY TO CONDUCT INVESTIGATIONS IN ACCORDANCE WITH THE ISTANBUL PROTOCOLS, PROVIDING AN IMPORTANT EVALUATION OF THE ALLEGATIONS, INDEPENDENT FROM THE PROSECUTION. BY ONE ACCOUNT, HOWEVER, AS OF SEPTEMBER 2014 THE COMMISSION HAD MADE NO RECOMMENDATIONS FOR TORTURE DURING THE TERM OF PROSECUTOR IÑAKI BLANCO (WHO TOOK OFFICE IN JANUARY 2013).[164]

State officials could still make bold statements about justice for torture: "I want to be very clear that we are obligated to investigate all reported crimes of torture."[165] But such bravado is cheap when the body that in the past made such referrals to the prosecution is all but defunct. As of April 2015, Navarrete had, contrary to the new torture law, failed to convene even once the "Technical Committee for Analysis and Evaluation" that he is supposed to chair. Then, in response to the disappearance of 43 Ayotzinapa students in September 2014—arguably the greatest single human rights crisis in the state's recent history—the state Human Rights Commission undertook little more than posting a vague call for justice on its website.[166] Behind the scenes, when Hipólito Lugo began investigating the Ayotzinapa incident as a case of grave crime and enforced disappearance, Navarrete removed him from the case.[167] Although Lugo had served at the commission for 21 years, including several years as chief investigator, it was finally Navarrete's inaction and obstruction on Ayotzinapa that prompted Lugo to resign from the state Human Rights Commission.[168]

The state Human Rights Commission was formally a part of the executive branch, even though there were supposed to be legal constraints on the ability of the executive to exert direct control over the body.[169] Congress amended the Constitution in April 2014 to make the human rights commission (no longer called CODDEHUM) an autonomous entity.[170] The new body, simply called the Human Rights Commission of the State of Guerrero (Comisión de los Derechos Humanos del Estado de Guerrero) will have a president and five-member Advisory Council, recruited through open calls and appointed by Congress for single terms of four years.[171] For these reforms to take effect, the Congress and CODDEHUM were to draft a new organic law of the human rights commission.[172] In November 2014, Congress issued a statement (exhorto) criticizing Ramón Navarrete for failing to file a draft of the new organic law.[173] On March 20, 2015, the Congress passed legislation creating the new institution.[174] And in July 1, 2015 the state Congress officially appointed Navarrete as president of the Human Rights Commission of Guerrero.[175]

III.F. CONGRESSIONAL FOOTDRAGGING

As the preceding pages have shown, there are many challenges to the pursuit of justice in Guerrero, including lack of independent investigations, lack of prosecutorial autonomy, lack of defense rights, a judiciary too closely aligned with the government, and a neutered Human Rights Commission. One additional challenge can be found in the state's Congress, which has largely failed to do its part in ensuring that Guerrero can deliver justice for atrocities.

This failure is manifest in three ways: Congress's reluctance to properly define atrocities in the legal framework; its failure to insist on accountability in justice sector institutions; and its delays in passing reforms and providing funding for Guerrero's transition to an adversarial justice system, with its greater safeguards for defense rights.

There are reasons to doubt the state Congress's commitment to improving Guerrero's capacity to investigate and prosecute atrocities that implicate state agents. Although in 2005 the state Congress passed a law defining the crime of enforced disappearance in accordance with international standards, it approved the definition in a special law instead of including it directly in the criminal code. As a result, prosecutors have said this makes it impossible for them to apply the definition,[176] even though the criminal code expressly refers to the disappearance law.[177] Even if prosecutors were making specious legal arguments, it wasn't until August 2014 that Congress removed the prosecutors' excuse by expressly acknowledging that crimes set forth in special laws are to be investigated under a special statute, complemented by the criminal code.[178] As of September 2014, a proposal was pending in the Congress to offer additional clarity by amending the criminal code to include enforced disappearance as a replacement to the special law. But by one inside account, there was strong resistance from the advisor to one legislator who felt that he was protecting the interests of judges and prosecutors by blocking the reform.[179] As of June 2015, the reform proposal was still awaiting congressional action.

Similarly, Congress ignored the state Human Rights Commission and human rights NGOs who said that the torture definition would have to be included in the criminal code, and not passed as a special law, if prosecutors were to use it.[180] Raymundo Díaz, from the human rights organization Colectivo contra la Tortura told reporters, "I do not recall any invitation (from the local Congress) to a public enquiry; they did not even show us the final version of the law before approving it."[181]

Guerrero's Congress has allowed baseless prosecution objections to delay codification of the crime, limit the scope of the definition, and it has included this same in-built excuse for the prosecution's failure to apply the law. Until 2014, torture was only defined in the law creating the state Human Rights Commission, which had a mandate to investigate alleged torture and refer cases to the prosecution.[182] However, under a narrow interpretation of that law, if prosecutors wanted to open an investigation, they first had to reclassify cases to the closest analogues in the criminal code, typically illegal deprivation of liberty, illegal detention, injuries, or abuse of power. As one prosecutor explained, there was no need to change the legal framework to

include a definition of torture itself. Doing so, the prosecutor said, "would only be to comply with international standards."[183]

In January 2014, the state Congress passed the Law on the Prevention, Punishment and Eradication of Torture in the State of Guerrero (Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero),[184] but the new law does not comply with international standards, or even the standards established in the federal law on torture.[185] Human rights activists claim that government rushed to adopt a stunted law on torture in order to divert attention from a large numbers of killings in state prisons that same month.[186] The president of the Justice Commission in the state Congress insists that the torture law passed as a special law in order to underscore its importance, and implicitly places blame for its lack of application on prosecutors, noting that the new criminal code references all special laws, including the laws on torture and enforced disappearance.[187] But asked about the shortcomings that are clearly congressional responsibilities—for example, why the torture law doesn't adhere to international standards—he said he had "no explanation," and also no plan to revisit the wording.[188]

In other ways, too, congressional inaction has left unchecked previous governors' ability to exert improper control over justice sector institutions. It has made no effort to rein in extensive immunities for public officials. When asked about the double-hatting of Jesús Martínez Garnelo as interior minister while on leave as president of the judiciary and president of the Supreme Court of Justice, Congressman Jorge Camacho, the president of the state Congress's Justice Commission, said he saw no problems, insisting that the minister had no influence over the judiciary.[189] Further, the Congress did not meaningfully object when Governor Aguirre appointed his ally to head the state Human Rights Commission. While Camacho says that representatives sent a letter of protest to the governor, he also believes that the governor's hand-picked officer in charge of the commission, Ramón Navarrete, "is the right person for the position," and that the Congress had no choice but to accept the irregular appointment after the fact, while documenting that the governor "exceeded his authority."[190] In the future, such wrongdoing by the executive could be addressed through a new liability law for public servants: in February 2015, Congress passed a bill setting standards for criminal, civil, and other forms of liability.[191] But it remains to be seen if the law will ever be applied.

While still actively serving as president of the Supreme Court of Justice in October 2012, Jesús Martínez Garnelo criticized the state Congress for its failure in advancing Guerrero's transition to the new adversarial justice system. That reform was required by a 2008 constitutional reform at the federal level, which requires that the transition at the federal level and in

every state be completed by June 2016. He specifically complained that Guerrero's state Congress had let at least seven different important elements of the reform lapse into inactive files (archivo muerto).[192] Indeed, by that time Guerrero had done very little at all to make the transition.[193] In 2013, the Research Center for Development (Centro de Investigación para el Desarrollo—CIDAC), an organization monitoring the transition from a largely paper-based, inquisitorial system to the oral, adversarial system nationally, found that Guerrero was last of all Mexican states in implementation.[194]

All states, including Guerrero, have received federal funds to support their transition to the adversarial system through the Technical Secretariat for Justice Sector Reform (Secretaría Técnica del Consejo de la Coordinación para la Implementación del Sistema de Judicia Penal—SETEC) within the federal Interior Ministry. However, in Guerrero, the Congress earmarked those funds for other purposes.[195] According to one account, once Jesús Martínez Garnelo took a leave of absence from the judiciary in mid-2013 to serve as Governor Aguirre's interior minister, his previous impatience with the slow transition to the adversarial system cooled.[196] The president of the state Congress's Justice Commission allows that there has been bad planning for the implementation of the adversarial system in Guerrero, but also claims that, in part, the delays have been intentional, and that Guerrero's Congress has consciously avoided a rush to implement the system so that it could watch such forerunning states as Chihuahua and learn from their mistakes.[197]

The president of the Congressional Justice Committee further stated that Congress will allocate funds in 2015 to support implementation of the transition, pledging that Guerrero will meet the June 2016 deadline, and not be the last state to do so.[198] But even if this happens, the costs of previous delays by Congress will be substantial. Wherever the new system is not in place, crimes will continue to be charged under the old system and need to be handled accordingly until their resolution. Combined with a large judicial backlog, especially in murder cases, this means that Guerrero will be processing cases using parallel systems for years to come.[199] Beyond the problem of exacerbated judicial inefficiencies, this means that those charged under the old system will not have benefit from the adversarial system's better safeguards for defense rights, and may be more prone to torture and ill-treatment.

Clearly, the pursuit of justice for atrocities in Guerrero is hampered by an overall absence of accountability, including the lack of independent investigations, prosecutorial autonomy, defense rights, and judicial independence, among other shortcomings. But there are additional hurdles related to the shortage and misallocation of resources, as the next section indicates.

IV. WEAK CAPACITY AND MISALLOCATED RESOURCES

THE MOST FUNDAMENTAL OBSTACLES TO ACHIEVING JUSTICE FOR ATROCITIES IN GUERRERO ARE POLITICAL IN NATURE. A POWERFUL EXECUTIVE HAS SHOWN NO WILL TO PROPERLY INVESTIGATE AND PROSECUTE STATE AGENTS INVOLVED IN TORTURE, DISAPPEARANCES, KILLINGS, AND OTHER GRAVE VIOLATIONS OF HUMAN RIGHTS. THE JUDICIARY LACKS INDEPENDENCE AND IS TOO CLOSELY ALIGNED WITH THE EXECUTIVE BRANCH. THE STATE'S HUMAN RIGHTS COMMISSION HAS BEEN RENDERED LARGELY TOOTHLESS AND ITS CONGRESS DRAGS ITS FEET ON IMPORTANT REFORMS.

In this context, the question of whether Guerrero's justice system has the capacity to handle the complexities of addressing atrocity crime has largely gone unanswered. To the extent that the system has been tested, it has been almost entirely in proceedings against non-state actors that have been deeply tainted by the prosecution's routine reliance on torture to produce forced confessions. What would happen if the political situation were to change? There are many indications that even if prosecutors, police, judges, and other justice sector operators wanted to pursue serious violent crime cases appropriately, they would nonetheless lack the capacity and resources to do so.

In examining capacities and resources in Guerrero, it is important to note that the situation varies in different parts of the state. At the operational level, there are resource shortfalls across the state, and wages are low everywhere, but northern parts of the state have better infrastructure and equipment, and are better prepared to accommodate the transition to the adversarial system.[200] Other, rural regions lack basic justice sector staff, infrastructure, and equipment. Evidence suggests that organized crime organizations

control numerous municipalities and regions, which makes investing in justice sector development all the more fraught. The lack of capacity and misallocation of scarce resources affect the state's prosecutors and police, its judiciary, and even its interactions with the public.

IV.A. PROSECUTORS AND POLICE

IN GUERRERO, MANY PROSECUTORS AND POLICE STRUGGLE TO DEAL APPROPRIATELY EVEN WITH COMMON CRIME, IN LARGE PART BECAUSE THEY SIMPLY HAVE THE WRONG SKILL SETS AND BACKGROUNDS. THE WHOLE CONCEPT OF POLICING IN THE STATE, AS IN MEXICO AS A WHOLE, REVOLVES AROUND REACTING WITH FORCE TO INCIDENTS (INCLUDING LEGAL MANIFESTATIONS OF POLITICAL DISSENT), RATHER THAN PREVENTING OR INVESTIGATING CRIME.

Many senior prosecutors and police have military backgrounds, and were shaped by distinct doctrines, legal cultures (disciplina militar), and rules on use of force—or a lack of them.[201] With the April 2014 transformation of the state prosecutor's office to a theoretically more independent Fiscalía, the pattern is continuing. Further, by many accounts, prosecutors are frequently hired on the basis not only of a military background, but personal connections.

To the extent that prosecutors and police are hired for such reasons, and not their skills, it can be no surprise when it turns out they lack the ability to investigate and prosecute properly. For example, when pressed on why they haven't solved any of Guerrero's many enforced disappearance cases, state prosecutors alternately say that that it's because the legal framework is inadequate, or because they simply can't find the disappeared persons.[202] Setting aside the prosecution's track record of reluctance to pursue cases against state agents (in some cases, individuals from their own ranks), it is not clear that prosecutors would even know what steps to take in such an investigation. They have often relied on the families of the disappeared to take the lead in investigations.[203]

INTERVIEWS IN GUERRERO WITH STATE OFFICIALS AND CIVIL SOCIETY ACTORS REVEALED THAT MANY PROSECUTORS AND THEIR INVESTIGATORS LACK SOME OF THE BASIC SKILLS AND KNOWLEDGE NECESSARY FOR THE INVESTIGATION OF COMMON CRIME—LET ALONE MORE COMPLEX CRIMES.[204] MANY LACK POLICIES ON CASE SELECTION TO GUIDE PROSECUTORS IN PRIORITIZING CASES. THEY DON'T KNOW HOW TO PLAN AN INVESTIGATION IN COMPLEX CASES, AND LACK SPECIFIC POLICIES AND PROTOCOLS FOR INFORMATION AND CASE MANAGEMENT.

Many have poor skills in case analysis, which is particularly detrimental in atrocity cases. They are unfamiliar with international standards on torture and disappearances, and have no familiarity with relevant jurisprudence. Many prosecutors are unskilled in the proper use of forensic evidence, or documentary evidence, and have no capacity to perform investigations consistent with the Istanbul Protocol in cases of alleged torture. They are ill-prepared to function in the adversarial system.

They lack skills or protocols for the proper questioning of witnesses, including vulnerable witnesses. And many are clearly unaware of requirements to respect defense rights. Few prosecutors and investigators are familiar with the ruling by Mexico's Supreme Court from November 2013, on the procedure for the assessment of torture allegations during prosecutorial investigations, which increased the likelihood of testimony gained through torture being excluded from trials.[205] They are also unaware of Guerrero's own legal prohibition against obtaining evidence though torture.[206]

To address this dire situation, the president of the Justice Commission in the state Congress says that new investigators need to be recruited and properly trained.[207] Others point to the extensive infiltration of the police by organized crime to make the point that even prior to the hiring of new prosecution police, structural failures must first be tackled.[208]

Beyond questions of skills and procedures, if state prosecutors and police are ever to be able to effectively investigate atrocities, serious resource shortcomings will need to be addressed. Prosecutors have no specific resources or budget to deal with enforced disappearance investigations, and must rely on existing staff.[209] Prosecution forensic services are centralized, and for crimes committed in remote towns, often inaccessible. In cases of killings, bodies must

be transported from across the state to morgues in Acapulco or Chilpancingo, and those advocating investigations are called upon to pay for the transport.[210] In the rural, largely indigenous Morelos judicial district of Guerrero, there are just two forensic doctors for criminal investigations, both of whom are men—including the doctor responsible for investigating sexual crimes. There are no interpreters or medical staff to serve victim needs. Prosecutors lack the most basic of supplies, and ask victims to provide such items as paper, and pay for fuel for the police car in order to enforce arrest warrants. The more money given by a victim, the more attention a case receives.[211]

IV.B. JUDICIARY

The prosecution has introduced many murder cases into the courts, but its failure to bring many other atrocities before the courts means that to a large degree, the judiciary's capacities to handle them remain untested. Performance to date provides good reason to believe that if prosecutors began doing their jobs better, many judges would strain to handle torture and disappearance cases, just as they have struggled with murder cases.[212] Further, while judges are well paid, their staff members are not. This has led to judiciary staff strikes and protests, tension between judges and staff, and has made the judiciary more susceptible to corruption. Bribes may flow more freely when the stakes are higher, as they are in atrocity cases that may involve state agents or organized crime.

Judges and their staffs have some basic skills in conducting legal research, matching presented evidence against the charges, weighing evidence, and drafting judgments. Judiciary staff maintain a largely paper-based system of preparing and filing judicial records, and do so with some competence. But even in very simple areas, judges have shown lapses. Judges sometimes fail to verify the age of accused persons appearing before them, and there have been cases where judges sent minors to regular prison instead of separate juvenile facilities.[213] Judges have faced criticism for failing to expedite proceedings, which has exacerbated the problem of pretrial detention in the state.[214]

These serious shortcomings cast doubt on many judges' ability to handle atrocity cases. In part due to a lack of resources (discussed below), Guerrero's judges struggle under an enormous backlog of murder cases.[215] Most judges and their staffs are unfamiliar with international standards on grave human rights violations emanating from the Inter-American system or other sources. Many are unskilled in handling testimony from vulnerable witnesses, or evaluating forensic and documentary evidence. They have had some limited

training in preparation for the transition to the adversarial system, but lack knowledge and experience in such areas as handling disclosure requirements. Most have no experience with hearing complex cases.

For the most part, the judiciary has adequate staff, infrastructure, and equipment in urban areas and tourist zones, but there are resource shortfalls in rural regions. Office equipment is basic, and technical difficulties mean that staff routinely rely on personal rather than official email accounts in order to perform their jobs. The courts have too few interpreters, which creates additional barriers to the participation of indigenous citizens in the justice process as plaintiffs, witnesses, or accused.

IV.C. PUBLIC COMMUNICATION AND OUTREACH

In the aftermath of the disappearance of 43 Ayotzinapa students in September 2014, it was obvious that the families of the disappeared and most of the population of the state had no confidence in the justice system to appropriately investigate a crime perpetrated by state officials. The problems of violent crime, corruption, and impunity have been entrenched in Guerrero for so long that even apart from the specifics of the case, state government officials enjoyed limited trust.

If the government were to embrace reforms to improve the functioning of the justice system so that, among other things, it had an ability to effectively handle atrocities, it would still face the immense challenge of gaining public trust in the long-discredited system. To do so, the justice sector would need the capacity to communicate with citizens effectively to share information related to the system and about individual cases, and to demonstrate a new openness to listening to constituent concerns. Guerrero's justice system currently lacks this capacity. Each official institution of Guerrero has a social communications department that maintains websites, but those are irregularly updated. The state Human Rights Commission does not post its recommendations online. To the extent there is information on justice-sector developments online, it is not well organized, often very general in nature, and usually out of date. Perhaps not surprisingly in a state with such a politicized justice sector, it is largely politicians, not prosecutors, who communicate with the public about crime and justice issues. While this may not deviate much from international standard practice, if Guerrero were to adopt deep justice sector reforms, improved transparency and communication could play an important part in establishing public trust.

V. LEGAL FRAMEWORK

SOME STATE OFFICIALS CLAIM THAT GUERRERO'S LEGAL FRAMEWORK IS ADEQUATE FOR THE INVESTIGATION AND PROSECUTION OF ATROCITIES, A VIEW SHARED BY AN INFLUENTIAL MEMBER OF THE STATE CONGRESS.[216] IN SOME RESPECTS, GUERRERO'S LEGAL FRAMEWORK PROVIDES A SUFFICIENT BASIS FOR WILLING PROSECUTORS WHO WOULD SEEK TO INVESTIGATE AND PROSECUTE ATROCITIES. BUT IN OTHER RESPECTS, NOTABLY TORTURE, IT FALLS SIGNIFICANTLY SHORT.

The state criminal code includes a standard definition of the crime of murder, but perpetration by a public servant is not considered an aggravating circumstance.[217] The code and other laws encompass acts of sexual violence, including rape, sexual abuse, forced sterilization, and forced pregnancy.[218] In January 2015 legislators passed a victims' law harmonized with the federal victims' law.[219]

Guerrero's state Congress passed a law on enforced disappearances in 2005 with input from the state Human Rights Commission and civil society that meets international standards.[220] The state's definition of enforced disappearance conforms to that in the Inter-American Convention on Forced Disappearance of Persons.[221] Specifically, the state definition of the crime contains the elements of deprivation of a person's or persons' liberty; that the act is perpetrated by state agents or those acting with state authorization, support, or acquiescence; and that following the deprivation of liberty, there is a lack of information or refusal to acknowledge the deprivation, or to provide information on the person's location, so that they have no recourse to legal remedies or procedural guarantees. Unlike Guerrero's torture law, the state law on enforced disappearance aligns with international standards by explicitly stating that the crime is not restricted to any specific motivations. There are no exceptional circumstances that would allow for actions constituting enforced disappearance, and the law cannot be

waived for any reason, including amnesty.[222] Nevertheless, although the state Human Rights Commission has provided some training on the law, Guerrero's prosecutor's office has found a way to waive the law in every circumstance by claiming that it cannot apply special laws (as opposed to crimes directly defined within the text of the criminal code).[223]

In January 2014, Guerrero's state Congress passed a new law on the prevention of torture, but staff at the state Human Rights Commission view the definition of torture under the new law as limited and inadequate.[224] The new law defines torture as the inflicting of physical, psychological, or sexual suffering on a person by any public servant in the direct or indirect exercise of their powers. The definition codifies torture as occurring for three specific purposes: obtaining information or a confession from that person or a third person; punishing the person for an act he has committed or is suspected to have committed; or coercing the person to engage in or refrain from engaging in a particular conduct.[225] The Inter-American Convention to Prevent and Punish Torture does not restrict the definition of the crime to such a limited set of intentions by the perpetrator.[226]

The new law includes a list of aggravating circumstances: torture of women, children, the incapacitated, the elderly, and the disabled, and torture causing permanent physical or psychological damage; in such cases, penalties are increased by 50%. Torture involving rape means that both charges can be pursued.[227] But the penalties for torture established in the new law—from 4 to 12 years imprisonment, with the possibility of early release—are not necessarily greater than those for lesser offenses, such as the abuse of authority.[228]

The new torture law makes the non-reporting of torture a criminal offense.[229] It also establishes that, within the limited set of possible intentions by the perpetrator, torture is not allowed under any conditions: not in instances of internal political instability, not to support urgent investigations or in any other exceptional circumstances, not in response to orders, and not during insurrections in prison facilities.[230] However, in contrast to Guerrero's law on enforced disappearances, the torture law includes no provision on the criminal liability of senior officials who are legally obligated to prevent the perpetuation of torture, but fail to exercise their autority to do so.[231]

The law created a "Technical Committee for Analysis and Evaluation," which meets twice a year to advise prosecutors on the investigation of alleged cases of torture and to monitor their progress.[232] The committee is comprised almost exclusively of government officials, with only a single representative of civil society.[233] Civil society organizations have criticized the committee because it lacks the authority to conduct autonomous investigations

of officials suspected of torture, and because with government officials dominating its ranks, it remains an exercise in "authorities investigating authorities."[234]

In practice, the new torture law has had no apparent impact in its first year. By interpreting the law to mean that torture only happens during the investigative phase of a criminal case, prosecutors have narrowed an already narrow definition, and not pursued even a single criminal prosecution. The advisory technical committee has fulfilled critics' fears of its politicization by failing to convene even once, despite a legal requirement to meet twice per year. [235]

Despite its obvious shortcomings, prospects for improving the new law appear remote. The head of the Human Rights Commission in the state Congress insisted that the law's definition of torture was good, and that it was necessary to limit the law's definition of torture to three specific purposes in order for the law to be passed. Asked whether that might be revisited, he said, "I don't have an interest in changing the definition of torture, and neither do others on the congressional Human Rights Committee."[236] As of July 2015, lawmakers had made no changes to the torture law.

VI. MANIPULATION OF JURISDICTIONAL AMBIGUITY

As all eyes turned to Guerrero after the September 2014 killings and disappearances of 43 teaching students, the families of the disappeared were making urgent and desperate pleas for volunteers to help them find their sons. The families knew that federal and state police had killed and tortured a different set of Ayotzinapa students in December 2011. With this memory, and as allegations quickly emerged that heavily implicated police and organized crime figures in the latest atrocities, the families had every reason to distrust state authorities. Nevertheless, if there was to be criminal accountability for the deaths and disappearances, there could be no other option than state-conducted investigations. Would it be state or federal authorities who took responsibility for the investigation? In the ensuing days, the answer emerged that it would be a mish-mash of both: a display of jurisdictional complexity and its manipulation.

IN MEXICO'S FEDERAL SYSTEM, STATES HAVE BROAD AUTHORITY TO CONDUCT CRIMINAL INVESTIGATIONS. BUT WHEN A CASE INVOLVES THE PERPETRATION OF FEDERAL CRIMES OR WHEN A LOCAL CRIME IS RELEVANT FOR A FEDERAL INVESTIGATION, FEDERAL PROSECUTORS MAY ASSERT JURISDICTION.[237] SO WHILE MEXICO DOES HAVE SOME LAWS THAT PROVIDE SPECIFIC GUIDANCE IN DETERMINING JURISDICTION, THERE IS EXTENSIVE ROOM FOR OFFICIALS TO EXERCISE DISCRETION, OFTEN ARBITRARILY. A LACK OF CLEAR RULES HAS OPENED SPACE FOR THE IMPROPER ASSERTION OF JURISDICTION, OR A FAILURE TO ASSERT JURISDICTION WHEN DOING SO WOULD BE IN THE BEST INTERESTS OF JUSTICE.

With regard to the Ayotzinapa case, the state prosecutor's office opened an investigation into first-degree murder and attempted murder, and by late October 2014 had brought charges against fugitive Iguala Mayor José Luis Abarca and 23 municipal police.[238] Meanwhile, using its prerogative to assert jurisdiction in cases involving organized crime, the Federal Prosecution (PGR) opened an investigation leading to arrest warrants for the leader of the Guerreros Unidos crime group[239] and 25 others on charges related to organized crime, possession of illegal firearms, kidnapping, crimes against health, and bribery.[240] Additional arrests followed. Extensive media reports linked Abarca and his wife to Guerreros Unidos members, and on October 22, the Federal Prosecutor announced his request for federal warrants for Abarca and his wife, as well as Minister of Public Security for Iguala Felipe Flores Velazquez.[241]

By all accounts, state and federal investigators were examining the same events and many of the same actors. But in those early days following the disappearances, when no one knew the students' fate and time was of the essence, prosecutors from the two jurisdictions were formally engaging in entirely separate investigations. They conducted interviews separately, carried out separate forensic investigations, failed to communicate with each other, and issued contradictory statements about the state of their findings. For example, while the Fiscalía of Guerrero noted the roles of federal Army, Navy and Federal Police in finding bodies and intimidating victims in the case, federal accounts omitted such information.[242] Surely, the federal government did not want to broadcast its own desperately inept and abusive investigation, which was largely based on coerced confessions and torture.[243] As the PGR stated that it was only relying on information gathered through its own investigations, it remained unclear whether and how any evidence collected by local investigators immediately after the attack—including forensic evidence and interviews with victims, witnesses, and municipal police—might be used.[244]

The lack of coordination prevented prosecutors from making the best use of available legal frameworks. Federal prosecutors approached the student disappearances as a case of kidnapping rather than enforced disappearance because of grave deficiencies in the federal law on enforced disappearances. A true collaboration in the federal and state investigations might have allowed Guerrero prosecutors to pursue charges of enforced disappearance under the state's superior definition of the crime.

The failure to coordinate overlapping federal and state investigations was not unique to the Ayotzinapa case, or even to Guerrero's experience with the federal government.[245] Ayotzinapa was simply a much more

visible manifestation of an ongoing phenomenon.[246] Sometimes, state prosecutors open a case and then send copies of the file (desglose) to the PGR's specialized unit on organized crime (Subprocuraduría Especializada en Investigación de Delincuencia Organizada, SEIDO), in case the PGR wants to assert jurisdiction. If it does, then state prosecutors typically stop their investigations and hear no more about the course of the federal investigation. Sometimes the PGR sends cases to state prosecutors, but in those circumstances, SEIDO expects to be kept apprised of developments. To the extent there is collaboration, it takes place before the transfer of the case file, when the receiving authority may ask the office that initiated the investigation to take specific investigative steps prior to the transfer. The Open Society Justice Initiative is unaware of any case in which there has been a true joint investigation.[247]

To the extent that there is communication between state and federal prosecutors, it is likely to be personal and "informal."[248] And there are many personal connections to work with. Many senior justice-sector officials in Guerrero have backgrounds in the federal prosecutor's office or the federal security apparatus. Guerrero Prosecutor Iñaki Blanco Cabrera had previously served as head of the PGR's regional office in the state.[249] His successor, Miguel Ángel Godinez, previously worked in SEIDO and other positions at the PGR.[250] And senior police throughout the state, including former Acapulco Police Chief Alfredo Álvarez, have also had experience at the federal level.[251] Communications related to the Ayotzinapa case between senior officials in Guerrero and the PGR included text messages sent via the smartphone application WhatsApp.[252] But these informal connections are no replacement for the kind of official communication and collaboration between institutions that is sorely lacking in Mexico.

Guerrero is a state where Mexican military forces have been extensively linked to extrajudicial killings, disappearances, and torture. It is also a state where federal police have joined their state colleagues in committing various atrocities, including the killing and torture of Ayotzinapa students in December 2011. Some of these crimes fall clearly under federal jurisdiction, but there are few guidelines. If the coordination of atrocity investigations between state and federal prosecutors to a great extent relies not on formal protocols, but "informal" communications, this raises a fundamental question: are such communications being made in the genuine interests of justice, or the continuation of self-serving impunity?

VII. POOR SECURITY FOR LEGAL PROCEEDINGS

If Guerrero is ever to develop the capacity to properly investigate, prosecute, and try atrocity cases, then it must have an ability to ensure the security of all trial participants. Problems of witness protection, especially in prisons, are already evident. However, because there have been so few investigations and prosecutions of powerful state agents or organized crime figures (who in some cases are linked to state agents), to date the security of investigators, prosecutors, and judges has largely been a non-issue. If political obstacles to the pursuit of justice for atrocities in Guerrero can be overcome, the situation may change and state agents may come under threat. The threats they might face are likely similar to the threats currently being experienced by those who have sought to advance the justice process, including human rights defenders and journalists.

VII.A. WITNESS PROTECTION

ARMANDO CHAVARRÍA BARRERA, A SENIOR CONGRESSIONAL REPRESENTATIVE FROM THE LEFTIST PARTY OF THE DEMOCRATIC REVOLUTION (PRD), WAS THOUGHT TO BE THE STRONGEST EMERGING CANDIDATE FOR GUERRERO'S 2011 GUBERNATORIAL ELECTION WHEN HE WAS SHOT WHILE SITTING IN HIS CAR IN AUGUST 2009.[253] ALTHOUGH THEY WERE FROM THE SAME PARTY, CHAVARRÍA HAD PREVIOUSLY FALLEN OUT WITH THEN-GOVERNOR ZEFERINO TORREBLANCA GALINDO, WHO HAD REMOVED HIS SECURITY DETAIL.

In June 2011, an officer of the investigative police named Trinidad Zamora Rojo[254] gave a statement to investigators in which he claimed to have participated in the assassination of Chavarría, along with colleagues—and on Governor Torreblanca's orders.[255] Zamora expressed fear for his life.

He was never granted protection, but was made police commander of the municipality of Chilapa. Two days after his statement, and on his first day in his new position, gunmen reportedly from the drug gang Los Rojos attacked the ministerial police headquarters in Chilapa while colleagues failed to come to his aid.[256] The following day, his body was found on a road near the prosecutor's office in the capital: skinned, beheaded, and with his severed fingers stuffed in his mouth. Notes among the body parts warned others of betrayal.[257]

With such scenes playing out in Guerrero's media, how many citizens with information on atrocities—whether committed by state agents, organized crime figures, or others—would risk supporting investigations? Guerrero must prove that it can protect witnesses if it is to effectively deliver justice for killings, torture, disappearances, and other atrocities. Currently the state has many elements of a good legal framework on witness protection, with further improvements expected soon. Even then, however, some weaknesses in the framework will remain. And the glaring Achilles heel of the whole system is its reliance on justice sector operators who are unskilled, unaccountable, and too often implicated in crime themselves.

The state's current framework for witness protection is rooted in three laws. A law on "protected persons" (Law 480) calls for the creation of a witness protection program and contains provisions for the protection of witnesses in criminal proceedings.[258] A victim's law (Law 479) that passed in July 2014 mandates emergency measures for victims, aggrieved persons, family members, and witnesses, as well as procedures for the extension of such precautionary measures.[259] And a human rights defenders' law (Law 391) from 2010 mandates protection for individuals who witness or have direct knowledge of human rights violations, if their testimony is credible, and regardless of whether prosecutors have pursued relevant proceedings.[260]

For witnesses, the state attorney general is responsible for conducting risk assessments, factors for which are enumerated in the law; he also controls access to the witness protection program, and is required to take emergency preventive measures whenever necessary.[261] Defense witnesses are eligible for protection,[262] but as Guerrero moves to an adversarial system, this arrangement could present a conflict of interest (albeit one replicated in many systems around the world).[263] Those denied protection or offered lesser protection than desired do have the formal possibility of judicial review.[264] State officials and protected persons are required to keep protective measures and the program confidential.[265] Witness protection measures may include videotaping, providing the witness with an emergency phone, and less commonly, occasional police check-ins or escorting of the witness.[266]

The state has no safe houses,[267] but the law provides for the possibility of changing a witness's identity.[268] While the law states that protective measures for witnesses shall remain in place while the reasons for their necessity exist,[269] officials have interpreted this as allowing protection only through the end of a protected witness's testimony.[270] Protected witnesses are granted a right to free psychological, psychiatric, judicial, social, or emergency medical assistance.[271] In the implementation of witness protection measures, all state agencies and relevant private and public bodies are legally bound to coordinate with each other.[272]

This framework is currently changing. Guerrero is in the process of implementing the new, uniform National Criminal Procedure Code (Código Nacional de Procedimientos Penales) passed by the national Congress on March 5, 2014.[273] The new code should expand the possibility for the granting of temporary protection measures that can be extended to victims and aggrieved persons at risk during a criminal proceeding.[274] Beginning in 2014, consultations were also underway on a new draft state law on witness protection,[275] but as of July 2015, a final law had not been officially published.

The proposed new state law foresees the possibility of extending protection beyond the witness's testimony. It would extend the circle of eligibility for protection to all "people in a situation of risk," potentially including activists, journalists, religious figures, public servants, victims, and witnesses of human rights violations. It would extend the possibility of witness protection to the time period prior to the opening of criminal proceedings and in cases where no criminal proceeding is pursued.[276] However, as of September 2014, the bill did not include any provision for protection beyond the end of the trial.[277]

Although generally the framework for witness protection is robust, weaknesses remain, even after taking account of pending improvements through implementation of the National Criminal Procedure Code and the new draft law (if passed). The granting of protection measures should be pegged to risk, including threats that persist beyond the end of a trial, and not the length of proceedings. In this same vein, missing are provisions for the periodic reassessment of risk for those denied or granted protective measures. There are no explicit safeguards for witnesses who face threats related to cases where state and federal authorities have not yet resolved who will have jurisdiction, and there is no detail on Guerrero's coordination of witness protection needs with other Mexican states or with foreign countries. Finally, the legal framework contains no provisions related to the protection of witnesses who are prison inmates, for example by creating procedures for the transfer of threatened witnesses to other prisons, or otherwise segregating them from their tormentors.

Despite its strengths, in many ways the current framework remains prone to abuse by the prosecutors and police who are called upon to implement it, and whose offices have been linked to killings, torture, and disappearances. Current factors for eligibility in the program include "importance of the case," and "value of the testimony or intervention,"[278] but these vague categories are inherently subjective and leave decisions about eligibility ripe for manipulation. Stunningly, the law fails to create clear criminal liability for public servants who violate protective measures under the law, including through issuance of threats, intimidation, or harassment, or through disclosure of participation in the program.[279] Another major omission from the framework is any set of criteria for the employment and training of officials called upon to implement witness protection measures. In a state with a history of state corruption, violence, and impunity, this omission provides an open door for continued witness endangerment.

In cases where state officials are the alleged perpetrators, the federal government can be called on to provide protection measures. The national mechanism for protection of human rights defenders and journalists, administered by the federal Interior Ministry (SEGOB), has been used in some Guerrero state cases.[280] However, there have been state cases for which Federal Police have been called on to provide protection to key witnesses, and those witnesses have disappeared.[281] Under current circumstances, many potential witnesses in Guerrero criminal cases remain justifiably distrustful of state and federal authorities, and too afraid to testify.[282]

VII.B. HUMAN RIGHTS DEFENDERS, ACTIVISTS, AND JOURNALISTS

After state police killed two protesting Ayotzinapa students and tortured others in December 2011, the human rights organization Tlachinollan offered legal representation to the students and agitated for justice. Although there have never been convictions related to the case, several officers of the prosecution were removed from their posts. In 2012, Tlachinollan lawyer Vidulfo Rosales, who led the organization's efforts on the case, received threats severe enough to cause him to flee the country. Previous threats against him had already spurred the Inter-American Commission of Human Rights to grant him precautionary measures.[283] There were echoes of this history in 2014, following the killings of three Ayotzinapa students and disappearance of 43 others. As Tlachinollan again offered representation to the families, Acting Governor Rogelio Ortega publicly blamed the organization

for obstructing the families' cooperation with state authorities, insinuated that the organization had links to violence, and asked Tlachinollan Director Abel Berrera to distance the group from violent demonstrations in Guerrero. At the federal level, the secretary of the Navy echoed these sentiments.[284]

In a state where the authorities have shown no inclination to genuinely investigate and prosecute atrocities, often due to corrupt or criminal motivation, civil society organizations advocating for justice are regarded as a nuisance, or worse. Such organizations have represented rural, indigenous, and poor communities whose rights and interests otherwise get very little hearing in Guerrero. They have fought for justice in the state's courts, federal courts, and before international bodies, including the Inter-American Court of Human Rights. In doing so, they have had significant successes.[285] By shedding light on individual and systemic wrongdoing in Guerrero, including rampant government corruption and infiltration by organized crime, they have embarrassed and challenged the economic and political elites who control the state. Their work has occasionally led to such concessions as passage of a law on enforced disappearances.

It has also caused them to come under threat. Those who ask questions about atrocities and corruption have faced danger. As the Truth Commission of Guerrero has examined historical abuses committed during Mexico's Dirty War and concluded that crimes during that period amounted to crimes against humanity, its staff members and their families have received threats.[286]

JOURNALISTS INVESTIGATING ORGANIZED CRIME AND HUMAN RIGHTS ABUSES HAVE BEEN THREATENED AND KILLED.[287] BETWEEN 2013 AND NOVEMBER 2014, CODDEHUM RECEIVED 38 COMPLAINTS OF ATTACKS ON JOURNALISTS AND HUMAN RIGHTS DEFENDERS.[288] THOSE WHO DISCUSS WHETHER CONTEMPORARY CRIMES IN GUERRERO MIGHT QUALIFY AS CRIMES AGAINST HUMANITY—WHICH WOULD SUGGEST THAT ORDERS MAY HAVE COME FROM MORE SENIOR OFFICIALS—RECEIVE THREATS ISSUED BY POLITICALLY AND ECONOMICALLY POWERFUL INDIVIDUALS IN THE STATE.[289]

After the disappearance of two human rights defenders in February 2009, and more than 10 other cases from Guerrero involving killings, torture, disappearance, and arbitrary detention, the Inter-American Commission of Human Rights granted precautionary measures for 107 other people in

Guerrero.[290] Fifteen human rights defenders were attacked in Guerrero from 2011-2013, with ten of them killed after receiving threats.[291] Perilous conditions for human rights defenders have drawn the attention of the international community to Mexico, including specific attention on Guerrero. Diplomatic missions in Mexico City coordinate information on reported attacks against human rights defenders, and raise their cases with Mexican government officials; the European Union coordinates with non-governmental organizations on security concerns in ten states, including Guerrero.[292]

Following such attention, Guerrero's state Congress passed a law on the protection of human rights defenders (Law 391) in 2010,[293] a law on the protection of journalists in 2002,[294] and a relevant victim's law in 2014.[295] The draft law on protected persons would offer expanded protections for human rights defenders and others under threat.[296]

The framework, however, can only be as good as its implementation. Law 391 creates a Council for the Protection of Human Rights Defenders, to be chaired by the president of the state Human Rights Commission, who also has a role in appointing five of the seven other members. The council has a mandate to coordinate defense strategies, protect human rights defenders, and promote their activities. But as of April 2015 state Human Rights Commission officer in charge Ramón Navarrete, appointed through an irregular procedure by former Governor Aguirre, had failed to convene the council once. Law 391 also mandates the executive, through the prosecution, to designate specialized police for the protection of human rights defenders.[297] Five years after issuance of the law, this special police unit has not been created.[298] Indeed, state officials show little sign of taking violence against human rights defenders seriously. Asked about past violence and threats, one official told the Justice Initiative: "In cases where social leaders have died, it's been proved that these are local crimes and that they weren't killed because they were social leaders or human rights defenders. A lot of cases of human rights defenders or social movement members arise from internal quarrels."[299]

VII.C. PROSECUTORS AND JUDGES

In stark contrast to those agitating for the justice system to work in cases of atrocity, neither prosecutors nor judges have faced significant threats in Guerrero related to contentious cases. Prosecutors seem unconcerned about their own security situation.[300] Security at the prosecutor's office in Chilpancingo is, by all appearances, lax.[301] Courthouses and judicial offices have not been frequent targets of violence, although popular outrage following the September 2014 disappearances did lead to violent protests at government offices, including that of the prosecutor.[302]

THAT PROSECUTORS AND JUDGES GENERALLY HAVEN'T BEEN ENDANGERED FOR PURSUING JUSTICE, BUT HUMAN RIGHTS DEFENDERS, JOURNALISTS, AND TRUTH COMMISSION MEMBERS HAVE, LIKELY SAYS SOMETHING ABOUT THE EXTENT TO WHICH THEY'RE PERCEIVED AS THREATS TO PERPETRATORS.

This is not to say that there have been no threats or violence. Some prosecutors appear to be complicit in criminality and corruption, and failed to investigate and prosecute powerful perpetrators. With increasing competition among drug gangs starting in 2008, prosecutors acting on behalf of one criminal organization can anger another and find themselves in danger.

If and when Guerrero's prosecutors and judges did come under threat, the state's legal framework creates a basis for protection. Law 480 on "protected persons" foresees protection for all trial participants, including experts, prosecutors, defense attorneys, police, and judges.[303] Likewise, the new proposed draft law on witness protection foresees protection measures as being applicable to a broad range of people at risk, including public servants involved in the proceedings.[304]

VII.D. PRISONS

WHEN SIX ARMED MEN ENTERED THE STATE PRISON IN IGUALA ON JANUARY 3, 2014, THEY TOLD A GUARD THEY WERE STATE AGENTS.[305] ALLOWED INSIDE, THEY OPENED FIRE ON INMATES, AND IN THE ENSUING VIOLENCE FIVE OF THE INTRUDERS AND FOUR INMATES WERE KILLED. STATE PROSECUTORS LAUNCHED AN INVESTIGATION IN RELATION TO THE ATTACK AND PLACED 24 PRISON GUARDS INTO PROLONGED PRETRIAL DETENTION (*ARRAIGO*). FURTHER VIOLENCE IN TWO OTHER STATE PRISONS IN THE FOLLOWING DAYS BROUGHT THE DEATH TOLL FOR THE MONTH TO 15. THE STATE HUMAN RIGHTS COMMISSION'S ACTING PRESIDENT, HIPÓLITO LUGO, PUBLICLY STATED THAT THE SITUATION WAS DRIVEN BY OVERCROWDING AND THE COLLUSION BETWEEN PRISON STAFF AND INMATES THAT RESULTED IN PRISON SELF-GOVERNANCE. HIS REMARKS BROUGHT NEW ATTENTION TO AN OLD ISSUE.

Between 2011 and 2013, 77 inmates died in custody in Guerrero's prisons.[306] All of these deaths were investigated within the prison system, and none resulted in criminal investigations or trials.[307]

Organized crime prisoners are co-mingled with regular prisoners across the state's 15 prisons, which hold both state and federal inmates. Although state law provides that inmates can be separated by various criteria, including sex, age, the seriousness of the offense, and first-time vs. repeat offenders,[308] in reality there is very little separation along these or other lines.[309] Pretrial detainees and convicts are co-mingled, and male and female inmates are not always separated. Regular prisoners are routinely extorted in order to avoid abuse.[310] Some perceive broad complicity of prison officials in running this racket; indeed, it is widely believed that the prisons of Acapulco and Chilpancingo are highly vulnerable to infiltration by organized crime.[311] Families of inmates who come under threat appeal to the state Human Rights Commission on a daily basis; in turn, its staff appeals to prison directors to authorize transfers to other facilities or otherwise ensure the security of inmates.[312]

Guerrero's prison system is not only riddled with corruption, including extensive infiltration by organized crime, but also serious shortcomings in capacity. Indeed, prison staff are largely ill-trained to perform their duties.[313] They lack skill in fundamental areas, including: transporting inmates securely to and from courtrooms, detecting smuggling into and out of prisons, and detecting signs of mental illness among inmates. There are no proper procedures in place to deal with inmates' complaints.

Prisons are overcrowded. As of September 11, 2014, the state's 15 prisons—designed to hold 3,875 people—actually housed 5,975. The problem is largely due to the high percentage of inmates in pretrial detention: untried prisoners make up 60% of the total prison population.[314] Another factor in overcrowding has been the large number of federal inmates in Guerrero's prison population.

The state Human Rights Commission long ago proposed measures to address the dire situation of prisons in Guerrero, including requesting that new federal penitentiaries be built in order to separate all federal prisoners from state inmates.[315] But it is unclear how much support exists in Guerrero's state Congress for building new prisons, or undertaking alternate means to address overcrowding—for example by reducing the use of pretrial detention. By one account, legislators have major concerns about Guerrero's prisons, have recommended the construction of new prisons, are willing to provide new resources to this end, and as of September 2014, were planning to hold hearings on the situation.[316] By another telling, the issue is not a priority: "[Prisons] are so bad that it's not worth the investment. There's no interest in Congress to address the problems of overcrowding."[317]

As long as the situation persists, it will seriously impede efforts to prevent or prosecute atrocities in Guerrero. Prisons will remain dangerous locations in which inmates are subjected to torture, murder, sexual violence, and other violations. The rights of suspects, accused persons, and convicted persons will continue to be trampled. To the extent that proceedings against state actors, organized crime figures, or others rely on testimony from witnesses who are also inmates, those witnesses will continue to live in great peril.

VIII. CONCLUSIONS AND RECOMMENDATIONS

The disappearance of 43 students on September 26, 2014 and the state's subsequent mishandling of the investigation may have shocked the world, but in Guerrero it was not surprising. National and regional actors have raised serious doubts about the version of events presented by the Federal Prosecutor's Office.[318] Whether one believes the explanation proffered by the Federal Prosecutor's Office, according to which the perpetrators were only municipal police and organized crime memebers, or one of the darker scenarios that more heavily implicate federal forces, including the Army, the events of that day and the botched investigations that followed fit with long-established patterns, practices, and incentives. The Ayotzinapa students commandeered buses and sought public donations because they were fed up with state neglect of their impoverished teachers' college, and state repression of their politics. A mayor allegedly ordered police to "teach them a lesson" because like so many municipal and state officials, he was in business with organized crime and public protesters are bad for business. Municipal police shot students and bystanders in cold blood because they were told to, and there have never been consequences for following unlawful orders in Guerrero. According to federal authorities, members of the Guerrero Unidos drug gang allegedly slaughtered the students, who were delivered to them by the police, or according to other indications, state actors themselves disappeared the students. Either way, the continued enforced disappearance of the 43 students reflected perverted mores bred of the drug trade, militarization, and Guerrero's poverty, lawlessness, and corruption.

The moonscape of mass graves around Iguala that only came to light following the national and international outcry over the Ayotzinapa case surely registered in the perpetrators' minds. Given that these death pits had been ignored in the past—and that there had been no investigation into the December 2011 Ayotzinapa case or uncountable other incidents of killing, disappearance, and torture reaching back to the Dirty War—then why would the perpetrators expect the abuse, disappearance, and killing of a few more poor, rural Mexicans to prompt a state response? Indeed, the unexpected spotlight of world attention turned on Guerrero's state institutions over the ensuing days and weeks revealed a justice system entirely unsuited to the challenges of this investigation, or that of any other case of serious crime. The justice system was unsuited not primarily because of a lack of resources, but due to a lack of will.

The justice system of Guerrero is fundamentally flawed because its incentives are all wrong. Police are hired to intimidate and suppress opponents of political powers or to react with force to crime, and unchecked corruption means they too often serve as muscle for criminal networks. They are not hired to prevent crime or investigate it. To the extent that police and prosecutors need to show results in court, they routinely depend on unreliable confessions coerced through torture. They get away with it because these very same police and their close colleagues are the ones who, in theory, are responsible for investigating such abuse. In this institutional culture, what incentive do prosecutors and police have to learn professional investigative and legal techniques? Guerrero's ineptitude at investigating all forms of serious crime has at its very root the reliance on state torture.

What about the institutions with statutory responsibility to act as a check on the state's prosecutors and police? The bodies with a mandate to defend state, federal, and international law have almost entirely succumbed to the executive branch, which practices an authoritarianism greased by patronage, cronyism, and naked corruption. The judiciary is widely perceived as an arm of the highest bidder, or of the executive, a perception that during the term of Governor Aguirre was reinforced through the brazen double-hatting of the interior minister as the once-and-future president of the judiciary and state Supreme Court of Justice. In the past, the state Congress has been dominated by the same parties that formed the power base for the governor, and legislators have failed to sufficiently press for measures necessary to properly investigate, prosecute, and try serious crime. Congress has failed to address many inadequacies of the legal framework, especially with regard to torture; it has neglected prisons, which are underfunded, overcrowded, violent, and largely self-governing; and it has failed to question dubious or outright illegal assertions of executive power affecting the justice system. Chief among these was Governor Aguirre's neutralization of the state Human Rights Commission, which until 2014 had been the only state institution that could claim to represent the victims of killings, disappearance, torture, and other serious crime. With its own manifold inadequacies in dealing with serious crime, the federal government has also failed to provide an effective check on this southern state's spiral of violence and impunity.

Sustained public attention to this debacle of governance presents Guerrero with an opportunity. If the state's new leaders respond effectively to their constituents' demands and demonstrate political will, they can begin to establish trust in the thoroughly discredited justice sector. In order to develop the capability to credibly investigate, prosecute, and try cases of killing, disappearance, torture, and other serious crimes, policymakers will need to undertake deep reforms in five key areas:

VIII.A. STRENGTHEN SYSTEMIC ACCOUNTABILITY

This should be a prerequisite to much-needed technical capacity building. As long as prosecutors, police, judges, and other officials respond to inappropriate influence by the executive or by organized crime, and as long as they are not held accountable for their performance through appropriate democratic means, there will be little incentive for these justice sector actors to learn and apply new skills, or to use new resources as intended.

1. **ENSURE A STRONG, WELL-RESOURCED, TRANSPARENT HUMAN RIGHTS COMMISSION.** The Congress should amend the law of March 20, 2015 giving effect to the new Human Rights Commission and provide it the power to file criminal complaints (denuncias) with the Fiscal. The law already states that the commission's decisions shall be public, but should further specify that all recommendations should be published online, redacted only as necessary to protect the identities of victims and witnesses. Congress should amend the law to create an oversight committee for the Human Rights Commission made up of citizen representatives, including civil society representatives, and include a formal role for the UN Office of the High Commissioner for Human rights. Congress should provide the Human Rights Commission with adequate funding to train and recruit staff and investigate all complaints of human rights abuse reported to it. The current law's restrictive provision for triggering an investigation of enforced disappearance, and limiting investigations to the disappearance of persons with domicile in Guerrero[319] should be amended to align with the threshold established in the state law on enforced disappearance and the International Convention for the Protection of All Persons from Enforced Disappearances.

2. **IMPROVE THE COLLECTION AND TRANSPARENCY OF DATA ON THE JUSTICE SYSTEM.** The Fiscal, the judiciary president, the minister of public security, and other justice sector leaders should ensure improved collection of data in full compliance with federal and state laws on the right to information, and act to improve public transparency. The Congress should ensure the autonomy of the Institute for Transparency, Access to Information and Protection of Private Data.

3. **CREATE AN INDEPENDENT DEPUTY PROSECUTOR FOR HUMAN RIGHTS ABUSES AND ATROCITIES.** Congress should establish a new unit within the Fiscalía dedicated to the investigation and prosecution of human rights abuses and atrocities, and within which the relevant specialized Fiscalías already foreseen in law or created by the Fiscal should sit.[320] To expand beyond the limitations of case-by-case analysis, it should include a dedicated unit for criminal analysis that takes into account the context in which atrocities are committed and establishes a pattern of criminality. The organic law of the Fiscalía should be amended to grant Congress (instead of the governor) the power to appoint an independent deputy prosecutor to head the unit. The independent deputy prosecutor should be selected from a list of candidates who have worked in the field of human rights for at least 10 years, proposed by the president of the state Human Rights Commission, and vetted by the National Human Rights Commission for past human rights abuses. As part of the legally prescribed appointment process, the congressional human rights commission should hold public hearings to solicit the views of human rights organizations and victims, and to question the candidates. The unit should recruit all-new staff from across Mexico, separate from other staff of the Fiscalía, who have a background in the investigation of human rights abuses and atrocities. All prosecutors and investigators within the Fiscalía should be vetted by the state Human Rights Commission. The special prosecutor should be required to regularly brief the head of the Human Rights Commission and the congressional Human Rights Committee. The law should specify that evidence from the Human Rights Commission, including through investigations conducted according to the Istanbul Protocol—performed according to international standards—has full probative value in prosecutorial investigations. Congress should provide both the state Human Rights Commission and the special prosecutor with adequate mandates, staff, and resources to perform Istanbul Protocols. In the event of investigations that implicate the Fiscal, the special prosecutor should be authorized to withhold information from the Fiscal. Congress and the Fiscal should provide the unit with human and budgetary resources adequate to investigate all recommendations from the Human Rights Commission, cases transferred from federal jurisdiction, and its own leads.

4. **MAKE FORENSIC SERVICES INDEPENDENT OF POLITICAL AUTHORITIES AND THE PROSECUTOR.** Congress should pass legislation establishing an independent agency to provide forensic services and expertise to the prosecution, defense, and judiciary. It should provide adequate resources to reduce the temptation of corruption, and create provision for national and international forensic experts to occasionally audit its work, unannounced. Victims should have a right to introduce into evidence independent forensic evaluations from local or national human rights commissions, as well as private experts, including international experts. The law should specify that that prosecutors and judges grant these evaluations probative value. The law should require the office to provide sufficient numbers of bilingual forensic experts to serve the needs of the indigenous population.

5. **STRENGTHEN DEFENSE RIGHTS.** As a critical step in ending the prosecution's reliance on torture and realizing fair trial rights, the Congress should provide funding adequate for the provision of early and robust legal defense to those in need across Guerrero, with special attention to improving services in impoverished rural and predominantly indigenous communities. This should include enhanced access to justice through the physical presence of judicial officers and institutions in remote parts of the state, a rebalancing of judicial assets, and such means as circuit courts. The law of the prosecution and its regulations should require maintenance of a public record of detention. The regulations to the law on the judiciary should require it to maintain an updated, public record of outstanding arrest warrants and to notify suspects and accused persons whose warrants and cases have been dismissed.

6. **STRENGTHEN THE "TECHNICAL COMMITTEE FOR ANALYSIS AND EVALUATION."** As a further step to end prosecutorial reliance on forced confessions through torture, the Congress should amend the state torture law to enhance the independence and effectiveness of the Technical Committee. Its membership should be extended to include an additional representative of civil society and a representative nominated by the National Commission of Human Rights, and the UN Office of the High Commissioner for Human Rights should be invited to send an observer to each committee meeting. The president of the committee should face substantial daily personal fines in the event he or she fails to convene the body as required by statute.

7. **STRENGTHEN JUDICIAL INDEPENDENCE.** The organic law of the judicial branch should be amended so that a sitting Supreme Court justice shall not serve as the president of the Council of the Judiciary. Judges should be prohibited from taking leaves of absence to serve in the executive branch.

8. **ENSURE ACCOUNTABILITY FOR PAST CRIMES IN GUERRERO.** In accordance with article 25 of the law that created the Truth Commission of Guerrero, the Fiscal should open investigations into crimes against humanity perpetrated by state agents, as documented by the commission. The Fiscal should also investigate any other leads related to Dirty War atrocities that come to its attention.

VIII.B. STRENGTHEN THE LEGAL FRAMEWORK

1. **AMEND THE TORTURE LAW.** The new Congress should amend the state torture law so that it accords with international standards, including by adopting the definition of torture in the Inter-American Convention to Prevent and PunishTorture, and by establishing provisions on the criminal liability of individuals who are legally obligated to prevent the perpetration of torture, but fail to exercise their authority to do so. In revising the torture law, Congress should hold hearings to solicit the recommendations of civil society and the state Human Rights Commission.

2. **INCLUDE SPECIAL LAWS IN THE CRIMINAL CODE.** Congress should place the definitions of torture and enforced disappearance directly into the state criminal code in order to strip potential excuses from unwilling prosecutors.

3. **STRENGTHEN ACCOUNTABILITY FOR STATE PERPETRATORS.** Congress should amend the state criminal code so that being a state agent is considered an aggravating circumstance, including in cases of homicide.

4. **ACCELERATE ADOPTION OF THE ADVERSARIAL SYSTEM.** Congress should prioritize the passage of laws to faithfully implement the transition to the adversarial system, and appropriate adequate funds—including earmarked federal funds received by the state—for the training of investigators, prosecutors, defense counsel, and judges.

VIII.C. STRENGTHEN SECURITY

1. **REDEFINE POLICING AND RESTRUCTURE POLICE FORCES.** The executive and Congress should commit to the restructuring of policing in Guerrero, with international assistance as necessary, in order to focus the force on community policing, respect of judicial pluralism, and investigation of crime. They should structure the recruitment and training of police for these main purposes, and vet applicants in accordance with international best practices. The government should establish a commission, including national and international experts, to develop police reform plans—including short, medium, and long-term indicators in the areas of transparency and accountability.

2. **STRENGTHEN WITNESS PROTECTION.** Given the extent of prosecution and police criminality in the state's history, Congress should pass legislation creating an independent Witness Protection Agency, whose director should be selected in accordance with strict professional criteria and answer to a technical board that excludes political actors and has no access to operational details. Congress should pass legislation creating clear criminal liability for any public servant who violates witness protection measures; create criteria for the selection of witness protection officials that reflect international best practice; define a training protocol for all witness protection officers in line with international best practice; create clear criteria for protection eligibility based solely on risk, with periodic reassessments of risk for those granted and denied protective measures; and ensure that victims, witnesses, and other trial participants are eligible for protection as long as they remain at risk—even if this is after the investigation or trial.

3. **REDUCE PRISON VIOLENCE.** Congress should urgently adopt reforms to reduce pretrial detention in order to reduce prison overcrowding and related extortion and violence. These measures should include enhanced guarantees of early access to defense and access to legal aid (see above), and expanded use of alternatives to pretrial detention, including bail. The executive should act to separate pretrial detainees from convicts, state from federal inmates, juveniles from adults, and women from men. With international assistance, the state should devise a scheme for the lustration of prison staff, including directors, and a vetting scheme for the hiring of new, professional staff, and the Congress should provide resources to adequately pay all prison staff.

4. **PROVIDE SECURITY GUARANTEES FOR HUMAN RIGHTS DEFENDERS.** Guerrero's new government should commit to protecting the security of human rights defenders, even when – as exemplified by this report – they draw attention to hard truths. The government should seek constructive engagement with critics. The president of the state Human Rights Commission should regularly convene the Council for the Protection of Human Rights Defenders, as foreseen under law 391 of 2010. The Congress should amend law 391 to impose substantial personal fines on the president of the state Human Rights Commission for any failure to convene the Council in accordance with the law. The executive should act immediately to implement the provision of law 391 that foresees the creation of a specialized police force for the protection of human rights defenders. Members of the specialized force should be recruited from across Mexico and vetted for past abuse by the National Human Rights Commission.

5. **STRENGTHEN SECURITY PROTOCOLS AT JUSTICE INSTITUTIONS.** If Guerrero tackles the reform agenda above and begins proper investigations of killings, disappearances, torture, and other forms of serious crime, justice sector officials will no longer be as susceptible to influence by organized crime, and hence will face much greater danger. With national and international assistance, as needed, the state should review security protocols for police stations, prosecutors' offices, courthouses, prisons, and other infrastructure of the justice sector, including information security.

VIII.D. URGENTLY CREATE INTEGRATED TEAMS TO INVESTIGATE DISAPPEARANCES

1. The proposed deputy prosecutor for human rights (recommendation A.3.) should oversee integrated units to search for disappeared persons and conduct related criminal investigations. Each unit should have multidisciplinary expert staff, including at least one prosecutor, investigators, and social workers. Detectives and other staff of the units should be recruited from across Mexico, vetted by the National Human Rights Commission for past human rights abuses, and offered training by national and international experts.

2. The units should have responsibility for liaising with all relevant federal, state, and municipal authorities, human rights commissions across Mexico, and families of the disappeared and their representatives. With national and international assistance, they should develop a transparent protocol for the search of the disappeared. An oversight board should include the president of the Human Rights Commission, the Fiscal, two representatives of civil society, and an appointee of the National Human Rights Commission.

3. Congress and the Fiscalía should provide the units with adequate personnel and financial resources to establish and maintain a state database on missing persons, and victims of disappearance and enforced disappearance. The database should be created with assistance from national and international actors, and in coordination with the federal database (RENPED). Congress and the executive should mandate the units to conduct proactive investigations by detectives following all available leads in each case. They should ensure that the units are provided with full information on suspected perpetrators, including state agents.

4. The deputy prosecutor and oversight board should hold monthly meetings with the families of the disappeared and staff of the units to provide updates on progress in cases and solicit feedback on the work of the units with regard to specific cases, and their general performance. The UN Office of the High Commissioner for Human Rights should be invited to send an observer to each meeting.

5. The oversight board should have responsibility for soliciting outside technical expertise, as needed, to improve investigations generally or in specific cases.

VIII.E. URGENTLY LOCATE, EXHUME, AND INVESTIGATE CLANDESTINE AND MASS GRAVES

1. **MAP ALL CLANDESTINE AND MASS GRAVES.** The Fiscalía should coordinate with federal authorities, including the National Human Rights Commission, to produce a publicly available map of all clandestine and mass graves found in the state.

2. **DEPLOY NEW TECHNOLOGY FOR LOCATING MASS GRAVES.** The Fiscalía should seek national and international assistance to ensure that all available methods to expedite the location of clandestine and mass graves are being fully exploited.

3. **EXHUME AND INVESTIGATE MASS GRAVES.** To ensure expeditious and reliable results that are trusted by victim families, the Fiscalía should seek national and international assistance to exhume and investigate clandestine and mass graves with proper forensic methods. The Fiscalía should coordinate with federal authorities and provide a regularly updated list specifying the status of investigation into every exhumed cadaver.

Once Guerrero commits to wide and deep justice-sector reform along these lines, it will still need extensive assistance from the federal government and international community in building capacity across the board. Such assistance is more likely to be forthcoming if the governor and Congress can muster the leadership to break the state's tragic cycle of violence and injustice, and begin to build trust with the citizens of Guerrero.

ENDNOTES

1 There is more than one definition of the Dirty War's duration. The law creating Guerrero's truth commission defined it as encompassing the period 1969-1979. By other definitions, it started as early as 1964 and was not over until 1982.

2 Total calculated based on data retrieved from the Executive Secretariat of the National Public Security System, available at: *http://secretariadoejecutivo.gob.mx/incidencia-delictiva/incidencia-delictiva-fuero-comun.php* [accessed on July 17, 2015]. The population of Guerrero in 2010, according to Mexico's statistics agency (INEGI), was 3,388,768. See: *www3.inegi.org.mx/sistemas/mexicocifras* [accessed on July 22, 2015].

3 Response to Open Society Justice Initiative right-to-information request to the Fiscalía, number 51615, June 3, 2015. According another Fiscalía document, for unintentional homicides over the same period, prosecutors opened 3,438 investigations, leading to 846 indictments (24.6% of investigations) and 529 convictions (15.4% of investigations). Response to Open Society Justice Initiative right-to-information request, number 51715, June 3, 2015.

4 Until April 2014, the body's official name was "Commission for the Defense of Human Rights of the State of Guerrero" (Comisión de Defensa de los Derechos Humanos del Estado de Guerrero), or "CODDEHUM." In April 2014, the state Congress amended Guerrero's Constitution to reform CODDEHUM. The institution is now called the Human Rights Commission of the State of Guerrero (Comisión de los Derechos Humanos del Estado de Guerrero). Except where a distinction is relevant, this report refers to CODDEHUM and the reformed institution as the "state Human Rights Commission."

5 Responses to Open Society Justice Initiative right-to-information requests to the Fiscalía, numbers 187214 and 188514, February 6, 2015.

6 Fiscalía of Guerrero response to Open Society Justice Initiative right-to-information request number 187114, January 30, 2015.

7 Guerrero's procedural law remains in the midst of enormous change, as it aligns itself with the shift from an inquisitorial to an adversarial system of justice. It is also adopting a new, unified Mexican criminal procedure code passed by the national Congress in March 2014. Both reforms are supposed to be implemented by June 2016.

8 The following recommendations are summarized here, but detailed at the end of this report.

9 "Los 28 cuerpos de las primeras fosas en Iguala no son de normalistas: PGR," CNN México, October 14, 2014, available *at: http://mexico.cnn.com/nacional/2014/10/14/14-policias-de-cucula-son-detenidos-por-desaparicion-de-normalistas* [accessed on July 16, 2015].

10 This report uses the terms "mass grave" and "clandestine grave." Clandestine graves are unmarked, unofficial graves outside of cemeteries, regardless of the number of corpses they contain. Under Mexican law, "mass grave" can mean public graves within cemeteries where unknown remains are buried together. However, in international usage, the term "mass grave" commonly refers to a grave with more than one body. This report uses the term in the sense of the common international usage.

11 Federal Prosecution video with images of students being taken away in municipal police cars, available at: *www.youtube.com/watch?v=vaBxcRx5Qlo* [accessed on January 28, 2015].

12 "Mexico police suspected over deaths of 28 people found mutilated in secret grave – close to where students disappeared last week," Associated Press, October 6, 2014, available at: *http://www.independent.co.uk/news/world/americas/mexico-police-suspected-as-secret-grave-found-with-28-mutilated-bodies--close-to-where-students-disappeared-last-week-9778310.html* [accessed on July 18, 2015].

13 "Parents in Mexico Wait, and Hope, as Mass Graves Probed," *Los Angeles Times*, October 6, 2014, available at: *www.latimes.com/world/mexico-americas/la-fg-more-bodies-mass-graves-mexico-20141006-story.html* [accessed October 7, 2014].

14 "Mexico Police Helped Gang Kill 17 Students, Prosecutor Says," Bloomberg News, October 6, 2014, available at: *www.businessweek.com/news/2014-10-06/mexico-gang-killed-17-with-help-from-police-prosecutor-says* [accessed on October 7, 2014].

15 Sesión de preguntas y respuestas en la conferencia del procurador Jesús Murillo Karam sobre los 43 normalistas desaparecidos, October 7, 2014, available at: *www.radioformula.com.mx/notas.asp?Idn=454311&idFC=2014* [accessed on July 16, 2015].

16 "Manifestantes queman oficinas gubernamentales en Chilpancingo, Guerrero," CNN México, October 13, 2014, available at: *http://mexico.cnn.com/nacional/2014/10/13/normalistas-toman-el-congreso-y-el-palacio-de-gobierno-guerrerense* [accessed on July 16, 2015].

17 See "México: en busca de los otros desaparecidos de Guerrero," *Animal Político*, December 2, 2014, available at: *www.animalpolitico.com/2014/12/mexico-en-busca-de-los-otros-desaparecidos-de-guerrero*; "Hallan fosas clandestinas en Iguala; vinculan homicidios con cártel y policías," *Excélsior*, October 5, 2014 available at: *www.excelsior.com.mx/nacional/2014/10/05/985187*; "Hallan 4 fosas más en Iguala; habría estudiantes de Ayotzinapa: PGR," *Excélsior*, October 10, 2014, available at: *www.excelsior.com.mx/nacional/2014/10/10/986060*, and "Mass Graves Dot Hillsides Around Iguala as Search for Missing Students Continues," *Vice News*, October 19, 2014, available at: *https://news.vice.com/article/mass-graves-dot-hillsides-around-iguala-as-search-for-missing-students-continues* [all

accessed on July 16, 2015]. The student disappearances also called new attention to previously discovered mass graves in the state. The state prosecutor's office told reporters that they were aware of 21 clandestine graves discovered in the three years from 2012 through 2014, but could provide no tally for the period 2006-2014. Federal Police were aware of eight mass graves discovered in 2014 alone. See: "Nobody, Especially the Government, Knows How Many Mass Graves Have Been Found in Mexico," BuzzFeed, March 26, 2015, available at: *www.buzzfeed.com/karlazabludovsky/nobody-knows-how-many-mass-graves-are-under-mexico#.ga9MYxLP5* [accessed on March 31, 2015]. The Federal Police announced the discovery of 100 bodies and human remains in mass graves in Guerrero in May 2014. The agency later retracted the statement, saying that 19 bodies had been found, not 100. See: "Hallan 100 cuerpos ¡y nadie investiga!," *Reforma*, February 6, 2015, available at: *www.reforma.com/aplicacioneslibre/preacceso/articulo/default.aspx?id=458090&urlredirect=http://www.reforma.com/aplicaciones/articulo/default.aspx?id=458090* [accessed on February 9, 2015]. Also on February 6, 2015, local media reported that 60 bodies had been found in a local morgue in the municipality of Acapulco. See: "Hallan 61 cuerpos en un crematorio privado inactivo en Acapulco," *El Sur de Acapulco*, February 6, 2015, available at: http://suracapulco.mx/archivos/250792 [accessed on February 9, 2015]. That same day the Fiscalía of Guerrero confirmed the discovery and announced the opening of a criminal investigation: *http://guerrero.gob.mx/2015/02/c-o-m-u-n-i-c-a-d-o-2/* [accessed on February 9, 2015]. Finally, according to Tlachinollan and Centro Prodh, as of July of 2015, 104 bodies had been found in the Iguala area.

18 "La noche más triste," *Nexos*, January 1, 2015, available at: *www.nexos.com.mx/?p=23809* [accessed on February 9, 2015]. Submission of NGO Tlachinollan to the Committee on Enforced Disappearances, page 2, January 8, 2015, available at: *http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/MEX/INT_CED_NGO_MEX_19222_S.pdf.* [accessed on February 9, 2015].

19 This paragraph relies on information in the Final Report of the Truth Commission of Guerrero, dated October 15, 2015, pp. 21-22, 28-30, 32-33, 47-50, 89 and 95, available at: *http://congresogro.gob.mx/files/InformeFinalCOMVERDAD.pdf* [accessed on February 9, 2015].

20 For example, in 1995, more than 400 police ambushed unarmed peasants in Aguas Blancas, Guerrero, killing 17. The peasants were protesting the disappearance of a community member and a lack of government support. A special investigation by the Supreme Court of Justice and a recommendation from the National Human Rights Commission identified information implicating senior politicians in the crime, but there have never been prosecutions of those officers, and restitution for the victims has been limited. See: Case 3/96 of the Plenary of the Supreme Court of Justice of the Nation, investigation into the grave human rights violations perpetrated in Aguas Blancas, Guerrero April 23, 1996: *http://200.38.163.178/sjfsist/Paginas/DetalleGeneralScroll.aspx?id=3650&Clase=DetalleTesisEjecutorias*; Recommendation No. 104/1995 of the National Human Rights Commission on the Aguas Blancas case, August 14, 1995: *http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/1995/REC_1995_104.pdf*; and Laura Reyes, "Aguas Blancas, un genocidio que aún espera justicia en México," CNN, June 28, 2011, *http://mexico.cnn.com/nacional/2011/06/28/aguas-blancas-un-genocidio-que-aun-espera-justicia-en-mexico*. See also "Massacre in Mexico Killings and Cover-up in the State of Guerrero," Minnesota Advocates for Human Rights, December 1995, available at: *http://wwww.theadvocatesforhumanrights.org/uploads/guerrero_1995_2.pdf* [accessed on July 17, 2015].

21 In 1960 Guerrero was the poorest state in Mexico. Final Report of the Truth Commission of Guerrero, pp. 6 and 7.

22 Peace Brigades International defines the term "cacique" as "a powerful figure in many regions of Mexico. This person frequently controls political and economic life in an entire region as a result of the tacit or direct support of local authorities and state security forces, thus allowing for complete impunity in their actions." See "Human Rights Defenders in the State of Guerrero: Cases of resistance and initiatives from civil society regarding the defense and promotion of fundamental rights in Mexico," Peace Brigades International, Mexico Project, 2007, p. 10, available at: *www.peacebrigades.org/fileadmin/user_files/projects/mexico/files/Defenderes_Guerrero_PBI_Mexico_ENG.pdf* [accessed on July 16, 2015].

23 See the National Human Rights Commission's first-ever recommendation for grave human rights violations, Recomendación No. 1 VG/2012, sobre la investigación de violaciones graves a los derechos humanos relacionada con los hechos ocurridos el 12 de diciembre de 2011 en Chilpancingo, Guerrero, available at: *www.cndh.org.mx/sites/all/doc/Recomendaciones/ViolacionesGraves/RecVG_001.pdf* [accessed on October 7, 2014]. See also: Maureen Meyer, "Mexico's Police: Many Reforms, Little Progress," Washington Office on Latin America, May 2014, pp. 16-18, available at: *www.wola.org/sites/default/files/Mexicos%20Police.pdf* [accessed on October 7, 2014] and Amnesty International, "Out of Control: Torture and Other Ill-Treatment in Mexico," September 2014, pp. 53-54, available at: *www.amnesty.org/en/library/asset/AMR41/020/2014/en/468aee5a-ecc3-470f-9387-a8a10b5670cc/amr410202014en.pdf* [accessed October 7, 2014].

24 Chris Kyle, "Violence and Insecurity in Guerrero," Wilson Center, January 2015, pp. 11-14, available at: *http://wilsoncenter.org/sites/default/files/Violence%20and%20Insecurity%20in%20Guerrero.pdf* [accessed on April 19, 2015].

25 Ibid., pp. 14-21. See also Luis Astorga, "Estado, drogas ilegales y poder criminal, retos transexenales," Nexos, November 2012, available at: *www.letraslibres.com/revista/dossier/estado-drogas-ilegales-y-poder-criminal-retos-transexenales?page=full* [accessed on February 9, 2015].

26 In October 2014, Governor Aguirre claimed that most police in the state had been infiltrated or coopted by organized crime. See: "Mexican federal police take over troubled Guerrero city amid mayhem, killings, mass graves," Associated Press, October 7, 2014, available at: www.foxnews.com/world/2014/10/07/mexican-federal-police-take-over-troubled-guerrero-city-amid-mayhem-killings [accessed on January 17, 2015]. According to the head of legal issues at the Federal Ministry of the Interior, almost 75 percent of the municipalities in Mexico could be vulnerable to organized crime infiltration. See appearance before the Senate on January 21, 2015: *http://comunicacion.senado.gob.mx/index.php/informacion/versiones/18178-version-estenografica-de-los-trabajos-de-la-mesa-3-en-el-segundo-dia-de-las-audiencias-publicas-en-materia-de-seguridad-y-justicia.html* [accessed on February 9, 2015].

27 Document titled "Criminal groups in the country," dated March 25, 2013, obtained in response to right-to-information request number 0673800166014 from the Open Society Justice Initiative to the Federal Institute of Access to Information and Protection of Data. See also: "En Guerrero, 26 cárteles del narcotráfico," *Contralínea*, October 13, 2014, available at: *http://contralinea.info/archivo-revista/index.php/2014/10/13/en-guerrero-26-carteles-del-narcotrafico* [accessed on February 9, 2015].

28 "12 alcaldes de Guerrero, bajo lupa 'antinarco'," *Milenio*, November 11, 2014, available at: *www.milenio.com/politica/12_alcaldes_de_Guerrero_bajo_lupa_antinarco-alcaldes_relacionados_con_el_narco_0_410958901.html* [accessed on November 18, 2014].

29 Statement of the Head of the Agency of Criminal Investigation of PGR before the Senate on January 21, 2014, available at: *http://comunicacion.senado.gob.mx/index.php/informacion/versiones/18178-version-estenografica-de-los-trabajos-de-la-mesa-3-en-el-segundo-dia-de-las-audiencias-publicas-en-materia-de-seguridad-y-justicia.html?start=2* [accessed on February 9, 2015].

30 "Radiografía de las organizaciones criminales que operan en Guerrero," *Contralínea*, November 19, 2014, available at: *www.animalpolitico.com/blogueros-causa-en-comun/2014/11/19/radiografia-de-las-organizaciones-criminales-que-operan-en-guerrero/#_ftn1* [accessed on November 18, 2014].

31 See Alma Guillermoprieto, "Mexico: We Are Not Sheep to be Killed," *New York Review of Books*, November 9, 2014, available at: *www.nybooks.com/blogs/nyrblog/2014/nov/05/mexico-not-sheep-to-be-killed/?insrc=hpss* [accessed on November 14, 2014].

32 Agreement between relatives and victims of the Ayotzinapa case and several federal officers, including the President, dated October 29, 2014, available at: *www.tlachinollan.org/wp-content/uploads/2014/10/141029-Minuta-de-Acuerdos-Presidencia-Ayotzinapa.pdf* [accessed on February 9, 2015].

33 Public statement of President Peña Nieto, following the first—and only—meeting he has held with victims of the Ayotzinapa case, October 29, 2014 available at: *www.youtube.com/watch?v=6bjWs3b1Peo* [accessed on February 9, 2015]. The set of reforms proposed by President Peña Nieto in response to the Ayotzinapa case is available at: *http://sil.gobernacion.gob.mx/Librerias/pp_ContenidoAsuntos.php?SID=ab8cf755cbc459a4aa9923604dc4a82f&Clave=3180893* [accessed on February 9, 2015].

34 The Congress authorized his leave. See Legislative Decree number 521, dated October 25, 2014 that authorizes the leave of absence of Governor Ángel Aguirre, available at: *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2014/10/DECRETO-NO.-5211.pdf* [accessed on February 9, 2015].

35 On the allegations of Mayor Abarca's ties to organized crime prior to the Ayotzinapa disappearances, see U.S. Department of State, Mexico 2013 Human Rights Report, pp. 2-3, available at: *www.state.gov/documents/organization/220667.pdf* [accessed on February 9, 2015]. In November 2014, PRD founder Cuauhtémoc Cardenas called on the party's national leader to resign. See: "Mexican Politics in Disarray amid Case of Kidnapped Students," *Washington Post*, November 18, 2014, available at: *www.washingtonpost.com/world/mexican-politics-in-disarray-amid-case-of-kidnapped-students/2014/11/18/bd1898a6-6f3b-11e4-a2c2-478179fd0489_story.html* [accessed on November 18, 2014].

36 Data retrieved from the Executive Secretariat of the National Public Security System, available at: *http://secretariadoejecutivo.gob.mx/incidencia-delictiva/incidencia-delictiva-fuero-comun.php; http://secretariadoejecutivo.gob.mx/docs/pdfs/incidencia%20delictiva%20del%20fuero%20comun/IncidenciaDelictiva_FueroComun_Estatal_1997-022015.zip* [accessed on July 17, 2015].

37 Prior to August 2014, the office was called the General Prosecutor's Office of Justice for the State of Guerrero (Procuraduría General de Justicia del Estado, PGJE). See the section below on lack of prosecutorial autonomy for information about the transition of the PGJE into the Fiscalía.

38 Information obtained in response to right-to-information requests 51615 and 51715 from the Open Society Justice Initiative to the Fiscalía of Guerrero, June 3, 2015.

39 Human Rights Watch, *Neither Rights nor Security*, p. 128.

40 Open Society Justice Initiative interview with Hipólito Lugo, chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014 and a Human Rights Commission document on disappearances, on file with the Open Society Justice Initiative. Under the legal framework of Guerrero, a recommendation is a non-binding document from the state Human Rights Commission on actions or omissions from authorities that may constitute human rights violations. See article 7 of Law number 696 of the Human Rights Commission of the State of Guerrero, available at: *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2015/04/PERIODICO-23.pdf* [accessed July 17, 2015].

41 In some cases more than one authority was involved. PowerPoint document of the state Human Rights Commission, "Desaparición Forzada de Personas: Gráficas, 1990-2013," on file with the Open Society Justice Initiative.

42 Open Society Justice Initiative interview with Hipólito Lugo, chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014. See also responses to Open Society Justice Initiative right-to-information requests to the Fiscalía, numbers 187214 and 188514, February 6, 2015.

43 None of these criminal investigations were opened in response to a recommendation from the state Human Rights Commission. Responses to Open Society Justice Initiative right-to-information requests to the Fiscalía, numbers 187214 and 188514, February 6, 2015.

44 Fiscalía of Guerrero response to Open Society Justice Initiative right-to-information request number 187114, January 30, 2015.

45 "Mexico governor denies role in Iguala violence," EFE News Agency, October 9, 2014, available at: *www.laprensasa.com/309_america-in-english/2742692_mexico-governor-denies-role-in-iguala-violence.html [accessed on October 17, 2014]*.

46 Chris Kyle, "Violence and Insecurity in Guerrero," Wilson Center, January 2015, pp. 36-43, available at: *http://wilsoncenter.org/sites/default/files/Violence%20and%20Insecurity%20in%20Guerrero.pdf* [accessed on April 19, 2015].

47 See press release of the State Prosecutor's Office of Guerrero, available at: *www.pgjeguerrero.gob.mx/casos-relevantes/policias-turisticos-de-la-ciudad-y-puerto-de-acapulco-implicados-en-el-delito-de-desaparicion-forzada-de-personas* [accessed January 5, 2015]. See also, "Desde el jueves no aparece un agente de la Policía Turística Preventiva," *El Sur de Acapulco*, January 9, 2014, available at: *http://suracapulco.mx/archivos/126667* [accessed on July 16, 2015].

48 Video of the abuse, uploaded on April 3, 2014, is available at: *www.youtube.com/watch?v=FVDI54yjYCE*. [accessed on November 11, 2014].

49 The second video is available at: *www.youtube.com/watch?v=ZTbkNgp7oIk* [accessed on November 19, 2014].

50 According to local media, Álvarez himself showed journalists this second video that contains his voice, but doesn't show his face. "Acusan en video al jefe de la Policía de Acapulco de haber ordenado la tortura; Alfredo Álvarez lo niega," *El Sur de Acapulco*, April 5, 2014, available at: *http://suracapulco.mx/archivos/137595* [accessed on July 16, 2015].

51 That video was also posted to YouTube: *https://www.youtube.com/watch?v=sY1D9n4JVEA* [accessed on May 8, 2015].

52 "Acusan en video al jefe de la Policía de Acapulco de haber ordenado la tortura; Alfredo Álvarez lo niega," *El Sur de Acapulco*, April 5, 2014, available at: http://suracapulco.mx/archivos/137595 [accessed on November 19, 2014].

53 "Ex Secretario de Seguridad Pública de Acapulco, acusado de tortura y abuso de autoridad, es detenido en el DF," *Sin Embargo*, July 26, 2014, available at: *www.sinembargo.mx/26-07-2014/1069420* [accessed on November 11, 2014]. It is not clear why the Navy made the arrest. It may relate to the fact that Álvarez is a former member of the Navy, or because the Navy is frequently involved in enforcing warrants in high-profile cases. Open Society Justice Initiative interview with a member of civil society, Mexico City, March 2015.

54 Press release of the State Prosecutor's Office of Guerrero, July 31, 2014, available at: *www.pgjeguerrero.gob.mx/noticia/apelara-pgje-resolucion-de-juez-sobre-el-auto-de-libertad-dictado-a-alfredo-alvarez-valenzuela-por-su-probable-responsabilidad-en-los-delitos-de-desaparicion-forzada-y-abuso-de-autoridad-en-que-incurr* [accessed on November 11, 2014]. See also: "Ex Secretario de Seguridad Pública de Acapulco, acusado de tortura y abuso de autoridad, es detenido en el DF," *Sin Embargo*, July 26, 2014, available at: *www.sinembargo.mx/26-07-2014/1069420* [accessed on January 15, 2015].

55 These statistics and others in this paragraph are based on documents from the state Human Rights Commission, on file with the Open Society Justice Initiative.

56 Notably in the 2011 attack against the Ayotzinapa students by federal and state security forces, the National Human Rights Commission found that authorities perpetrated acts of torture. See Recomendación No. 1 VG/2012, sobre la investigación de violaciones graves a los derechos humanos relacionada con los hechos ocurridos el 12 de diciembre de 2011 en Chilpancingo, Guerrero, paragraphs 293 to 298, available at: *www.cndh.org.mx/sites/all/doc/Recomendaciones/ViolacionesGraves/RecVG_001.pdf*.

57 This was the National Commission's first-ever recommendation related to grave violations of human rights in Mexico. See National Commission of Human Rights, Recomendación No. 1 VG/2012, sobre la investigación de violaciones graves a los derechos humanos relacionada con los hechos ocurridos el 12 de diciembre de 2011 en Chilpancingo, Guerrero, paragraphs 52 to 65, available at: *http://www.cndh.org.mx/sites/all/doc/Recomendaciones/ViolacionesGraves/RecVG_001.pdf* [accessed on October 7, 2014]. The arrests were not judicially authorized and there were no outstanding warrants against the students. Federal constitutional amendments passed in 2008 allow prosecutors to make arrests in "urgent cases" without judicial authorization.

58 Official document SEGOB/CNS/IG/DGAJ/759/2013 dated August 9, 2013 obtained by the Open Society Justice Initiative through a right-to-information request to the state Congress. On Álvarez as the officer in charge of operation "Guerrero Seguro," see also: "Designan a policía integrante de 'La Hermandad' como jefe policiaco en Acapulco," *Proceso*, November 14, 2013, available at: *www.proceso.com.mx/?p=357945* and "Desairan mandos de la Policía Federal a la Comisión Instructora del Congreso local," *El Sur de Acapulco*, available at: *http://suracapulco.mx/archivos/100116* [accessed on November 19, 2014]. Recommendation No. 1 VG/2012 of the National Human Rights Commission related to the December 2011 incident assigns the moniker "AR14" to the "Coordinator of the operation Guerrero Seguro" (Álvarez), and found that in the course of the operation, "AR14" was responsible for violating the principle of legality and engaging in further abuses including inhuman treatment and excessive use of force. The Open Society Justice Initiative issued information requests for the unedited version of this recommendation to the National Human Rights Commission (RTI request 69514), to the Ministry of the Interior (RTI request 400392214), and to the state Congress (response to RTI request by mail on January 7, 2015). All authorities refused to provide the unedited version on the grounds that names of alleged perpetrators identified in the recommendation are confidential information. When the state Congress convened in August 2013 to open impeachment procedures, it summoned Álvarez to appear. The Federal Ministry of the Interior (SEGOB) sent a last-minute communication (Official document SEGOB/CNS/IG/DGAJ/759/2013, dated August 9, 2013) saying he would be unable to appear because he was on leave through the end of the month. Documents of the impeachment procedure and official communication of SEGOB obtained through right-to-information requests to the state Congress. For more information on the impeachment procedure, see: "Desairan mandos de la Policía Federal a la Comisión Instructora del Congreso local," *El Sur de Acapulco*, August 15, 2013.

59 Document of the state Human Rights Commission, on file with the Open Society Justice Initiative. From 1999 through early 2014, the Commission received 929 reports of missing persons and/or unlawful deprivation of freedom. Of these, 796 (86%) were received in the years 2006 onwards. Separate state Human Rights Commission document on file with the Open Society Justice Initiative.

60 Video of officers expressing fear for their lives and integrity, available at at: *https://www.youtube.com/watch?v=sY1D9n4JVEA*; and Open Society Justice Initiative interview with a Guerrero state official, Chilpancingo, September 2014.

61 Pursuant to article 2 of the Inter-American Convention to Prevent and Punish Torture, to which Mexico is party, the infliction of physical or mental pain or suffering as a means of intimidation or personal punishment, or to force a confession, amounts to torture.

62 See National Commission of Human Rights, Recomendación No. 1 VG/2012, sobre la investigación de violaciones graves a los derechos humanos relacionada con los hechos ocurridos el 12 de diciembre de 2011 en Chilpancingo, Guerrero, paragraphs 52 to 56 and 293 to 318 available at: *http://www.cndh.org.mx/sites/all/doc/Recomendaciones/ViolacionesGraves/RecVG_001.pdf* [accessed on October 7, 2014].

63 Tlachinollan, Intenta el gobierno criminalizar a los estudiantes de Ayotzinapa, advierte el Centro Tlachinollan, press release, July 13, 2012, available at: *www.tlachinollan.org/respaldo/index.php?option=com_k2&view=item&id=2634%3Aintenta-el-gobierno-criminalizar-a-los-estudiantes-de-ayotzinapa-advierte-el-centro-tlachinollan&Itemid=641&lang=es* [accessed February 9, 2015].

64 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

65 Articles 53 to 57 of the former law of the Human Rights Commission of the State of Guerrero (CODDEHUM) set forth the definition and penalty of the crime of torture. Law available at: *www.coddehumgro.org.mx/sitio/archivos/leyes/ley_coddehum.pdf*.

66 Open Society Justice Initiative interview with Hipólito Lugo, chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

67 Open Society Justice Initiative interview with Deputy Prosecutor for Human Rights Alejandro Mojica Nava, December 2013.

68 The Open Society Justice Initiative filed right to information requests for information on the numbers of investigations, prosecutions, and convictions for each of these crimes from 2005 to 2015. In its response of April 27, 2015, the Fiscalía sent lists of cases for each crime, and merely noted that sometimes they result from reclassification. There was no indication of which, or how many of these cases resulted from initial allegations of torture. Right-to-information request numbers 00037415 and 00037615.

69 Calculation based on documents from the state Human Rights Commission, on file with the Open Society Justice Initiative.

70 Response to right-to-information request number 187114 to the Fiscalía of Guerrero, January 30, 2015.

71 "Va a resistir, dijo en Tepic Suástegui; tiene secuelas de la tortura, denuncian," *El Sur de Acapulco*, June 24, 2014, available at: *http://suracapulco.mx/archivos/169226* [accessed January 16, 2015].

72 Open Society Justice Initiative interview with lawyers for Mr. Suástegui, from Tlachinollan, April 14, 2015.

73 See Amnesty International, "Out of Control: Torture and Ill-Treatment in Mexico," September 2014, p. 15, available at: *www.amnesty.org/en/library/info/AMR41/020/2014/en* [accessed on November 11, 2014]. See also: Tlachinollan: Denuncia Tlachinollan ante Juez de Distrito ilegalidad de traslado a un penal federal a Marco Antonio Suástegui, líder histórico del CECOP, August 13, 2014, available at: *www.tlachinollan.org/comunicado-denuncia-tlachinollan-ante-juez-de-distrito-ilegalidad-de-traslado-a-un-penal-federal-a-marco-antonio-suastegui-lider-historico-del-cecop* [accessed January 15, 2015].

74 Open Society Justice Initiative interview with Hipólito Lugo, chief investigator of the state Human Rights Commission.

75 Article 39 of the Law of CODDEHUM and article 20 of the new law of the Human Rights Commission of Guerrero provide that the prosecution shall have a specialized agency for human rights violations and disappearances, with the required material and human resources: *www.coddehumgro.org.mx/sitio/archivos/leyes/ley_coddehum.pdf*.

76 "Law on the prevention, sanctioning, and eradication of torture in the state of Guerrero" (Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero), articles 19-21: *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2014/02/PERIODICO-08-ALCANCE-I.pdf*. The committee is presided over by the head of the state Human Rights Commission. Other members include the presidents of the human rights and justice commission of the local Congress, the president of local courts, the secretary of government, the Ministry of Public Security, the prosecutor, the ombudsman of the public university and a representative from civil society with experience in human rights. More detail on the technical committee follows in the section on the legal framework for torture.

77 Open Society Justice Initiative interview with a Guerrero state official, Chilpancingo, September 2014.

78 Response from the Prosecutor's Office of Guerrero to a request for information filed by the Open Society Justice Initiative (request 00167514), November 12, 2014. As of April 2015, the committee had still not met. Open Society Justice Initiative interview with former chief investigator of the state Human Rights Commission, Hipólito Lugo, Chilpancingo, April 12, 2015; and as of April 23, 2015—almost 11 months after the legal deadline had lapsed—there was still no proposed protocol on torture. Response from the Fiscalía of Guerrero to a request for information filed by the Open Society Justice Initiative (request 00037515), April 23, 2015.

79 See the section on legal framework, below, for details.

80 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

81 The "Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," or "Istanbul Protocol," is a widely accepted, UN-endorsed guide to best practices in the investigation of torture and ill-treatment. The manual is available at: *www.ohchr.org/Documents/Publications/training8Rev1en.pdf*.

82 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014

83 Response from Federal Prosecution (PGR) to a request for information filed by the Open Society Justice Initiative (request 1700327214), January 29, 2015.

84 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014. The extent of the forensic analysis is unclear. The same government official said that the state didn't conduct any torture investigations in accordance with the Istanbul Protocol.

85 Open Society Justice Initiative interview with staff of Tlachinollan, who represent Mr. Suástegui, Chilpancingo, April 13, 2015.

86 Ibid.

87 Article 30, section XIII of the Organic Law of the Prosecution of Guerrero (Law 193) sets forth that forensic services are under the authority of the prosecutor. Article 25 provides that forensic services have technical autonomy to issue their opinions.

88 Open Society Justice Initiative interviews with Guerrero government officials and representatives of civil society, Chilpancingo, September 2014.

89 Open Society Justice Initiative interview with a congressional representative, Chilpancingo, September 17, 2014.

90 Open Society Justice Initiative interview with former chief investigator of the state Human Rights Commission Hipólito Lugo Chilpancingo, April 12, 2015.

91 According to article 11, section VI of the Regulations of the Organic Law of the Prosecution of Guerrero, the prosecutor shall review the decisions not to file charges and article 32 section I.a) states that the Deputy Prosecutor of Regional Control and Criminal Procedures (Subprocurador de Control Regional y Procedimientos Penales) shall rule on the challenges (inconformidad) against the decisions not to file charges. Further, article 62 of the Code of Criminal Procedures of Guerrero sets forth that in specific cases, prior to the decision not to file charges against an accused person, the prosecution officer (Ministerio Público) must consult the prosecutor and the victim.

92 As of April 20, 2015, there had been no responses to formal requests for information on these issues, which the Open Society Justice Initiative made to the prosecutor's office and judiciary, respectively.

93 Article 18 of the Regulations of the Organic Law of the Prosecution of Guerrero: *http://guerrero.gob.mx/wp-content/uploads/leyesyreglamentos/211/RLOPGJEG193.pdf*.

94 Article 1 of the former Law of the Prosecution, available at: *http://i.guerrero.gob.mx/uploads/2012/06/LOPGJEG.pdf*. See also Article 1 of the Organic Law of the Executive Branch, available at: *http://i.guerrero.gob.mx/uploads/2014/11/LOAPEG433.pdf*.

95 Article 80 of the former text of the Constitution of Guerrero, available at: *www.ordenjuridico.gob.mx/Estatal/GUERRERO/Constitucion/GROCONST01.pdf* [accessed on January 17, 2015].

96 For example, in 2009-2010, then-Governor Zeferino Torreblanca kept Albertico Guinto Sierra as officer in charge of the state prosecutor's office for nine months. See: "Deja cargo responsable de Procuraduría en Guerrero; llevaba nueve meses," *Noticias Terra*, June 18, 2010, available at: *http://noticias.terra.com.mx/mexico/estados/deja-cargo-responsable-de-procuraduria-en-guerrero-llevaba-nueve-meses,d0b8d4be680df310VgnCLD200000bbcceb0aRCRD.html* [accessed on April 20, 2015]. Torreblanca's successor, former Governor Aguirre, appointed Juan Manuel Herrera Campos as deputy prosecutor and officer in charge of the state prosecutor's office for the period January - May 2012. See: *www.cnpj.gob.mx/prensa/2007/fich12/Ene/f05012012.shtm* [accessed on April 20, 2015] and "Martha Elba Garzón nueva procuradora de Justicia," Ultra Noticias, June 1, 2012, available at: *www.ultra.com.mx/noticias/guerrero/Local/48045-martha-elba-garzon-nueva-procuradora-de-justicia.html* [accessed on April 20, 2015]. As discussed below, Aguirre appointed Ramón Navarrete Magdaleno as officer in charge of the state Human Rights Commission in January 2014 in violation of the procedure established in the law on the Human Rights Commission. Navarrete remains in that position. On July 1, 2015, the state Congress officially appointed him as president of the state Human Rights Commission: "Ramón Navarrete fue ratificado como presidente de la Coddehum," *La Jornada Guerrero*, July 1, 2015, available at: www.lajornadaguerrero.com.mx/2015/07/01/index.php?section=sociedad&article=004n1soc [accessed on July 17, 2015].

97 According to information provided by the National Human Rights Commission, as of April 2015, the PGR has opened three prosecutorial investigations related to the incident, the state Fiscalía has opened 10 prosecutorial investigations and seven administrative proceedings, the federal Ministry of Public Security has opened two administrative proceedings, the General Inspection of Guerrero has opened four administrative procedures, and the state Ministry of Public Security has opened two administrative proceedings. Over three years after the incident, there have been no indictments at federal or state level. Document CNDH/DGSR/UE/676/2015, April 10, 2015, provided in response to request 00019115 filed by the Open Society Justice Initiative.

98 The federal government appeared to be complicit in obstructing the sole attempt by local authorities to hold accountable perpetrators of the 2011 Ayotzinapa attack when, in August 2013, SEGOB sent a last-minute document to the Congress stating that the officers from the Federal Police would not be able to appear because one was on temporary leave and the other had resigned from the institution (official document SEGOB/CNS/IG/DGAJ/759/2013, dated August 9, 2013, and all other documents issued by local Congress in the context of this procedure obtained by Open Society Justice Initiative in February 10, 2015 in response to a right-to-information request to the Guerrero Congress).

99 Even as federal and state authorities apparently imposed Álvarez on the municipality of Acapulco, without regard to the prerogative of municipal authorities to make such appointments, the municipal council (cabildo) would later "validate" this irregular appointment. See "Se lo brincaron pero propondrá al Cabildo a Alfredo Álvarez para Seguridad Pública, anuncia Walton," *El Sur de Acapulco*, November 16, 2013, available at: *http://suracapulco.mx/archivos/120025* [accessed on February 9, 2015] and "Ratifican a Alfredo Álvarez Valenzuela como titular de la SSP en Acapulco," *El Occidental*, December 6, 2013, available at:*www.oem.com.mx/eloccidental/notas/n3217096.htm* [accessed on February 9, 2013].

100 "Mexican federal police take over troubled Guerrero city amid mayhem, killings, mass graves," Associated Press, October 7, 2014, available at: *www.foxnews.com/world/2014/10/07/mexican-federal-police-take-over-troubled-guerrero-city-amid-mayhem-killings* [accessed on January 17, 2015].

101 Open Society Justice Initiative interviews in Chilpancingo, January and September 2014.

102 Constitution of Guerrero, article 141 and Organic Law of the Fiscalía, article 53.

103 The appointment process is set forth in Article 142 of the amended state Constitution.

104 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

105 *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2014/09/PERIODICO-75-ALCANCE-I.pdf*.

106 Article 16 of the Transitional Provisions of the Constitution and Article 4 of the Transitional Provisions of the Organic Law of the Fiscalía.

107 Godinez's professional background includes: the Federal Specialized Prosecution Office organized crime (SEIDO), Deputy Prosecution for the investigation of crimes perpetrated by Public Servants, Officer of PGR (Agente del Ministerio Público Federal), agent of Interpol Mexico and specialized investigative agent of the UN for Central America. See *www.fiscaliaguerrero.gob.mx/noticias/miguel-angel-godinez-munoz-abogado-penalista-y-academico-de-38-anos-el-nuevo-fiscal-general-de-guerrero* [accessed on April 20, 2015].

108 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

109 Ibid.

110 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

111 Open Society Justice Initiative interview with Hipólito Lugo, chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

112 Although there can be multiple causes for high rates of pretrial detention, it has been shown that adequate legal representation can reduce lead to reductions in its use. See Open Society Justice Initiative, *Improving Pretrial Justice: The Role of Lawyers and Paralegals*, December 2010, available at: *www.opensocietyfoundations.org/fact-sheets/improving-pretrial-justice-role-lawyers-and-paralegals*. See also: United Nations Office on Drugs and Crime, Early access to legal aid in criminal justice processes: a handbook for policymakers and practitioners, 2014, available at: *www.unodc.org/documents/justice-and-prison-reform/eBook-early_access_to_legal_aid.pdf*.

113 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

114 Open Society Justice Initiative interview with former chief investigator of the state Human Rights Commission Hipólito Lugo, Chilpancingo, April 12, 2015.

115 Open Society Justice Initiative interview with staff from Tlachinollan, Chilpancingo, April 13, 2015.

116 "Justicia para indígenas, sin traductores ni defensores de oficio," *Los Ángeles Press*, May 8, 2013, available at: *www.losangelespress.org/justicia-para-indigenas-sin-traductores-ni-defensores-de-oficio* [accessed on January 19, 2015]. See also the recommendation by Finland (accepted) to Mexico in the framework of the UPR, 2009: Report of the Working Group on the Universal Periodic Review, December 11, 2013, document A/HRC/25/7, paragraphs 36, 148.124, 148.166 available at: *www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-7_en.doc*.

117 The National Human Rights Commission expressed concern about this practice in relation to the detention of the heads of informal community police suspected of crimes. See: CNDH, Informe especial sobre los grupos de autodefensa y la seguridad pública en el estado de Guerrero, 2013, para. 269, available at: *www.cndh.org.mx/sites/all/fuentes/documentos/informes/especiales/2013_IE_grupos_autodefensa.pdf* [accessed on April 15, 2015].

118 Articles 10, 19 section I and 25 of Law 848: Public Legal Aid of the State of Guerrero.

119 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

120 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, December 13, 2013.

121 In some European states and South Africa, the risk of conflicts of interest are minimized by having national legal aid boards that are independent executive agencies, directly accountable to national parliaments.

122 See, for example: "Confrontación de asociaciones y barra de abogados," *Agoraguerrero*, February 21, 2013, available at: *http://agoraguerrero2.over-blog.es/article-confrontacion-de-asociaciones-y-barra-de-abogados-115561276.html* [accessed on January 19, 2015].

123 Articles 106Bis to 106N of the Organic Law of the Judicial Branch of Guerrero (Law 129), available at: *http://congresogro.gob.mx/index.php/organicas*.

124 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

125 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

126 Open Society Justice Initiative interviews with state officials and civil society members in Chilpancingo, December 2013.

127 The reform is supposed to be implemented across Mexico by June 2016. See the 2008 constitutional amendments that introduced the adversarial system, available at: *http://dof.gob.mx/nota_detalle.php?codigo=5046978&fec*

ha=18/06/2008 [accessed on April 23, 2015]. See also the National Code for Criminal Procedures (Código Nacional de Procedimientos Penales) that implements the NSJP and was published in the Federal Official Gazette on March 5, 2014, available at: www.diputados.gob.mx/LeyesBiblio/pdf/CNPP_291214.pdf [accessed on April 23, 2015]. This new national code is to replace all existing state-level criminal procedural codes.

128 Mexico's Supreme Court ruled in February 2014 that *arraigo* is only applicable in cases of suspected organized crime, which falls under the exclusive competence of the federal government. This decision made it no longer available to state authorities. See judgments of constitutional challenges (acciones de inconstitucionalidad) on the issue: 29/2012 (www2.scjn.gob.mx/ConsultaTematica/PaginasPub/DetallePub.aspx?AsuntoID=138009) and 22/2013 (*www2.scjn.gob.mx/ConsultaTematica/PaginasPub/DetallePub.aspx?AsuntoID=156333*).

129 Article 23, section II of the Organic Law of the Judicial Branch of Guerrero (Law 129) sets forth the random assignment of cases. Fifth Section (articles 107 to 140) of the Organic Law regulates discipline procedures for judges and judicial staff. Organic Law available at: *http://congresogro.gob.mx/index.php/organicas*.

130 Document available at: *www.sitios.scjn.gob.mx/instituto/sites/default/files/documentos/codigo-de-etica-del-poder-judicial-guerrero.pdf* [accessed on January 19, 2015].

131 Article 77, section V of Law 674 of Responsibilities of Public Officers of the State of Guerrero (Ley número 674 de Responsabilidades de los Servidores Públicos del Estado de Guerrero), available at: *www.ordenjuridico.gob.mx/Estatal/GUERRERO/Leyes/GROLEY72.pdf* [accessed on April 20, 2015].

132 Articles 16, section XVIII; 17, section XXI; 79, section XVII; 106 and related, 141-145 of the Organic Law of the Judicial Branch of Guerrero (Law 129) refer to the practice of visits to oversee the performance of courts. Law available at: *http://congresogro.gob.mx/index.php/organicas*. On February 3, 2015, in response to a right-to-information request from Open Society Justice Initiative, the general inspector of local courts replied that between 2006 and 2014 it had carried out 228 inspections: 136 "ordinary," 81 "extraordinary," and 11 "special."

133 Article 106, section VII of the Organic Law of the Judicial Branch of Guerrero (Law 129).

134 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

135 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, April 12, 2015.

136 Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública (ENVIPE) 2014, available at: *http://www3.inegi.org.mx/sistemas/tabuladosbasicos/tabdirecto.aspx?c=33685&s=est* [accessed on February 23, 2015].

137 "TSJ de Guerrero buscará 'salida jurídica' a conflicto de paristas," *Proceso*, April 8, 2015, available at: *www.proceso.com.mx/?p=400645* [accessed on April 18, 2015]. See also: "Acusan nepotismo de jueces en Guerrero," *Agencia Reforma*, July 6, 2014, available at: *www.am.com.mx/m/mexico/acusan-nepotismo-de-jueces-en-guerrero-115070.html* [accessed on April 18, 2015].

138 "Desvió Martínez Garnelo 3 millones que eran para su aumento salarial, señalan trabajadores del TSJ," *El Sur de Acapulco*, February 21, 2015, available at: *http://suracapulco.mx/archivos/132219* [accessed on February 23, 2015].

139 "Aprueba el Congreso la licencia de Martínez Garnelo al TSJ," *El Sur de Acapulco*, September 7, 2014, available at: *http://suracapulco.mx/archivos/106237* [accessed on February 23, 2015]. See intervention of Deputy Ángel Aguirre Herrera on September 6, 2013, justifying the granting of a permanent leave to Martinez at: *http://congresogro.gob.mx/diario/index.php/intervenciones-en-tribuna/lx-legislatura/ano-i/tercer-peridodo-de-receso/doc_view/5529-intervencion-en-tribuna-6-sep-2013*.

140 "Niega Martínez Garnelo acusaciones de trabajadores del TSJ y anuncia que los recibirá el gobernador," *El Sur de Acapulco*, February 25, 2014, available at: *http://suracapulco.mx/archivos/132664* [accessed on July 17, 2015] and Open Society Justice Interviews with a state official, civil society representatives, and a member of the state Congress, Chilpancingo, September 2014.

141 "Acusan nepotismo de jueces en Guerrero," Agencia Reforma, July 6, 2014, available at: *www.am.com.mx/m/mexico/acusan-nepotismo-de-jueces-en-guerrero-115070.html* [accessed on April 18, 2015].

142 By another telling, it was López Celis who asked for a leave of absence for health reasons. Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014. In any case, the Plenary of Local Courts appointed Lambertina Galeana as interim president of the Local Courts of Guerrero on January 31, 2014. See "Renuncia López Celis a la presidencia del TSJ y nombran como interina a Lambertina Galeana," *El Sur de Acapulco*, February 3, 2014, available at: *http://suracapulco.mx/archivos/129858* [accessed January 19, 2015].

143 "Desvió Martínez Garnelo 3 millones que eran para su aumento salarial, señalan trabajadores del TSJ," *El Sur de Acapulco*, February 21, 2015, available at: *http://suracapulco.mx/archivos/132219* [accessed on February 23, 2015].

144 "Jesús Martínez Garnelo, se queda como encargado del despacho en Guerrero," *El Financiero*, October 24, 2014, available at: *www.elfinanciero.com.mx/sociedad/jesus-martinez-garnelo-se-queda-como-encargado-del-despacho-en-guerrero.html* [accessed on November 17, 2014].

145 Legislative decree dated October 26, 2014, appointing Mr. Ortega as governor of Guerrero, available at: *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2014/10/DECRETO-N%C3%9AMERO-522.pdf* [accessed on February 23, 2015].

146 Ortega appointed an academic, David Cienfuegos Salgado, to the post on November 3, 2014. See press release of Guerrero government on the appointment of David Cienfuegos, dated November 3, 2014, available at: *http://guerrero.gob.mx/2014/11/rogelio-ortega-designo-a-david-cienfuegos-salgado-como-secretario-general-de-gobierno* [accessed on February 23, 2015]. See also "David Cienfuegos asume la secretaría general de Gobierno de Guerrero,"

El Financiero, November 3, 2014, available at: *www.elfinanciero.com.mx/sociedad/david-cienfuegos-asume-la-secretaria-general-de-gobierno-de-guerrero.html* [accessed on January 19, 2015]. The same day, Martínez applied to the Congress for the lifting of his leave from the judiciary, explaining that now that he was no longer acting as minister of interior, "it was his pre-established prerogative to retake the presidency of local courts" (letter sent by Martínez to local Congress on October 30, 2014, obtained by Open Society Justice Initiative on January 7, 2015 in response to a right-to-information request). On November 3, 2014, judges of Guerrero's Supreme Court of Justice voted to remove him as its president (also voting to "ratify" Magistrate Lambertina Galeana to lead the court and the judiciary until April 30, 2015). (Official document 9568, dated November 3, 2014, obtained by Open Society Justice Initiative on January 7, 2015 in response to a right-to-information request.) The judges voted Martínez out in response to the released audio of a conversation between him and the mayor of Iguala, José Luis Abarca, recorded just days after the September 26, 2014 disappearance of the 43 Ayotzinapa students in which Abarca and his wife were suspects. The conversation took place the day before they fled from Guerrero and a month before their arrest in Mexico City. See "TSJ Guerrero relevará al magistrado presidente, Jesús Martínez Garnelo," *El Financiero*, November 4, 2014, available at: *www.elfinanciero.com.mx/sociedad/tsj-no-permitira-que-martinez-garnelo-regrese-como-magistrado.html* [accessed on November 8, 2014]. On November 4—the day after the vote by the judges—the state Congress voted to approve Martínez's request to end his leave of absence from the judiciary. As of April 2015, he remains a judge on the Supreme Court of Justice.

147 Article 97, section 1 of the Constitution sets forth that magistrates are to be appointed by the governor. Article 16, section XLIII of the Organic Law sets forth that Plenary of the Supreme Court of Justice shall request to the governor "the appointment of magistrates of the Supreme Court of Justice of the State." Article 17, XV orders the president of local courts to notify the governor of the resignation or complete absence of magistrates. Finally, according to article 76, the governor has the authority to appoint one counselor of the Judiciary Council.

148 Former Constitution of Guerrero, Article 89, VII, available at: *http://guerrero.gob.mx/wp-content/uploads/leyesyreglamentos/CPG.pdf*.

149 Open Society Justice Initiative interview with a state official, Chilpancingo, September 2014. See also the press release on the issue from the World Organization Against Torture (OMCT) and International Federation for Human Rights (FIDH), July 4, 2014, available at: *www.omct.org/es/human-rights-defenders/urgent-interventions/mexico/2014/07/d22753*, and the media report "Ordena una jueza el traslado de Suástegui de la cárcel de Tepic al penal de La Unión," *El Sur de Acapulco*, January 30, 2015 [accessed on February 23, 2015].

150 Docket 649/2014-II of the Third District Judge in the State of Guerrero, January 26, 2015.

151 Under the Regulations to the Law of CODDEHUM, the chief investigator covers any absence of the Human Rights Commission president not in excess of two months, and it is for the Council of CODDEHUM to appoint an interim president for absences over two months, until the appointment of a new president. Regulations to the Law of CODDEHUM, Article 48, available at: *www.coddehumgro.org.mx/sitio/archivos/leyes/reglamento_coddehum.pdf* [accessed on January 20, 2015].

152 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

153 "En menos de 7 días 15 mueren en penales del Estado," *Novedades de Acapulco*, January 7, 2014, available at: *www.novedadesacapulco.mx/guerrero/en-menos-de-7-dias-15-mueren-en-penales-del-estado* [accessed January 20, 2015].

154 National Commission of Human Rights, press release CGCP/012/14, no longer available online, but on file with the Open Society Justice Initiative.

155 Document of the CODDEHUM Technical Committee, available at: *www.coddehumgro.org.mx/sitio/archivos/consejo-tecnico/acuerdo-consejo-ramon.pdf* [accessed on January 20, 2015]. The document with Navarrete's appointment by the governor was received by the Commission on January 7, 2014. Document provided by the state Human Rights Commission on November 18, 2014 (communication UTAIP-CODDEHUM/050/2014) in response to a request for information filed by the Open Society Justice Initiative. Further, the executive has implicitly admitted that there was no basis for the governor to make the appointment. When the Open Society Justice Initiative filed a request for information on Navarrete's appointment, the Ministry of the Interior responded that, "Information on the appointment of Ramón Navarrete Magdaleno as officer in charge of the local human rights commission must be requested to the Congress, as it is the competent authority to appoint officers of the local human rights commission." Communication 1279, October 30, 2014 in response to request 00161214. In response to a further request for information filed by the Open Society Justice Initiative, the state Human Rights Commission stated that there is no document issued by the state Congress with regard to Navarrete's appointment as officer in charge. Communication UTAIP-CODDEHUM/050/2014, November 18, 2014. One member of Congress blamed Jesús Martínez Garnelo—Aguirre's interior minister and once-and-future judiciary president—as being the source of the irregular appointment, and called for his resignation. See "Discrepan diputados por injerencia de Aguirre en la designación de titular de la Coddehum," *La Jornada Guerrero*, January 9, 2014, available at: *www.lajornadaguerrero.com.mx/2014/01/10/index.php?section=politica&article=004n1pol* [accessed on January 20, 2015]. For media criticism of the governor, see: "Guerrero: nombramiento de Nuevo titular de la Coddehum genera discusión," Blog SIPAZ, January 10, 2014, available at: *http://sipaz.wordpress.com/tag/Hipólito-lugo-cortes* [accessed on January 20, 2015].

156 Open Society Justice Initiative interviews with a member of the state Congress, a staff member of the state Human Rights Commission, and civil society organizations, Chilpancingo, September 2014.

157 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, January 2014.

158 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

159 The law creating CODDEHUM established the committee in its articles 36 to 39. See: Ley que crea la comisión de defensa de los Derechos Humanos y establece el procedimiento en material de desaparición involuntaria de personas, available at: *www.coddehumgro.org.mx/sitio/archivos/leyes/ley_coddehum.pdf* [accessed on January 20, 2015].

160 Official document 377/2007 of CODDEHUM and draft amendments to the Organic Law of the Prosecution for the creation of the Specialized Prosecution, on file with Open Society Justice Initiative.

161 Undated documents provided by the state Human Rights Commission, on file with the Open Society Justice Initiative. Of the 54 recommendations for torture, 48 were addressed to the prosecutor's office, five to the Secretary of Public Security, and four to municipal presidents.

162 Ley para Prevenir y Sancionar la Desaparición Forzada de Personas en el Estado de Guerrero Número 569, available at: *http://www.ordenjuridico.gob.mx/Publicaciones/CDs2010/CDEquidad/pdf/GRO19.pdf* [accessed on April 20, 2015].

163 Open Society Justice Initiative interview with CODDEHUM staff member, Chilpancingo, September 2014. The Council for the Protection of Human Rights Defenders in Guerrero, installed on February 20, 2012, is chaired by the CODDEHUM president, who also has a role in the appointment of five of its seven members. See: *www.coddehumgro.org.mx/sitio/index.php?option=com_content&view=article&id=661&Itemid=436* [accessed on January 20, 2015].

164 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

165 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

166 CODDEHUM press release, undated, available at: *www.coddehumgro.org.mx/sitio/index.php?option=com_content&view=article&id=1217:comunicado-de-prensa&catid=104:boletines-2014&Itemid=746* [accessed on January 20, 2015].

167 Open Society Justice Initiative interview with Hipólito Lugo, Chilpancingo, April 12, 2015.

168 "Renuncia Lugo Cortés a la Coddehum en protesta por el pobre papel que asumió en la matanza de Iguala," *El Sur de Acapulco*, October 10, 2014, available at: *http://suracapulco.mx/archivos/215863* [accessed on January 20, 2015].

169 Constitution of Guerrero, article 76 bis and the Law of CODDEHUM, article 4.

170 Constitution of Guerrero, article 105(1)(I).

171 Constitution of Guerrero, articles 117-118.

172 Constitution of Guerrero, article 65, and transitional articles of the amendments to the Constitution, article 12.

173 Available at: *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2014/12/PERIODICO-93.pdf*.

174 Law 696 of the Human Rights Commission of the State of Guerrero, March 20, 2015, available at: *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2015/04/PERIODICO-23.pdf* [accessed on April 20, 2015]. According to the law's transitory provisions, open calls for the appointment of the president and advisory council are to be issued 30 days from the law's entry into force; the council is to be installed 60 days following appointment of the president; regulations are to be issued within 90 days, at which point the new body would officially replace CODDEHUM; provisions for a civil service career track at the commission are to be issued in 180 days.

175 "Ramón Navarrete fue ratificado como presidente de la Coddehum," *La Jornada Guerrero*, July 1st, 2015, available at: *www.lajornadaguerrero.com.mx/2015/07/01/index.php?section=sociedad&article=004n1soc* [accessed on July 17, 2015].

176 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

177 Article 27.

178 Article 18 of Criminal Code of Guerrero, amended in August 2014.

179 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

180 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

181 "Cuestionan activistas la aprobación de ley contra la tortura, porque no hubo consulta," *Diario de Guerrero*, January 17, 2014, available at *http://www.agenciairza.com/2014/01/cuestionan-activistas-aprobacion-de-ley-contra-tortura-porque-no-hubo-consulta* [accessed on January 21, 2015].

182 Ley que crea la comisión de defensa de los Derechos Humanos y establece el procedimiento en material de desaparición involuntaria de personas, Article 17, section X, available at: *www.coddehumgro.org.mx/sitio/archivos/leyes/ley_coddehum.pdf* [accessed on January 20, 2015].

183 Open Society Justice Initiative interview with a state prosecutor, Chilpancingo, December 13, 2013.

184 Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero, available at: *http://i.guerrero.gob.mx/uploads/2014/02/L439PSETORTURA2.pdf*.

185 The substance of the laws on enforced disappearance and torture are discussed in a later section on legal framework.

186 Open Society Justice Initiative interviews with civil society representatives, Chilpancingo, December 13, 2013.

187 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014. In 2012, the UN Committee Against Torture explicitly called on Guerrero to include the crime of torture in its criminal code rather than in a special law. See: UN CAT, Concluding observations on the combined fifth and sixth periodic reports of Mexico as adopted by the Committee at its forty-ninth session

(29 October–23 November 2012), CAT/C/MEX/CO/5-6, December 11, 2012, paras. C.8 and C.8.a, available at: *http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fMEX%2fCO%2f5-6&Lang=en* [accessed on April 20, 2015].

188 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014. The head of the Human Rights Commission in the Congress says that human rights are not a priority for the body, and that his commission is not a coveted committee assignment for legislators. Over two previous legislative periods, the commission produced no draft laws or amendments. Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

189 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

190 Ibid. Camacho said that he would provide the Justice Initiative with a copy of the letter of complaint he sent to the governor, but as of January 2015, his office had not done so. In response to a right-to-information request from the Open Society Justice Initiative, the state Human Rights Commission stated that it had no document issued by the state Congress with regard to Navarrete's appointment as officer in charge. Communication UTAIP-CODDEHUM/050/2014, November 18, 2014.

191 Press release of the state Congress on the approval of the new liability law, available at: *http://congresogro.gob.mx/index.php/boletines/2988-tiene-guerrero-ley-de-responsabilidades-de-los-servidores-publicos*.

192 "Por falta de recursos el TSJ-Guerrero no aplicará al 100% juicios orales," *Crónica*, May 20, 2011, available at: *www.cronica.com.mx/notas/2011/579681.html* [accessed on April 20, 2015].

193 One of the only steps the Congress had taken by 2012 was passage of a law on legal aid, Law 848 of Public Legal Aid of the State of Guerrero (Ley Número 848 de Defensa Pública del Estado de Guerrero), which had passed in 2011: *http://congresogro.gob.mx/index.php/lix-legislatura/intervenciones-en-tribuna-2011/doc_view/3688-ley-numero-848-de-defensa-publica-del-estado-de-guerrero*.

194 Centro de Investigación para el Desarrollo (CIDAC), Reporte de Hallazgos 2013 para el seguimiento y la evaluación de la implementación y operación del nuevo sistema de justicia penal, available at: *http://cidac.org/esp/uploads/1/Hallazgos_implementacio__n_Reforma_Penal.pdf*. See chapter V of this report for additional detail.

195 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

196 Ibid.

197 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

198 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

199 Open Society Justice Initiative interview with Guadalupe Barrena, CIDE, June 26, 2013.

200 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

201 In 2011, a former member of the Army, Marcos Esteban Juárez Escalera, was appointed as director of police investigations of the prosecution. He replaced another former member of the Army, Antonio Valenzuela Díaz, who had been ousted for his participation in the 2011 Ayotzinapa attacks. "El actual director de la Policía Ministerial, la propuesta para nuevo jefe policiaco," *El Sur de Acapulco*, August 20, 2014, available at: *http://suracapulco.mx/archivos/198444*. After Juárez Escalera was appointed as Minister of Public Security of Guerrero, Alejandro Salomón Velmar, a former member of the Navy, was appointed as officer in charge of the police investigations of the prosecution. Renuncia el director de la Policía Ministerial tras ataque a estudiantes del Tec, *El Sur de Acapulco*, October 15, 2014, available at: *http://suracapulco.mx/archivos/216553*.

202 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

203 Amnesty International, Confronting a Nightmare: Disappearances in Mexico, June 4, 2013, p. 12, available at: *www.amnesty.org/en/library/info/AMR41/025/2013* [accessed on November 19, 2014].

204 Except where otherwise noted, the following is compiled from Open Society Justice Initiative interviews with Deputy Prosecutor for Human Rights Alejandro Mojica Nava, Chilpancingo, December 13, 2013; Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, December 13, 2013; and members of civil society, Chilpancingo, December 2013.

205 Israel Arzate case. Judgment of amparo procedure 703/2012 and non-binding judicial precedents: 1a. CCVI/2014 (10a.), 1a. CCVII/2014 (10a.), 1a. CCV/2014 (10a.), 1a. CCIV/2014 (10a.). Available at: http://sjf.scjn.gob.mx.

206 Articles 12, 13, and 17.III of the Torture Law of Guerrero, Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero.

207 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

208 Open Society Justice Initiative interview with civil society representatives, Chilpancingo, September 2014.

209 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

210 Open Society Justice Initiative interview with a civil society representative, Chilpancingo, December, 2013.

211 Open Society Justice Initiative interview with representatives of civil society, Chilpancingo, December, 2013.

212 Except where otherwise indicated, information in this section is compiled from Open Society Justice Initiative interviews with justice sector actors and civil society representatives over the course of 2013-2014.

213 Open Society Justice Initiative interview with civil society representatives, Chilpancingo, September 2014.

214 ASILEGAL, "Informe sobre la situación de las personas privadas de libertad en México," March 23, 2012, p. 22, available at: *http://asilegal.org.mx/index.php/es/bibliotecta/libros* [accessed on July 18, 2015].

215 Open Society Justice Initiative interview with Guadalupe Barrena, June 26, 2013.

216 Open Society Justice Initiative interviews with a state government official, Chilpancingo, September 17, 2014, and Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

217 Article 130 of Guerrero Criminal Code.

218 Criminal Code of the State of Guerrero, available at: *http://congresogro.gob.mx/index.php/codigos*. The state has a separate law on women's access to a life free from violence. See Ley número 533 de acceso de las mujeres a una vida libre de violencia del Estado Libre y Soberado de Guerrero, available at: *http://i.guerrero.gob.mx/uploads/2011/12/Ley-n%C3%BAmero-553-de-acceso-de-las-mujeres-a-una-vida-libre-de-violencia-del-Estado-Libre-y-Soberano-de-Guerrero1.pdf*.

219 Press release from Congress on the approval of the victims law, available at: *http://congressgro.gob.mx/index.php/boletines/2975-aprueba-congreso-de-guerrero-ley-de-victimas-3* [accessed on February 24, 2015]. The draft of the "Law of Attention, Support and Protection to Victims of Crimes for the State of Guerrero" (Ley de atención, apoyo y protección a víctimas y ofendidos del delito para el Estado de Guerrero) is available at: *http://congresogro.gob.mx/files/reforma-penal/PROYECTO-LEY-DE-ATENCION-Y-APOYO-A-VICT_IMAS-Y-OFENDIDOS.pdf* [accessed on November 23, 2014]. In 2004 Guerrero adopted a Law of Attention and Support to victims of crimes for the State of Guerrero number 368" (Ley de atención y apoyo a la víctima y al ofendido del delito para el Estado de Guerrero número 368), available at: *www.ordenjuridico.gob.mx/Estatal/GUERRERO/Leyes/GROLEY07.pdf* [accessed on April 20, 2015].

220 Law for the Prevention and Punishment of Forced Disappearance of Persons in the State of Guerrero Number 569 (Ley para Prevenir y Sancionar la Desaparición Forzada de Personas en el Estado de Guerrero Número 569), available at: www.ordenjuridico.gob.mx/Publicaciones/CDs2010/CDEquidad/pdf/GRO19.pdf [accessed on April 20, 2015].

221 Law for the Prevention and Punishment of Forced Disappearance of Persons in the State of Guerrero Number 569, article 16 Inter-American Convention on Forced Disappearance of Persons, Article 2, available at: *www.oas.org/juridico/english/treaties/a-60.html*.

222 Law for the Prevention and Punishment of Forced Disappearance of Persons in the State of Guerrero Number 569, article 3 Inter-American Convention on Forced Disappearance of Persons, Article 3. Guerrero had an amnesty law in place in 2002-2003 to cover crimes of crimes of insurrection, riots, rebellions (uprisings) and conspiracy. See Amnesty Law for the State of Guerrero, Number 592 (Ley de Amnistía para el Estado de Guerrero número 592), available at *www.ordenjuridico.gob.mx/Publicaciones/CDs2006/CDProcesal/pdf/GR10.pdf*. [accessed on April 20, 2015].

223 See discussion above, in the section "Lack of Independent Investigations."

224 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

225 Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero, article 4.

226 The definition explicitly allows that torture can be conducted with various intentions, "or for any other purpose." Inter-American Convention to Prevent and Punish Torture, Article 2, available at: *www.oas.org/juridico/english/treaties/a-51.html* [accessed on November 22, 2014].

227 Law 439 on the prevention, sanctioning, and eradication of torture in the state of Guerrero (Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero), article 5.

228 Law 439 on the prevention, sanctioning, and eradication of torture in the state of Guerrero, article 4. Abuse of authority is punished with 2-8 years of prison (article 274 of the criminal code of Guerrero).

229 Article 6.

230 Article 7.

231 Article 10 of Law 569 to prevent and sanction the enforced disappearance of persons inthe State of Guerrero.

232 Law 439 on the prevention, sanctioning, and eradication of torture in the state of Guerrero, articles 19-21, available at: *http://i.guerrero.gob.mx/uploads/2014/02/L439PSETORTURA2.pdf*.

233 The president of CODDEHUM presides over the committee, which also includes: the presidents of two state congressional committees (Human Rights and Justice, and Political Liability); the president of the local courts; the minister of Interior, the minister of Public Security and Civil Protection; the state attorney general; the ombudsman of the local public university; and a representative of the civil society "with experience in human rights." "Law on the prevention, sanctioning, and eradication of torture in the state of Guerrero" (Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero), articles 19-21. http://i.guerrero.gob.mx/uploads/2014/02/L439PSETORTURA2.pdf

234 "Cuestionan activistas la aprobación de ley contra la tortura, porque no hubo consulta," *Diario de Guerrero*, January 18, 2014, available at: *www.diariodeguerrero.com.mx/incio/pagina-principal/10216-cuestionan-activistas-la-aprobacion-de-ley-contra-la-tortura-porque-no-hubo-consulta.html* [accessed on November 21, 2014].

235 "Law on the prevention, sanctioning, and eradication of torture in the state of Guerrero" (Ley para prevenir, sancionar y erradicar la tortura en el Estado de Guerrero), article 20, available at: *http://i.guerrero.gob.mx/uploads/2014/02/L439PSETORTURA2.pdf*.

236 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

237 Federal crimes include killings perpetrated by federal officers or against on-duty federal officers, or killings and disappearances linked to organized crime.

238 Informe de la Fiscalía General del Estado sobre la investigación relacionada con los hechos acontecidos la noche del 26 y primeras horas del 27 de septiembre de 2014 en la ciudad de Iguala de la Independencia, Guerrero. Available in the website of the Fiscalía until the end of January 2015. Document on file with the Open Society Justice Initiative.

239 Statement of the federal judiciary, October 27, 2014, on the arrest warrant against the leader of Guerreros Unidos, Sidronio Casarrubias Salgado, available at: *www.cjf.gob.mx/documentos/notasInformativas/docsNotasInformativas/2014/notaInformativa141.pdf*.

240 Statement of the federal judiciary, October 23, 2014, available at: *www.cjf.gob.mx/documentos/notasInformativas/docsNotasInformativas/2014/notaInformativa139.pdf*.

241 Press conference of the Federal Prosecutor, October 22, 2014. Transcript available at: www.pgr.gob.mx/Prensa/2007/bol14/Oct/b19814.shtm [accessed on January 22, 2015] and "Exalcalde y esposa son responsables de desaparición de normalistas: PGR," CNN México, October, 22, 2014, available at: *http://mexico.cnn.com/nacional/2014/10/22/exalcalde-y-esposa-son-responsables-de-desaparicion-de-normalistas-pgr*.

242 On local prosecutorial investigations, see: Informe de la Fiscalía General del Estado sobre la investigación relacionada con los hechos acontecidos la noche del 26 y primeras horas del 27 de septiembre de 2014 en la ciudad de Iguala de la Independencia, Guerrero. Available in the website of the Fiscalía until the end of January 2015. Document on file with the Open Society Justice Initiative. On federal prosecutorial investigations, see transcript of press conference held on January 27, 2015 , available at: *http://www.pgr.gob.mx/prensa/2007/bol15/Ene/b01715.shtm* [accessed on February 24, 2015].

243 According to the group of experts of the Inter American Commission working on the Ayotzinapa case at least 40 persons detained in connection with the case were subject to torture and ill-treatment during their detention. See "Reprochan expertos que se retrasen sus entrevistas con militares de Iguala," *El Sur de Acapulco*, June 29, 2015, available at: *http://suracapulco.mx/archivos/286302* [accessed on July 17, 2015]. The federal investigation of the Ayotzinapa case, and other cases, will be discussed in a forthcoming report from the Open Society Justice Initiative and Mexican human rights organizations. See also: Anabel Hernandez and Steve Fisher, La historia no oficial, Apro, December 14, 2014, available at: *www.eldiariodecoahuila.com.mx/notas/2014/12/14/historia-oficial-475018.asp* [accessed on March 26, 2015]; and: "Damning Report Claims Mexican Federal Police Participated In Disappearance Of 43 Students," Huffington Post, December 14, 2014, available at: *www.huffingtonpost.com/2014/12/14/missing-students-mexico_n_6321866.html* [accessed on March 25, 2015].

244 PGR press conference, ibid.

245 The lack of clarity regarding criminal jurisdictions between the Mexican federation and the federal entities will be examined in a forthcoming report from the Open Society Justice Initiative and Mexican civil society partners.

246 The following is based on an Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

247 Ibid. When asked about information on local prosecutorial investigations in the 2014 Ayotzinapa case, the Fiscalía of Guerrero responded that it did not have jurisdiction to provide any information on them because the Federal Prosecution (PGR) had asserted jurisdiction over those cases. Document FGE/VPS/DGAJ/ITAIG/6826/2014, November 26, 2014, obtained in response to right-to-information request 177314 filed by the Open Society Justice Initiative.

248 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

249 Curriculim vitae of Iñaki Blanco dated June 25, 2013, available at the website of the National Conference of Prosecutors: www.cnpj.gob.mx/prensa/2007/fich13/Jun/f25062013.shtm [accessed on February 24, 2015]. See also, "Guerrero designa a su nuevo procurador de justicia," *Excelsior*, June 20, 2013, available at: *www.excelsior.com.mx/nacional/2013/06/20/905133* [accessed on February 24, 2015].

250 See *www.fiscaliaguerrero.gob.mx/noticias/miguel-angel-godinez-munoz-abogado-penalista-y-academico-de-38-anos-el-nuevo-fiscal-general-de-guerrero* [accessed on April 20, 2015].

251 Álvarez formerly served with the Mexican Navy, as well as the Federal Police, as confirmed by official document SEGOB/CNS/IG/DGAJ/759/2013 dated August 9, 2013, obtained through right-to-information requests to local Congress filed by the Open Society Justice Initiative. On his membership in the Navy, see "Detienen al ex jefe de la policía de Acapulco, Alfredo Álvarez Valenzuela," *El Sur de Acapulco*, July 26, 2014, available at: *http://suracapulco.mx/archivos/187468* [accessed on February 24, 2015].

252 Conversations on WhatsApp between an official in the PGR's kidnapping unit, and Deputy Prosecutor Ricardo Martínez Chávez surfaced in the media. "La Omisión," Punto de Partida, Noticieros Televisa, minutes 3:40 and 4:55, November 26, 2014, available at: *http://noticieros.televisa.com/programas-punto-de-partida/1411/omision* [accessed on April 20, 2015].

253 The following account relies on two articles. "Zeferino Torreblanca ordenó el asesinato de Armando Chavarría, reveló un implicado," *El Sur de Acapulco*, August 18, 2014, available at: *http://suracapulco.mx/archivos/197127* [accessed on January 23, 2015] and "Hallan restos de jefe policiaco 'levantado' en Guerrero," *Proceso*, June 17, 2011, available at: *www.proceso.com.mx/?p=273104* [accessed on January 23, 2015].

254 This case is a matter of controversy, described here soley to illustrate the shortcomings and failures of witness protection in Guerrero. Neither the Open Society Justice Initiative nor its partners claim to know the truth about criminal allegations associated with the story that have been reported by the media.

255 Torreblanca's term had ended in March 2011, and Ángel Aguirre (also from the PRD) was newly in office.

256 Chris Kyle, Violence and Insecurity in Guerrero, Wilson Center, January 2015, pp. 37-38, available at: *http://wilsoncenter.org/sites/default/files/Violence%20and%20Insecurity%20in%20Guerrero.pdf* [accessed on April 19, 2015].

257 The case has never been solved, and at some point State Prosecutor Alberto López Rosas, the first of Governor Aguirre's appointees to that position, announced that the docket of the prosecutorial investigation of the murder of Armando Chavarría "got lost" during the change of administration. Two former members of the prosecution police were arrested, but the charges against them have not been disclosed. See "Zeferino Torreblanca ordenó el asesinato de Armando Chavarría, reveló un implicado," *El Sur de Acapulco*, August 18, 2014, available at: http://suracapulco.mx/archivos/197127.

258 Ley Número 480 De Sujetos Protegidos Del Estado De Guerrero, available at: *www.guerrero.gob.mx/consejeriajuridica*.

259 Ley Número 479 De Atención, Apoyo Y Protección A Víctimas U Ofendidos Del Delito Para El Estado De Guerrero, available at: *www.guerrero.gob.mx/consejeriajuridica*.

260 Ley Número 391 De Protección De Los Defensores De Los Derechos Humanos En El Estado De Guerrero, available at: *www.guerrero.gob.mx/consejeriajuridica*. Article 2 of the law defines human rights as the fundamental liberties recognized in the Political Constitution of the United States of Mexico, domestic laws, the Universal Declaration of Human Rights and international agreements or treaties on human rights existing in Mexico.

261 Law 480, Article 3(V).

262 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

263 The UN Office on Drugs and Crime notes that successful witness protection programs around the world have been located within various parts of government, including under police and prosecutors. Regardless of where the program is located, the three main determinants of success are: separation of protection functions from the investigation, operational and procedural confidentiality, and organizational autonomy from the regular police. United Nations Office on Drugs and Crime, Good practices for the protection of witnesses in criminal proceedings involving organized crime, 2008, pp. 45-46, available at: *www.unodc.org/documents/organized-crime/Witness-protection-manual-Feb08.pdf* [accessed on March 4, 2015].

264 Law 480, Article 37.

265 Law 480, Article 3(IX).

266 Open Society Justice Initiative interviews with a state government official, Chilpancingo, September 17, 2014, and Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

267 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

268 Law 480, Article 19.

269 Law 480, Article 3(X).

270 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

271 Law 480, Article 21.

272 Law 480, Chapter II.

273 Código Nacional de Procedimientos Penales, March 5, 2014, available at: *www.diputados.gob.mx/LeyesBiblio/pdf/CNPP.pdf*.

274 Código Nacional de Procedimientos Penales, Articles 137, 170, 139 and 367.

275 Ley 489 para la Protección de personas en situación de riesgo del estado de Guerrero.

276 Proposed Law 489, Article 5.

277 Draft law as of September 2014 shown to the Open Society Justice Initiative by a state official.

278 Law 480, Chapter III.

279 Law 480, Chapter XII is titled "Of Responsibilities and Sanctions," but its two articles only set out administrative sanctions—including suspension, removal from office, fines, or temporary ineligibility—to hold public service employment. Article 48 makes vague reference to punishment under relevant law for cases of divulging information on the witness protection program without authorization. As of June 2015, two officers had been administratively sanctioned since the beginning of 2014: one an investigation police officer, and another a prosecution official. One was fired, and one put on leave for 60 days. Response to right-to-information request 00051915 from the Fiscal of Guerrero, June 3, 2015.

280 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

281 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

282 Open Society Justice Initiative interview with civil society representatives, Chilpancingo, September 2015.

283 "Tlachinollan y Vidulfo Rosales Sierra," *La Jornada de Guerrero*, June 1, 2012, available at: *http://www.lajornadaguerrero.com.mx/2012/06/01/index.php?section=opinion&article=002a1soc* [accessed on January 23, 2015] and "Abogado de Tlachinollan, segundo activista que sale del país por amenazas," *Proceso*, May 23, 2012, available at: *www.proceso.com.mx/?p=308544* [accessed on January 23, 2015].

284 "Culpa Ortega a Tlachinollan y CETEG de obstaculizar diálogo," *Despertar del Sur*, November 4, 2014, available at: *www.despertardelsur.com.mx/estado/3900-culpa-ortega-a-tlachinollan-y-ceteg-de-obstaculizar-dialogo* [accessed on January 23, 2015]. See also: "Gobernador de Guerrero: no habrá represión y llama a la unión," Noticieros Televisa, November 9, 2014, available at: *http://noticieros.televisa.com/mexico-estados/1411/gobernador-guerrero-no-habra-represion-llama-union* [accessed on January 23, 2015]. See also: "El secretario de Marina ve 'manipulación' y 'lucro' con el caso Ayotzinapa," CNN México, December 10, 2014, available at: *http://mexico.cnn.com/adnpolitico/2014/12/10/el-secretario-de-marina-ve-manipulacion-y-lucro-con-el-caso-ayotzinapa* [accessed on April 20, 2015].

285 Tlachinollan represented victims in the Férnandez Ortega y otros v. México case before the Inter American Court of Human Rights. In its 2010 judgment, the court concluded that, in the course of "institutionalized violence in the army," two of its members raped and tortured two indigenous women from the me'phaa community of Guerrero, Inés Férnandez Ortega and Valentina Rosendo Cantú. Judgment available at: *www.ordenjuridico.gob.mx/JurInt/STCIDHM2.pdf*. In the case of Bonfilio Rubio, an indigenous man from the naua community of Guerrero extrajudicially killed by soldiers at a checkpoint, Tlachinollan succeeded in challenging military jurisdiction and forcing the case into the civilian court system. See Ordena la Suprema Corte al Ejército remitir el caso del indígena Bonfilio Rubio al fuero civil, Agosto 24, 2012, available at: *www.tlachinollan.org/nota-informativa-ordena-la-suprema-corte-al-ejercito-remitir-el-caso-del-indigena-bonfilio-rubio-al-fuero-civil* [accessed on February 23, 2014].

286 On crimes against humanity see pages 27 and 47-50 of the Final Report of the Truth Commission of Guerrero, October 15, 2014, available at: *http://congresogro.gob.mx/files/InformeFinalCOMVERDAD.pdf*. On threats against commissioners and staff, see Section 8 and 8.1 of the final report (pages 73 and 74).

287 In May 2014, 12 gunmen kidnapped journalist Jorge Torres Palacios from his house near Acapulco, and his decapitated body was found in a nearby shallow grave four days later. He had been working in the communications departments of several government offices. "Body of kidnapped journalist found outside of Acapulco," Justice in Mexico, June 7, 2014, available at: *http://justiceinmexico.org/body-of-kidnapped-journalist-found-outside-of-acapulco* [accessed on November 19, 2014].

288 Open Society Justice Initiative interview with former state Human Rights Commission chief investigator Hipólito Lugo, April 12, 2015 and list of complaints on file with the Open Society Justice Initiative.

289 Open Society Justice Initiative interview with a state official, Chilpancingo, September 2014.

290 Tlachinollan, Additional Report for the Human Rights Committee: Issues to Attend to in the Fifth Periodic Report on Mexico, (CCPR/CMEX/5), January 2010, available at: www2.ohchr.org/english/bodies/hrc/docs/TLACHINOLLAN_en.doc [accessed on April 20, 2015].

291 Red TDT, El derecho a defender los derechos humanos en México: Informe sobre la situación de las personas defensoras 2011-2013, January 9, 2014, available at: *http://redtdt.org.mx/2014/09/el-derecho-a-defender-los-derechos-humanos-en-mexico-informe-sobre-la-situacion-de-las-personas-defensoras-2011-2013* [accessed on April 20, 2015].

292 Open Society Justice Initiative interview with Natalia Barreto and Delphine Malard, EU Delegation in Mexico, Mexico City, February 21, 2013.

293 Ley Número 391 De Protección De Los Defensores De Los Derechos Humanos En El Estado De Guerrero, available at: *http://i.guerrero.gob.mx/uploads/2012/08/Ley-de-protecci%C3%B3n-de-los-defensores-de-los-derechos-humanos-de-Guerrero1.pdf*.

294 Law 463 on the comprehensive wellbeing of journalists of the State of Guerrero (Ley número 463 para el bienestar integral de los periodistas del Estado de Guerrero): *http://i.guerrero.gob.mx/uploads/2012/01/17-MAY-2002.pdf*.

295 Ley Número 479 De Atención, Apoyo Y Protección A Víctimas U Ofendidos Del Delito Para El Estado De Guerrero, available at *http://i.guerrero.gob.mx/uploads/2014/10/L479AAPVICTIMASEG.pdf*.

296 Ley 489 para la Protección de personas en situación de riesgo del estado de Guerrero.

297 Law 391, third transitory provision.

298 Response to right-to-information request 00051915 from the Fiscal of Guerrero, June 3, 2015

299 Open Society Justice Initiative interview with a state government official, Chilpancingo, September 17, 2014.

300 Open Society Justice Initiative interview with Deputy Prosecutor for Human Rights Alejandro Mojica Nava, Chilpancingo, December 13, 2013.

301 Observation based on a visit by Open Society Justice Initiative staff to the prosecution office in December 2013 and September 2014. Visitors were waived through with no check of their bags or scrutiny of their identification.

302 "Manifestantes queman oficinas gubernamentales en Chilpancingo, Guerrero," CNN Mexico, October 13, 2014, available at: *http://mexico.cnn.com/nacional/2014/10/13/normalistas-toman-el-congreso-y-el-palacio-de-gobierno-guerrerense* [accessed on February 23, 2015].

303 Ley Número 480 De Sujetos Protegidos Del Estado De Guerrero, available at: *www.guerrero.gob.mx/consejeriajuridica*.

304 Ley 489 para la Protección de personas en situación de riesgo del estado de Guerrero.

305 For the following account, see: "En menos de 7 días 15 mueren en penales del Estado," *Novedades de Acapulco*, January 7, 2014, available at: *www.novedadesacapulco.mx/guerrero/en-menos-de-7-dias-15-mueren-en-penales-del-estado* [accessed on January 20, 2015].

306 Information provided by the Public Security Ministry of Guerrero in response to an information request from the Open Society Justice Initiative, request number 00080014, May 2014. The request was for statistics on deaths in custody between 2000 and 2013, but the ministry only supplied figures for 2011 to 2013. CODDEHUM has documented at least 10 cases of death in custody (document on deaths in custody and recommendations on file with Open Society Justice Initiative).

307 Ibid. Between 2000 and 2013, the prosecutor's office registered 20 deaths in prison. Information provided by the Office of the Public Prosecutor of Guerrero in response to a request for information from the Open Society Justice Initiative, request number 00076614, May 27, 2014.

308 Article 146 of the Law of the System of Enforcement of Convictions and Security Measures for the State of Guerrero number 367 (Ley del Sistema de Ejecución de Penas y Medidas de Seguridad del Estado de Guerrero), available at: *http://i.guerrero.gob.mx/uploads/2006/02/LSEPMSEG367.pdf*.

309 National Human Rights Commission (Comisión Nacional de Derechos Humanos), Diagnóstico Nacional de Supervisión Penitenciaria 2012, pp. 152-164, November 19, 2013, available at: *www.cndh.org.mx/sites/all/fuentes/documentos/programas/DNSP_2012.pdf* [accessed on January 22, 2015].

310 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

311 Open Society Justice Initiative interview with civil society representatives, Chilpancingo, September 2014. In August 2014, the director of the Chilpancingo prison and his secretary were killed outside the prison walls. See "Se investiga ya el asesinato del director del penal capitalino, dice vocero del gobierno sin dar detalles," *El Sur de Acapulco*, August 27, 2014, available at: *http://suracapulco.mx/archivos/201575* [accessed on February 23, 2015].

312 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of Guerrero's Human Rights Commission (CODDEHUM), Chilpancingo, September 17, 2014.

313 Except where otherwise indicated, the following relies on an assessment of state prisons conducted by the National Human Rights Commission in 2012. National Human Rights Commission (Comisión Nacional de Derechos Humanos), Diagnóstico Nacional de Supervisión Penitenciaria 2012, pp. 152-164, November 19, 2013, available at: *www.cndh.org.mx/sites/all/fuentes/documentos/programas/DNSP_2012.pdf* [accessed on January 22, 2015]; CODDEHUM recommendations VG/246/2002-II and 010/2013, on file with the Open Society Justice Initiative, containing a detailed account of illegal practices in Guerrero's prisons.

314 Open Society Justice Initiative interview with Hipólito Lugo, former chief investigator of the state Human Rights Commission, Chilpancingo, September 17, 2014.

315 CODDEHUM recommendation 010/2013, on file with the Open Society Justice Initiative.

316 Open Society Justice Initiative interview with Jorge Camacho, president of the Justice Commission of Guerrero's Congress, Chilpancingo, September 18, 2014.

317 Open Society Justice Initiative interview with Jorge Salazar Marchán, president of the Human Rights Commission of Guerrero's Congress, Chilpancingo, September 17, 2014.

318 An Interdisciplinary Group of Experts sent by the Inter-American Commission of Human Rights, at the insistence of Ayotzinapa student families and the invitation of the Mexican government, is due to present findings on the Ayotzinapa investigation in September 2015. In preliminary reports, the group has suggested that there have been shortcomings in the federal investigation, including a failure to follow all available leads. See: "Expertos de la CIDH piden nuevas líneas de investigación para Ayotzinapa," CNN México, April 20, 2015, available at: *http://mexico.cnn.com/nacional/2015/04/20/expertos-de-la-cidh-piden-nuevas-lineas-de-investigacion-para-ayotzinapa* [accessed on July 18, 2015]. Forensic experts have also cast serious doubt on the federal government's narrative of the crime. See: Francisco Goldman, "The Missing Forty-Three: The Government's Case Collapses," *The New Yorker*, June 8, 2015, available at: *www.newyorker.com/news/news-desk/the-missing-forty-three-the-governments-case-collapses* [accessed on July 18, 2015].

319 Article 104, section II of Law 696 on the Human Rights Commission of the State of Guerrero, available at: *http://periodicooficial.guerrero.gob.mx/wp-content/uploads/2015/04/PERIODICO-23.pdf* [accessed on April 16, 2015].

320 Specialized units already foreseen under the law on the Fiscal or created by the Fiscal are specialized units for human rights, femicide, sexual crimes, grave crimes, and for the investigation and countering of kidnapping, and for the attention of indigenous people. See: *http://www.fiscaliaguerrero.gob.mx/fiscalias-especializadas/* [accessed on April 16, 2015].

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The Open Society Justice Initiative uses law to protect and empower people around the world. Through litigation, advocacy, research, and technical assistance, the Justice Initiative promotes human rights and builds legal capacity for open societies. Our staff is based in Abuja, Amsterdam, Bishkek, Brussels, Budapest, The Hague, London, Mexico City, New York, Paris, and Washington, D.C.

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CENTER FOR HUMAN RIGHTS OF THE MOUNTAIN TLACHINOLLAN

Tlachinollan Human Rights Center is a non-governmental organization that for more than 20 years has promoted and defended—with a cultural diversity approach—the rights of indigenous peoples in the Montaña region of Guerrero, Mexico, aiming to construct legitimate and peaceful paths to guarantee their individual and collective rights.

http://www.tlachinollan.org/

CENTER FOR HUMAN RIGHTS MIGUEL AGUSTÍN PRO JUÁREZ

The Center for Human Rights Miguel Agustín Pro Juárez (Centro Prodh) is a non-profit civil society organization founded in 1988 by the Roman Catholic Society of Jesus to advocate for the respect of human rights. Its mission is the promotion and defense of the human rights of the excluded and of groups in situations of vulnerability or poverty, to contribute to the formation of a more just, equal, and democratic society that fully respects human dignity.

http://centroprodh.org.mx/en/

On September 26, 2014, dozens of student activists from a teachers' college in Ayotzinapa were detained and loaded into police vehicles by armed men in the town of Iguala, in Mexico's Guerrero state. None of the students—43 in all—has been seen since.

The disappearances of the 43, blamed on corrupt collusion between local politicians, drug gangs, and police, galvanized protests across Mexico, fueled by frustration over the lack of justice. The atrocity became a symbol of Mexico's wider failure to protect its citizens from killings and disappearances, and to hold accountable those responsible.

Broken Justice in Mexico's Guerrero State examines the elements of that failure, and offers recommendations for change.

The result of over two years of research and analysis by Mexican and international experts, this report provides the most comprehensive analysis to date of the structural deficiencies of Guerrero's justice system—flaws that have enabled perpetrators of violence to operate with almost absolute impunity.

Broken Justice in Mexico's Guerrero State exposes the profound lack of political will to address abuses, including the failure to prosecute state actors implicated in extrajudicial killings, torture, and enforced disappearances. It also sets out an agenda for reform—the first steps needed to rebuild trust in justice and the rule of law in Guerrero.

Open Society Justice Initiative | Centro Prodh Centro de Derechos Humanos Miguel Agustín Pro Juárez A.C. | Tlachinollan Centro de Derechos Humanos de la Montaña