



**fidh**



# Mexico Coahuila: ongoing crimes against humanity

Communication to the International Criminal Court



VICARÍA DE JUSTICIA Y PAZ  
Diócesis de San Cristóbal de Las Casas



May 2016, Mother's Day: Groups from all Mexican states coming together to demand justice and truth about forced disappearances. © Karine Bonneau

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## Abbreviations

AFI	Federal Investigation Agency
CERESO	Social Reintegration Center - Prison in Piedras Negras
CDHEC	Human Rights Commission of the State of Coahuila
CMDPDH	Mexican Commission for the Defense and Promotion of Human Rights
CNDH	National Human Rights Commission
DEA	U.S. Drug Enforcement Administration
FAM	Mexican Air Force
FIDH	International Federation for Human Rights
GAFE	Special Forces Airmobile Group
GAT	Autonomous Working Group
GATE	Specialized Weapons and Tactics Group
GATEM	Municipal Specialized Weapons and Tactics Group
GRI	Immediate Response Group
GROM	Response and Mixed Operations Group
ICC	International Criminal Court
INEGI	National Institute for Statistics and Geography
PAN	National Action Party
PRI	Institutional Revolution Party
PGJE	State Attorney General's Office
PGR	National Attorney General's Office
SEDENA	Secretariat of National Defense
SEIDO	Assistant Attorney General for Investigations on Organized Crimes
SNSP	National Public Safety System
UN	United Nations

# EXECUTIVE SUMMARY

This report, along with a series of confidential annexes, will be submitted on July 6th as a communication to the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) under Article 15 of the ICC Statute. It details a number of crimes committed against the civilian population in the State of Coahuila de Zaragoza, Mexico, including murder, illegal imprisonment, enforced disappearance, torture and sexual violence. The crimes detailed herein are limited to a certain number of representative cases occurring between 2009 and 2016. However, these cases are non-exhaustive and indicative of broader patterns of abuse, both in the state of Coahuila and in other regions in Mexico, pushing this situation past a matter of organised crime and into the field of crimes against humanity.

The present communication to the Office of the Prosecutor of the ICC is presented by the FIDH, Familias Unidas en Búsqueda y Localización de Personas Desaparecidas, Fuerzas Unidas por Nuestros Desaparecidos en Mexico, and Centro Diocesano para los Derechos Humanos Fray Juan de Larios, in partnership with Red Todos los Derechos Para Todas y Todos (which gathers more than 80 non governmental organizations in Mexico), la Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), I(dh)neas Litigio Estratégico en Derechos Humanos, la Fundación Para La Justicia y el Estado Democrático de Derecho, el Centro de Derechos Humanos Juan Gerardi, la Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos, las Asociadas por lo Justo, el Instituto Mexicano de Derechos Humanos and Democracia, Fundar Centro de Análisis e Investigación, Casa del Migrante de Saltillo, Pastoral Penitenciaria de Saltillo Pastoral Social de la Diócesis de Saltillo.

Mexico ratified the Rome Statute on October 28, 2005. Accordingly, the ICC has subject matter jurisdiction and temporal jurisdiction over the crimes committed in Mexican territory or by Mexican nationals from January 1, 2006 forward, according to Article 2 (2) and Article 126 (2) of the Rome Statute.

Our organisations respectfully request the OTP to consider this Communication according to its obligations under Article 15 of the ICC Statute by opening a preliminary examination into the situation in Mexico, with a view towards a future investigation, as there is a reasonable basis to believe that crimes within the jurisdiction of the ICC have been committed

## **Methodology**

This document is based on an analysis of the following sources of information: 32 cases, corresponding with a total of 73 victims; two databases containing information about 195 and 367 disappeared persons respectively; cases stemming from the recommendations issued by the Human Rights Commission of the State of Coahuila (hereinafter: CDHEC); and interviews with victims and NGOs working in the field. The analysis also takes as evidence the official statistic, presented by the State Office of the Assistant Attorney General for Disappeared Persons, that between 2006 and 2016 1791 reports were filed in connection to 1830 disappeared persons in Coahuila.

Publicly available information about the "Allende Massacre" as well as crimes committed in the Piedras Negras prison was also considered. Additionally, the analysis includes the testimonies of members of the Zetas cartel that were collected in judicial hearings in the cities of San Antonio and Austin, Texas in the United States since 2013. Those testimonies demonstrate the support that public servants and the state security forces provided in the commission of the aforementioned crimes.



## Factual Background in Mexico

From 2006 to present, the Mexican government has enacted a policy of militarising civilian security with the intention of curtailing drug trafficking throughout the country. From the outset this security policy was plagued by concerns about its constitutionality and compatibility with international norms and obligations. Rather than resolving Mexico's security situation, it has exacerbated it: the Inter-American Commission on Human Rights confirmed that the government's security policy has contributed to the increase in violence and human rights violations as well as higher levels of impunity. In 2015, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein affirmed:

"For a country that is not engaged in a conflict, the estimated figures are simply staggering: 151,233 people killed between December 2006 and August 2015 [...]. At least 26,000 people missing, many believed to be as a result of enforced disappearances, since 2007. [...] Part of the violence can be laid at the door of the country's powerful and ruthless organized crime groups, which have been making life a misery for people living in several of Mexico's 32 States. [...] But many enforced disappearances, acts of torture and extra-judicial killings are alleged to have been carried out by federal, state and municipal authorities, including the police and some segments of the army, either acting in their own interests or in collusion with organized criminal groups."

Though violence in Mexico, stemming from both organised criminal groups and a counterproductive security policy, is a demonstrable trend throughout much of the country, such violence, as verified by the IACHR, affects certain zones differently, including states bordering the USA, such as the state of Coahuila.

### The Situation in Coahuila

Coahuila is one of the five northern Mexican states bordering the USA, and as such is an important and contested zone for criminal organisations involved in trafficking activities. 90% of Coahuila's population resides in urban centres, leaving wide stretches of territory relatively uninhabited and prime for cartel control. Until approximately 2008, the main criminal organisations in the northern region of Mexico - the Pacific Cartel, the Arellano Cartel and the Juarez Cartel- disputed territorial control of Coahuila. By 2008, however, the Gulf Cartel entered the scene with the objective of usurping territorial control by using its armed branch, the Zetas, a group of army deserters who had been trained in counter-insurgency tactics for use against the Zapatista uprising.

The Zetas' strategy, firmly grounded in the methods used in counterinsurgency operatives throughout Mesoamerica in the 80s and 90s, was to eliminate the "enemy," with the enemy being defined as members from any other criminal organisation attempting to control the territory, or, more generally, anyone who either refused to collaborate with the group's activities or whose disappearance would contribute to enhancing terror in the civilian population in order to increase submission to the group's control. The Zetas maintain an established military hierarchical structure and sophisticated tactics and operations. Their use of terror quickly differentiated the Zetas from other criminal organisations, and led them to become the country's most violent cartel, known for extreme brutality and sadism. They also oriented their strategy towards taking control of institutions, by coopting municipal governments and police forces, for example. One analyst indicates that "[t]he Zetas transformed the traditional way cartels operated in Mexico, by becoming a professional armed group, with aggressive expansionist aspirations and interest in a variety of criminal activities. A good part of this transformation was due to the Zetas injecting a clear territorial character into the business, where [...] it was necessary to control everything in order to minimise risks."

This communication details how, between 2009 and 2016, crimes against humanity falling within the jurisdiction of the ICC have been committed in the Mexican State of Coahuila, including: severe deprivation of physical liberty, torture, sexual violence and forced disappearances. These crimes form part of a systemic attack against the civilian population of that State.

The alleged physical perpetrators of these crimes against humanity are members of the criminal organisation the Zetas as well as members of the state security forces in Coahuila (including the Municipal Police, the Accredited State Police (PEA), and units known as the GRI, GATE, GATEM and/or GRUPO DE ELITE, GROM).

With regards to the alleged intellectual perpetrators of the crimes, the report provides evidence that indicates that:

From 2009 to 2011/2012: the state security authorities have committed crimes against humanity with the Zetas in a context of undeniable collusion.

From 2011/2012 through 2016: state security authorities have directly committed crimes against humanity through the Special Forces.

## **Existence of an attack and State's policy to commit the attack against the civilian population**

**Crimes Against Humanity in Coahuila from 2009 to 2011** - From 2009 to 2011, during Humberto Moreira's mandate as governor, the Zetas consolidated their territorial control in many of the zones in which they were operating in Coahuila and continued pursuing objectives of territorial control and expansion through the use of fear, after breaking away from the Gulf Cartel in 2010. Their militarized methods, together with the indiscriminate use of violence as a means of control, reinforced the cartel's capacity to carry out an attack against the civilian population. During this time, from 2009 to 2011, the different public security forces, under the command of the government of Coahuila, acted in collaboration with the Zetas. The collusion and corruption was such that high-ranking officials in the Coahuila government implemented a policy of support and commission of crimes with the Zetas, even while simultaneously communicating publicly about their supposed fight against those groups.

The attack on the civilian population in Coahuila during this period was not coincidental, but rather part of a policy. In effect, the revelations about corruption, the legal reforms made in Coahuila that facilitated the cover-up of crimes and the concentration of the command line of material perpetrators from the state, inaction or collaboration in crimes such as those committed around Allende and in the prison of Piedras Negras (see after) reveal the repetition of crimes carried out according to the same logic (acting of state forces in the name of the fight against organized crime in fact in favor of the interests of the group of the Zetas with the aim of ensuring their primacy and control of the territory of Coahuila), All this demonstrate the existence of a policy to commit such an attack.

Testimonies given during the trials of the members of the Zetas in San Antonio and Austin, Texas since 2013 have provided information about the ways that the Coahuila government has supported crimes of the Zetas and their impunity. These trials have confirmed that both high ranking and low-ranking authorities in the Coahuila government have received money from the Zetas in the context of their drug trafficking activities, for supporting and committing crimes. In all of the case files analyzed from that period, the public forces arbitrarily detain the victims, and then handed

them over to the Zetas. These files reveal the repetition of crimes committed under the same modus operandi, with prepared and coordinated actions, and demonstrate the existence of a policy to commit an attack against the civilian population. Also, two important cases indicate the coordinated action between the Coahuila security forces and the Zetas: the “Allende Massacre” and crimes committed in Piedras Negras prison between 2008 and 2012.

### **Allende Massacre**

In March 2011, during the brief interim government of Jorge Juan Torres López (Humberto Moreira had resigned in order to lead the PRI's bid for the presidency), the Zetas committed a massacre of drastic proportions in the municipality of Allende and neighbouring areas. Supposedly in order to settle scores against two individuals in the area who had fallen out with the cartel, the Zetas moved to murder or disappear as many members of the two families as possible. According to witnesses, approximately forty trucks full of armed and hooded men passed through the towns. Over a number of days, they kidnapped entire families, including men, women, children and the elderly. They looted and burned houses, bulldozing the rubble. Though the final count is disputed, between 42 and 300 individuals were disappeared, thousands fled and dozens of houses were destroyed. The atrocities were committed with full awareness of law enforcement and political authorities, who did not intervene to stop their commission. Rather, according to a number of testimonies, the security forces acted in collaboration with the criminal group responsible for the crimes. Some evidence suggests that not only the mayor but also the governor of Coahuila would have had knowledge of such actions, and that their failure to act was due not to lack of knowledge but rather to collusion with the criminal group.

### **Piedras Negras Prison (CERESO)**

Moreover, Between 2008 and 2012 the Piedras Negras prison (also known as the CERESO), which was under the purview of the Governor's Office and more directly Jesus Torres Charles, was converted into a center of operations for the Zetas. Prisoners affiliated with the Zetas entered and exited the state prison unencumbered, and took shelter in the prison facilities whenever necessary to avoid pursuit by federal authorities. Inside the prison, the cartel produced the supplies needed for their criminal activities (bullet-proof vests, uniforms, modified car bodies, etc.) They also brought people there to be killed, submerging their bodies in acid and/or burning them in steel tanks. It is estimated that at least 150 persons were victims to these crimes, the commission of which was only possible with the support of the authorities of Coahuila.

**Crimes Against Humanity in Coahuila from 2011 to 2016** - Rubén Moreira, the brother of former governor Humberto Moreira, assumed the office of governor in December of 2011. He later stated: “We were at the point—if it hadn't already transpired—where the government would no longer have the monopoly of power, and rather criminal elements would have it.” He created, under uncertain legal grounds, a number of special police forces including the GATE (December 2011), the GATEM, and the GROM (2012), supposedly in order to fight drug trafficking.

In 2012, the federal military forces attacked the Zetas. On 17 September 2012, the authorities made public the fact that 132 prisoners had allegedly escaped from the Piedras Negras CERESO prison, the majority of them members of the Zetas. These prisoners likely left the prison or were forcibly recruited into the cartel ranks in order to help defend the Zetas against attacks commissioned by the federal forces. On 27 September, the Navy detained Iván Velázquez Caballero, known as “El Z-50” or “El Talibán”, who was considered by the PGR to be one of the organization's leaders. At the beginning of October, the son of Humberto Moreira (the former governor) was killed. Rubén Moreira, Humberto's brother and then-governor, did not attend his funeral. In October 2012, the Mexican Marines killed an important leader of the Zetas, Heriberto Lazcano Lazcano, which led to the weakening and fragmentation of the cartel.



Since December 2011 a higher number of crimes committed directly by the Coahuila state security forces—namely, the GATE and the Accredited Police Force (PEA)— against civilians have been reported, particularly crimes of severe deprivation of physical liberty, torture, murder, and enforced disappearance. Since 2012, there has also been increased reporting of similar crimes committed by the GATEM and/or the FUERZA ÉLITE and the GROM. Since the beginning of 2016, the members of these distinct security forces have been integrated into the “Fuerza Coahuila” (‘Coahuila Force’), but this appears to represent nothing more than a change of name for a new force that seems to continue committing the same crimes. Over 50% of the cases analyzed reveal crimes committed by these Special Forces.

The attack on the civilian population during this period is not coincidental, but part of a policy. The lack of legal basis for the creation of special units by the governor and the uncertainties about the mandate and those responsible for the special forces of Coahuila, the repetition of crimes with the same logic, the mobilizations of the authorities to support and defend the legitimacy of the acts of the special forces reveal the existence of a policy of committing such an attack.

In contrast to other Mexican States, the pattern of crimes committed in Coahuila by the state forces surpasses a ‘false positives’ scheme, given that many of the victims are simply disappeared, without ever being presented as suspected members of drug trafficking organizations and organized crime.

Our investigation has allowed us to formulate two hypotheses about the reason behind the crimes in this second period (2011–2016), without yet being able to completely confirm those hypotheses:

1. The perpetrators consider that those suspected of drug trafficking can be tortured disappeared / killed immediately in order to recuperate territorial control from drug traffickers, but in reality they do not touch those who are truly alleged offenders, but rather innocent people or individuals guilty of only petty drug dealing.
2. The perpetrators commit crimes of severe deprivation of liberty, torture, and enforced disappearance against innocent civilians, petty drug dealers, or members of rival drug trafficking organizations, thereby terrorizing the civilian population so that drug trafficking and maintained control over border territories can continue.

### **Systemic Nature of the Attack against the Civilian Population**

The full communication details how incidents generally begin when security forces either raid victims’ homes, perform traffic stops or pursue victims in public areas. Victims are detained and taken to a number of irregular detention centers, or are not registered in official detention centers, and are not presented with any judicial order or warrant.

In the best of cases, individuals are taken to the public prosecutor’s office and charged with drug or organized crime-related offences, potentially being forced to sign false confessions. In the worst of cases, between 2009 to 2011/2012 they were handed over to the cartels to be disappeared, after 2011 they disappear or are detained without access to counsel or family contact, without charges, and tortured. Some individuals die as a result of the torture or are intentionally assassinated by members of the security forces.

The torture techniques used in the described cases are similar and include: punches and blows with hands, planks or cars; affixation by covering the heads of the victims with a bag; electric shocks in different parts of the body—including the genitals; water boarding; sexual torture; and death threats that reach the level of psychological torture.

Our communication documents a number of clear cases of women who have been either raped , sexually assaulted or threatened with rape while in detention as part of the same pattern of illegal detention. Additionally there is compelling evidence of sexual violence committed against men. Men are routinely brutalised with gender-specific targeting, including beatings to and electrocutions of the genitals and threats of rape.

Additionally, men have been disproportionately targeted for detention, torture, murder and/or disappearance, perhaps due to profiling characteristics of potential members of criminal organisations. This is both a gendered pattern of violence in and of itself, and also implies a gendered impact, as women may be disproportionately burdened with the consequences of providing sole economic and emotional support for families without the presence of male partners, who themselves have been targeted, detained, killed or disappeared.

The relevant security forces repeatedly deny information both to those families that choose to look for the victims immediately following the crimes, and to the judicial authorities of the state itself.

The aforementioned underlying crimes have been perpetrated as part of an attack directed against a civilian population. The cases presented in this communication and its confidential annexes are not exhaustive, but rather represent an indication of the patterns of crimes committed month after month, over a period of at least seven years. Individual incidents of detention, torture and disappearance or murder are performed systematically, following a similar *modus operandi*.

It is possible to identify a coordination between the different security forces, which itself demonstrates the organized nature not only in cases of some joint operations, but also in the type of concealment that they engage in when questioned by the families or the state Judicial authorities inquiring as to the status and whereabouts of persons deprived of physical liberty.

In the files, databases and interviews, the vulnerability of the victims is evident. The victims are typically lower middle class and lower class men and women, who have not completed university studies, are either unemployed, or employed in manual labor, the informal economy, or selling goods. Victims typically lived or worked in humble neighborhoods or settlements in certain municipalities in Coahuila (among them, Acuña, Allende, Francisco I. Madero, Matamoros, Monclova, Parras, Piedras Negras, Sabinas, Saltillo, and Torreón). This vulnerability also means that these victims have the greatest obstacles to accessing justice in the face of the crimes committed against them.

## **Conclusion**

Once the existence of crimes against humanity is demonstrated in the context of a preliminary examination, the ICC must undertake a complementarity analysis in order to determine whether it has jurisdiction. The ICC does not have jurisdiction if there are investigations and trials against those most responsible for the examined crimes against humanity. With regards to complementarity, in September 2017 the FIDH will undertake a mission that will have as its objective to present this report to authorities and deepen its analysis on the situation in Coahuila, particularly with regards to the principle of complementarity. According to the information collected to date, the organizations authoring this communication do not have knowledge of any concrete results whereby direct perpetrators who are members of security forces, high-ranking superiors in the hierarchies of those security forces, or high-ranking authorities in the government responsible for the Coahuila security forces have been punished for crimes against humanity or simply for crimes committed against persons. The situation is less clear regarding high-ranking officials of the Zetas.

## METHODOLOGY

Since 2012, the International Federation for Human Rights (hereinafter: FIDH), in partnership with other organizations, has sent two communications<sup>1</sup> to the Office of the Prosecutor of the ICC (hereinafter: OTP). Both communications have presented sufficient evidentiary grounds to affirm the grave situation that Mexico is facing regarding the commission of crimes against humanity committed by the military and security forces, under orders from or with the support, tolerance, and/or acquiescence of the highest levels of federal and state government.<sup>2</sup> The present communication to the Office of the Prosecutor of the ICC, presented by the FIDH, Familias Unidas en Búsqueda y Localización de Personas Desaparecidas, Fuerzas Unidas por Nuestros Desaparecidos en Mexico, and Centro Diocesano para los Derechos Humanos Fray Juan de Larios, in partnership with Red Todos los Derechos Para Todas y Todos (which gathers more than 80 non governmental organizations in Mexico<sup>3</sup>), Fuerzas Unidas por Nuestros Desaparecidos en Coahuila, la Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), I(dh)neas Litigio Estratégico en Derechos Humanos, la Fundación Para La Justicia y el Estado Democrático de Derecho, el Centro de Derechos Humanos Juan Gerardi, la Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos, las Asociadas por lo Justo, el Instituto Mexicano de Derechos Humanos y Democracia, Fundar Centro de Análisis e Investigación, la Casa del Migrante de Saltillo, la Pastoral Social de la Diócesis de Saltillo, and la Pastoral Penitenciaria de Saltillo, aims to demonstrate that in the state of Coahuila de Zaragoza (hereinafter: the State of Coahuila, the State, or Coahuila) crimes against humanity have been committed. The communication particularly highlights the commission of crimes of severe deprivation of physical liberty, torture, and enforced disappearance.

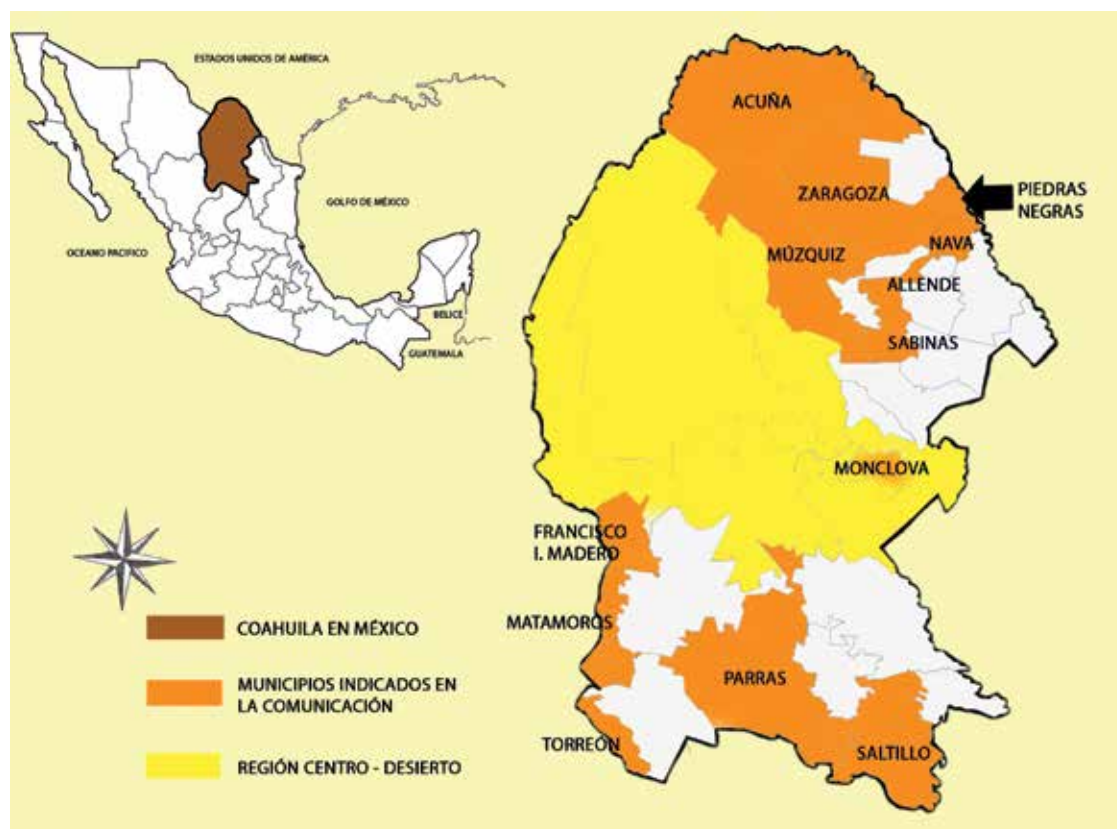
Accordingly, this document focuses on analyzing specific cases of crimes against humanity committed in Coahuila as well as the context in which those crimes have been committed. While the State of Coahuila is divided into 38 municipalities, the communication was elaborated on the basis of cases that occurred in ten municipalities: Acuña, Allende, Francisco I. Madero, Matamoros, Monclova, Parras, Piedras Negras, Sabinas, Saltillo y Torreón. The analysis also considers the general situation of Mexico and of the northeastern region of the country in particular.

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1 The term 'communication' as used here refers to when an individual or organization sends to the Office of the Prosecutor relevant information on crimes that have allegedly been committed in a State Party to the Rome Statute and that fall under the jurisdiction of the ICC.

2 On September 12, 2014, the FIDH, the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, and the Comisión Ciudadana de Derechos Humanos del Noroeste presented a report to the Office of the Prosecutor of the ICC on torture, severe deprivations of liberty, and enforced disappearances committed in Baja California between 2006 and 2012 by the military and security forces of that State. That communication was first remitted to the Office of the Prosecutor of the ICC in October 2012. See, FIDH, CMDPDH, CCDH, Mexico. Report on the alleged commission of crimes against humanity in Baja California between 2006 and 2012, available at: <https://www.fidh.org/IMG/pdf/mexique642ang2014web.pdf> (last visited June 25, 2016).

3 Please see page x for the full list of the NGOs.



With regards to timeframe, this communication concentrates in particular on presenting crimes against humanity committed in the last seven years, between 2009 and 2016. Nevertheless, with the goal of providing an adequate understanding of the situation, the document also describes the context of Coahuila since 2005. That extended lens helps to explain the origins of the links between criminal organizations and government authorities in Coahuila at both the state and municipal level. Accordingly, the communication includes information about relevant events that occurred under the last three state government administrations.

This communication is based on interviews with victims and information provided by two human rights organizations in Mexico, Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas and the Centro Diocesano para los Derechos Humanos Fray Juan de Larios, which itself acts as legal representative for some cases of victims that are associated with the FUUNDEC. Representatives of both organization provided detailed information and files on particular cases of victims of severe deprivation of physical liberty, torture, and enforced disappearance in Coahuila. They also provided detailed analyses of the context in Coahuila with the goal of establishing a timeline that would clearly and coherently explain the complex situation of violence in that state. That information has been complemented with data provided by the CMDPDH and I(dh) eas Litigio Estratégico en Derechos Humanos. Additionally, the communication considers cases derived from recommendations of the Coahuila State Human Rights Commission (hereinafter: CDHEC). In accordance with the CDHEC policy, the names of the respective victims are withheld and the individuals are only identified using one or two letters.

32 cases underlie this communication, involving 73 victims<sup>4</sup>. Additionally, the organizations Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas and Centro Diocesano para los Derechos Humanos Fray Juan de Larios have shared institutional databases registering

<sup>4</sup> (See Appendices Nos. 1, 2 and 3)

missing or disappeared persons, reporting a total of 19<sup>5</sup> and 367 victims<sup>6</sup>, respectively. Further, the communication has used open source information on the facts of the "Allende Massacre" and crimes committed in the Social Reintegration Center in the town of Piedras Negras (hereinafter: CERESO or Piedras Negras prison). In both of these cases the total number of victims is still a controversial matter. In the investigation supporting this communication, identifying official numbers and statistics date on the crimes committed in Coahuila that were reliable and up-to-date proved a constant challenge. In this regard, as a means of reference, the authors were able to obtain one relevant official statistic: the State Office of the Assistant Attorney General for Disappeared Persons has registered 1,791 reports regarding 1,830 persons who have been disappeared in Coahuila.<sup>7</sup> Accordingly, the cases and statistics referenced throughout this communication represent a limited but representative sample of a broader criminal phenomenon.

The communication also analyzed the reports of special procedures of the United Nations (hereinafter U.N.) about the current situation in Mexico, as well as the declarations and recommendations of the U.N. High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, in connection to his visit to Mexico. In the Inter-American arena the report takes into account the recent report published by the Inter-American Commission of Human Rights (hereinafter IACHR) in connection to its loco to México in 2015.<sup>8</sup>

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5 The database created by Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas has columns identifying each case by victim, including: first and last name; date of birth; age; nationality; date of interview with the organization; location of interview with the organization; date of disappearance of the victim; place of disappearance; type of disappearance (involuntary disappearance or enforced disappearance); responsible security forces; current status of the case (if the person is still disappeared or they have been found, and if so, whether they were alive or dead); status of complaint(s) presented to the national Attorney General's office, the State Attorney General's Office (PGJE), the National Commission for Human Rights (CNDH), and/or the federal and/or state judicial authorities; particular information about the disappeared person; information about the families of the disappeared persons; and the status of the process for the declaration of absence and benefits (Appendix No. 4\_ Lista\_Desaparecidos\_A).

6 The database created by the Centro Diocesano para los Derechos Humanos Fray Juan de Larios has two drop-down menus, the first one classified "by victim" and the second one classified "by case", with the following information:

Drop-down menu organized 'by victim' contains: 1) Initial date of the case, corresponding to the date of the disappearance in the period from 2007 to 2015 (367 entries); ii) Sex: corresponding with the sex of the persons registered as disappeared, allowing for two variables, Man and Woman (367 entries); iii) Age: corresponding with the age of the victim at the time of their disappearance for the persons registered as disappeared (367 entries, 289 of which have the age listed and 78 of which do not have the victim's age listed) iv) Status of the victim, corresponding to the current situation of the person registered as disappeared, meaning, whether that person has been found or whether they are still disappeared. This column is divided into 4 categories: 1) Disappeared (349 entries), 2) Dead (9 entries), 3) Freed (6 entries), and 4) Found (4 entries). The total number of disappeared persons can be found in the category of sex, which is completed for all victims and shows shows 367 persons registered as disappeared.

Drop-down menu organized by case contains: i) Initial date of the case: corresponding with the date of the disappearance in the period from 2007 to 2015 (367 entries); ii) Number of victims: corresponding with the total number of persons registered as disappeared in a given case (164 total cases listed, including a total of 367 persons registered as disappeared); iii) Municipality where the crime occurred, corresponding with the municipality in Coahuila where the crime occurred and the case of the disappeared person is registered (162 events registered by municipality, one case registered without that information); iv) type of perpetrator: corresponds with the generic identity of the person(s) allegedly responsible for the disappearance (164 total entries). This column is divided into 7 categories: 1) Mexican Army; 2) State Entities; 3) State Security Forces; 4) Municipal Security Forces; 5) Municipal Security Forces specializing in organized crimes; 6) criminal organization; and 7) Persons not yet identified; v) name of the perpetrator, corresponding with the concrete identification of the suspected perpetrator. This section is divided into thirteen categories: 1) Authority not identified; 2) Mexican army; 3) Specialized Weapons and Tactics Group; 4) Unknown perpetrator; 5) Federal Police; 6) Municipal Police of Frnascisco I. Madero, Coahuila and suspected criminal group; 7) Municipal Police of Matamoros, Coahuila and suspected criminal group; 8) Municipal Police of Parars, Coahuila and suspected criminal group; 9) Municipal Police of Sotillo, Coahuila and suspected criminal group; 10) Municipal Police of Torreón, Coahuila and suspected criminal group; 11) Municipal Police Saltillo; 11) Municipal Police Torreón; 13) Suspected Criminal Group. The database has a total of 164. (Appendix No. 5\_Lista\_Desaparecidos\_B).

7 See the explanation of Jose Angel Herrera, Current Assistant Attorney General for Disappeared Persons, <https://www.youtube.com/watch?v=-yVxZ4X7gS4>.

8 IACHR, "Human Rights Situation in Mexico", OEA/Ser.L/V/II.Doc. 44/15, Dec. 31, 2015, available at: <http://www.oas.org/en/iachr/reports/pdfs/mexico2016-en.pdf>. Last accessed June 25, 2017.

A final source of evidence includes Mexican and international newspaper articles and media reports—including visual, written, and electronic media. These media sources have been an important source of information for the chronological description of the context of Coahuila and the presentation of the roles and profiles of different key actors in that context.



# I. JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT

In accordance with Article 53, Paragraph 1, Part a of the Rome Statute, the Prosecutor should determine if there is a reasonable basis to believe that crimes against humanity falling under the jurisdiction of the Court have been committed or are being committed.<sup>9</sup>

## A. Temporal, territorial, or personal jurisdiction

The temporal jurisdiction of the Court begins on the date that the Rome Statute enters into force, which for most States would be from July 1, 2002 forward.<sup>10</sup> The temporal jurisdiction with regards to a particular situation would also depend on: the date on which the Rome Statute entered into force for the State Party whose ratification or adhesion is relevant to the case; the date when the case was referred to the OTP by the Security Council, or the date indicated in a declaration deposited in agreement with Article 12, Paragraph 3.<sup>11 12</sup>

The Court has territorial or personal jurisdiction if a crime under Article 5 of the Rome Statute is committed on the territory of a State Party or by a national of a State Party (Article 12, Paragraph 2) or a national of a State who is not a party of the Rome Statute, but who has deposited a declaration of acceptance of the exercise of the jurisdiction of the Court (Article 12, Paragraph 3). What is more, the Court can exercise its jurisdiction in relation to any territory or national about whom the Security Council refers a situation, acting under the provisions of Chapter VII of the Charter of the United Nations.<sup>13</sup>

Mexico ratified the Rome Statute on October 28, 2005. In this regard, the ICC can exercise its jurisdiction over crimes committed in the Mexican territory or by Mexican nationals from January 1, 2006 forward, in accordance with Article 11 Paragraph 2 and Article 126 Paragraph 2 of the Rome Statute.

## B. Subject Matter Jurisdiction

The subject matter jurisdiction of the court, established in Article 5 of the Rome Statute, includes: a) the crime of genocide, defined in Article 6; b) crimes against humanity, defined in Article 7; c) War Crimes, defined in Article 8; and d) the Crime of Aggression, defined in Article 8 bis, once that article enters into force.

Accordingly, in order to evaluate subject matter jurisdiction, the Office of the Prosecutor should consider, on the basis of the available information: the facts and factors related to the crimes

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<sup>9</sup> In accordance with Article 15 (4) of the Rome Statute, the Pre-Trial Chamber should also consider if “the case appears to fall within the jurisdiction of the Court.” In the Situation in the Republic of Kenya, the Chamber observed that this requirement be understood to refer to “possible cases” within the Situation at hand. ICC-01/09-19, PTC II, Situation in the Republic of Kenya, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation in the Situation in the Republic of Kenya, 31 March 2010, para 64.

<sup>10</sup> Rome Statute at Articles 11 & 24.

<sup>11</sup> See also Rome Statute at Article 11 (2).

<sup>12</sup> Office of the Prosecutor of the ICC, Policy Paper on Preliminary Examinations, 2013, para. 37. Available at: [https://www.icc-cpi.int/iccdocs/otp/OTP-Policy\\_Paper\\_Preliminary\\_Examinations\\_2013-ENG.pdf](https://www.icc-cpi.int/iccdocs/otp/OTP-Policy_Paper_Preliminary_Examinations_2013-ENG.pdf). Last Accessed June 25, 2017.

<sup>13</sup> Only the Security Council can surpass the parameters of territorial jurisdiction and/or personal jurisdiction established in Article 12 of the Rome Statute. When the Office of the Prosecutor uses its faculties to act ex officio, it is subject to these parameters. Office of the Prosecutor of the ICC, Policy Paper on Preliminary Examinations, op. cit., para. 40.

that appear to fall under the jurisdiction of the Court; the contextual circumstances, such as the nexus with an armed conflict or a widespread or systemic attack against a civilian population, or a demonstrated pattern of similar conduct directed at the destruction of a determined protected group or that on its own merits would cause such destruction; the suspected perpetrators, including the de jure and de facto role of alleged perpetrators, groups, and/or institutions and their connections with the alleged crimes, and the elements of intentionality, to the degree that it is discernible in this stage.<sup>14</sup>

This communication seeks to demonstrate that, between 2009 and 2016, crimes against humanity falling under the jurisdiction of the ICC were committed in Coahuila, as part of a systematic attack against the civilian population in that state.

## II. GENERAL AND SPECIFIC CONTEXT OF THE CRIMES

### A. General Context of the Violence in Mexico

The administrations of Felipe de Jesús Calderón Hinojosa (December 2006 through November 2012) and Enrique Peña Nieto (December 2012 through present) compose the timeframe of reference during which crimes against humanity falling under the jurisdiction of the Court have been committed in Mexico, including in the federal entity of Coahuila.

More than ten years have passed since former President Felipe Calderón announced the "Security Strategy," a doctrine that would mark the beginning of the War on Drugs by means of the militarization of the public security forces. That strategy would also be adopted by current President Enrique Peña Nieto from the beginning of his mandate in 2012 forward. In numerical terms, this Strategy implies an exorbitant increase in the number of military forces that participate in public security tasks, growing from 45,850 individuals in 2007 to 96,261 in 2011.<sup>15</sup>

This strategy of militarizing the public security sector has manifested in: (i) the transfer of military members to the Federal Police,<sup>16</sup> replacing multiple directors of the municipal and state Secretariats of public security with members of the military on leave or in retirement;<sup>17</sup> and (ii) the deployment of the military in the states through militarized units or joint operations in which the military, federal, state, and municipal police participate with the objectives of: (a) destroying the economic foundation of the drug traffickers; (b) inhibiting drug trafficking; and (c) assisting with other authorities in breaking down structures of organized crime.<sup>18</sup> In the first years of this strategy's implementation, operations took place in the states of Chihuahua (the city of Juárez), Veracruz, Sinaloa (in the cities of Culiacán and Navolato), Laguna (Coahuila), Guerrero, Durango, Tabasco.

Since its inception, this strategy raised many questions. The use of the Army was not preceded by a declaration of a State of Emergency, the only constitutional means by which certain human rights

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<sup>14</sup> Office of the Prosecutor of the ICC, Policy Paper on Preliminary Examinations, op. cit., para. 38-39.

<sup>15</sup> Instituto para la Seguridad y la Democracia, A.C. (INSYDE), CMDPDH, CCDH, Informe sobre el estado del marco normativo y la práctica de la tortura en México (Mexico City: CMDPDH, 2014), last seen on June 10, 2016, 6, <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-informe-sobre-tortura-relator-onu-abril-2014.pdf>.

<sup>16</sup> Luis Astorga, ¿Qué querían que hiciera? Inseguridad y delincuencia organizada en el gobierno de Felipe Calderón (Mexico City: Grijalbo, 2015).

<sup>17</sup> See, FIDH, CMDPDH, CCDH, Mexico. Report on the alleged commission of crimes against humanity in Baja California between 2006 and 2012. Available at: <https://www.fidh.org/IMG/pdf/mexique642ang2014web.pdf> (last seen June 25, 2017).

<sup>18</sup> Ana Paula Ordorica, El Ejército y la ley, Nexos, December 1, 2011, available at: [www.nexos.com.mx/?p=14585%20](http://www.nexos.com.mx/?p=14585%20) (last seen: June 10, 2016).

and the guarantee of their protection can be limited,<sup>19</sup> including the principle that guaranteeing public safety is a function that may only be undertaken by civil authorities,<sup>20</sup> and that in times of peace the armed forces may only undertake activities strictly related to military affairs.<sup>21</sup> The use of the military forces was also not accompanied by an adequate legal framework that would delineate the functions of the federal forces in the "Security Strategy," particularly with regards to the use of lethal force.<sup>22</sup> This lack of a legal framework facilitated the commission of serious abuses against the civilian population by the federal troops.

It is documented that during this period, normative measures were not adopted in order to provide civilians with legal safeguards against the actions of the armed forces, and, in general, with the ability to prevent and sanction the criminal acts that were unleashed and motivated by this strategy. As an example, only recently in 2011 did the National Supreme Court of Justice declare that there was a conflict of interest in military courts judging military members for cases of human rights violations,<sup>23</sup> and in 2014 the Military Code of Justice was reformed<sup>24</sup> without fulfilling Mexico's international obligations in the areas of judicial independence and fair trials.<sup>25</sup>

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19 Article 29 of the Mexican Constitution indicates, "In the event of invasion, serious disturbance of the public peace, or any other event which may place society in great danger or conflict, only the President of the Mexican Republic, with the consent of the Council of Ministers and with the approval of the Federal Congress, and during adjournments of the latter, of the Permanent Committee, may suspend throughout the country or in a determined place the guarantees which present an obstacle to a rapid and ready combatting of the situation; but he must do so for a limited time, by means of general preventive measures without such suspensions being limited to a specified individual. If the suspension should occur while the Congress is in session, the latter shall grant such authorizations that it deems necessary to enable the Executive to meet the situation. If the suspension occurs during a period of adjournment, the Congress shall be convoked without delay in order to grant them."

20 Article 21 of the Mexican Constitution indicates, "[...]Public security is a responsibility of the Federation, the Federal District, the States and the Municipal Councils. Public security includes prevention of crimes, investigation and prosecution, as well as punishment for breaking the administrative rules, according to the law [...] Institutions in charge of public security shall be of a civil nature, disciplined and professional."

21 Article 129 of the Mexican Constitution indicates, "No military authority may, during peacetime, perform any functions other than those directly related to military affairs. There shall be fixed and permanent military command headquarters only in the castles, forts and warehouses immediately subordinated to the Federal Government, or in the camps, barracks or dumps established for the troops outside towns."

22 In Mexico, the participation of the military in public security tasks does not have neither constitutional nor legal basis. The use of lethal force by the armed forces also does not have foundation in any legal instrument that has been approved by the national Congress. In this regard, see Open Society Justice Initiative, *Undeniable Atrocities: Confronting Crimes Against Humanity in Mexico*, Mexico, June 2016, pages 63–65, available at: <http://www.slideshare.net/carloscauce/dossier-libera-mexico-la-guerra-invisible> (last accessed June 26, 2017).

23 *Diario Oficial de la Federación*, Resolución dictada por el Tribunal Pleno en el expediente varios 912/2010 y Votos Particulares formulados por los Ministros Margarita Beatriz Luna Ramos, Sergio Salvador Aguirre Anguiano y Luis María Aguilar Morales; así como Votos Particulares y Concurrentes de los Ministros Arturo Zaldívar Lelo de Larrea y Jorge Mario Pardo Rebolledo, published in the *Diario Oficial de la Federación* on October 4, 2011, available at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5212527&fecha=04/10/2011](http://dof.gob.mx/nota_detalle.php?codigo=5212527&fecha=04/10/2011).

24 *Diario Oficial de la Federación*, DECRETO por el que se reforman, derogan y adicionan diversas disposiciones del Código de Justicia Militar, del Código Federal de Procedimientos Penales y de la Ley que Establece las Normas Mínimas sobre Readaptación Social de Sentenciados, published by the *Diario Oficial de la Federación* on June 13, 2014, available at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5348649&fecha=13/06/2014](http://www.dof.gob.mx/nota_detalle.php?codigo=5348649&fecha=13/06/2014).

25 Comisión Mexicana de Defensa y Promoción de los Derechos Humanos y Comisión Internacional de Juristas. *La incompatibilidad del Código de Justicia Militar con el Derecho Internacional de los Derechos Humanos*, Mexico 2014, pag. 23 y ss. In this same regard, the Inter-American Court indicated: 22. Given that Article 57.II.a) of the reformed Code of Military Justice still authorizes the intervention of military code in the case of crimes where the accused and the victim are members of the military and in crimes where the accused is a member of the military and the passive subject of the crime or owner of a legal rights is not a civilian, the Court determines that the current legislation still does not partially adapt (*supra* Considerando 17 y 20) to the following jurisprudential standards: a) the military jurisdiction is not the competent code for investigating, and, where appropriate, prosecuting and punishing the perpetrators of human rights violations, even in cases where both the active and passive subjects are members of the military, and b) in the military code only the commission for crimes or offenses (committed by active members of the military) that by their very nature threaten the legal rights of the military order itself.. *Inter-American Court of Human Rights, Cases of Radilla-Pacheco et. al. and Rosendo Cantú et. al. v. Mexico, Monitoring Compliance with Judgement* (available in Spanish), April 17, 2015, para. 22 and ss.

In addition, by 2011, the police forces in at least 25 states were led by directors that had a military career trajectory.<sup>26</sup> Among those directors it is worth highlighting the case of Lieutenant Colonel Julián Leyzaola, who has been accused of committing acts of torture during his tenures as Secretary of Public Safety in the municipalities of Tijuana y Ciudad Juárez,<sup>27</sup> as well as that of General Carlos Bibiano Villa Castillo, who was director of the Public Security Forces of Torreón and publicly declared that he preferred to execute a suspected drug trafficker rather than interrogate him.<sup>28</sup>

The IACHR established that this situation contributed to the increase of violence and human rights violations, as well as increased levels of impunity.<sup>29</sup> In a speech given upon his visit to Mexico in 2015, the U.N. High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, declared that "[f]or a country that is not engaged in a conflict, the estimated figures are simply staggering." He continued, "[p]art of the violence can be laid at the door of the country's powerful and ruthless organized crime groups, which have been making life a misery for people living in several of Mexico's 32 States ... But many enforced disappearances, acts of torture and extra-judicial killings are alleged to have been carried out by federal, state and municipal authorities, including the police and some segments of the army, either acting in their own interests or in collusion with organized criminal groups."<sup>30</sup>

The most alarming figures are those regarding the number of intentional homicides in Mexico, which have increased dramatically since the beginning of the implementation of the "Security Strategy." Homicide rates reached their peak in 2011, reaching a total of 22,852 intentional homicides. By 2015, the official statistics calculated a total of 20,525 intentional homicides, that is to say, a national rate of 17 intentional homicides per 100,000 inhabitants.<sup>31</sup> The most recent figures are not encouraging. The following graphic illustrates how the number of homicides in Mexico skyrocketed following the implementation of the "Security Strategy":



Source: National Institute for Statistics and Geography (hereinafter: INEGI)

26 Marcelo Galán and representatives, "Militares, a cargo de la seguridad en 17 entidades", *El Universal*, February 28, 2011, available at: <http://archivo.eluniversal.com.mx/primer/36411.html> (last visited January 28, 2016).

27 See: Ignacio Alvarado Álvarez, "Julián Leyzaola: el cazador que se dejó cazar", *NW Noticias*, May 16, 2015, available at: [nwnoticias.com/#/noticias/julian-leyzaola-el-cazador-que-se-dejo-cazar](http://nwnoticias.com/#/noticias/julian-leyzaola-el-cazador-que-se-dejo-cazar) (last visited May 27, 2017). See also, Editorial Board, "Biografía de Julián Leyzaola Pérez", *Norte Digital*, May 8, 2015, available at: [nortedigital.mx/biografia-de-julian-leyzaola-perez/](http://nortedigital.mx/biografia-de-julian-leyzaola-perez/) (last visited May 27, 2017); Gloria Leticia Díaz, "Pide CNDH medidas cautelares para 24 ex policías de BC, víctimas de tortura", *Proceso* (online), June 30, 2015, available at: [www.proceso.com.mx/409224/pide-cndh-medidas-cautelares-para-24-expolicias-de-bc-victimas-de-tortura](http://www.proceso.com.mx/409224/pide-cndh-medidas-cautelares-para-24-expolicias-de-bc-victimas-de-tortura) (last visited May 27, 2017).

28 Sanjuana Martínez, "Si agarro un zeta lo mato ¿para qué interrogarlo?: jefe policiaco", *en Periódico La Jornada*, March 13, 2011, pag. 7, available at: <http://www.jornada.unam.mx/2011/03/13/politica/007n1pol> (last visited December 31, 2016).

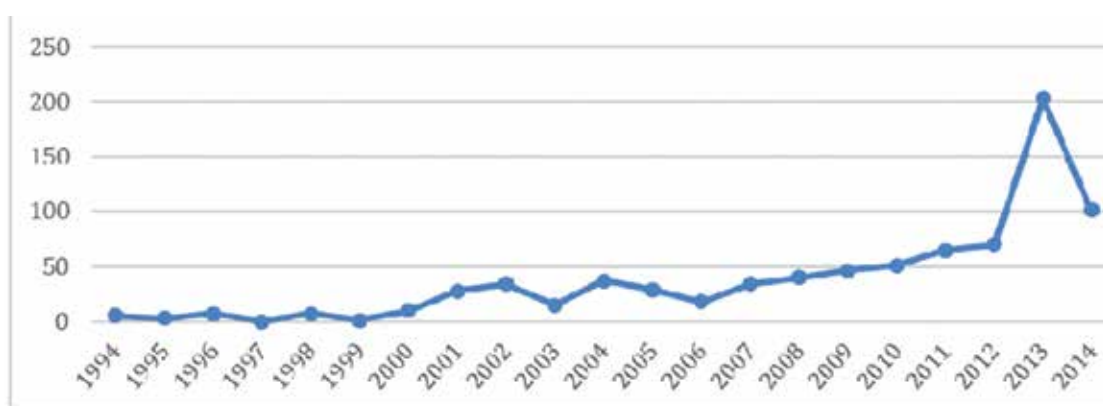
29 IACHR, "Human Rights Situation in Mexico", *op. cit.*, paras. 87-88.

30 "Statement of the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, on his visit to Mexico", OHCHR, October 7, 2015. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16578>

31 INEGI, 2016. [http://www.inegi.org.mx/saladeprensa/boletines/2016/especiales/especiales2016\\_07\\_04.pdf](http://www.inegi.org.mx/saladeprensa/boletines/2016/especiales/especiales2016_07_04.pdf).

Totalling these numbers is even more unsettling, as the U.N. High Commissioner for Human Rights has observed: a total of 151,233 people were killed between December 2006 and August 2015,<sup>32</sup> and according to civil society organizations more than 116,000 of those homicides are related to the fight against organized crime.<sup>33</sup>

In addition to the escalation in homicide rates, enforced disappearances have drastically increased in Mexico. 28,161 persons are included in the National Registry for Missing or Disappeared Persons for the period of December 2006 to March 2016.<sup>34</sup> Nevertheless and despite these figures, these cases continue to be met with impunity; as of December 31, 2014, only 6 sentences had been issued at the federal level for enforced disappearances,<sup>35</sup> and of those, only one was issued after December 2006 (the date that marks the beginning of the "Security Strategy"). That sentence was issued in August 2015 against a Second Lieutenant, for the Nuevo León Case that occurred in May 2012.<sup>36</sup> The following graphic shows the increase in the number of complaints that were reported in the Mexican states from 1994 to 2014:



Created by: CMDPDH . Source: Information obtained from information requests issued to public human rights bodies and through analysis of their annual reports.

Numerous cases of torture have also been documented in Mexico. The National Attorney General's Office (hereinafter: PGR) reported that it received reports of torture between December 1, 2006 and December 31, 2014. Of those reports, only 1,884 were under investigation. It is also known that a significant number of those complaints (1,273) were made against members of the military. In all of these cases impunity persists, given that as of the end of 2015 only 15 sentences had been issued at the federal level for the crime of torture and only 7 of those were definitive. It is important to highlight that those sentences that have been issued deal with crimes committed between 1995 and 2003, and only one of them deals with a crime committed in 2012.

32 "Statement of the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, on his visit to Mexico", OHCHR, October 7, 2015. available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16578>

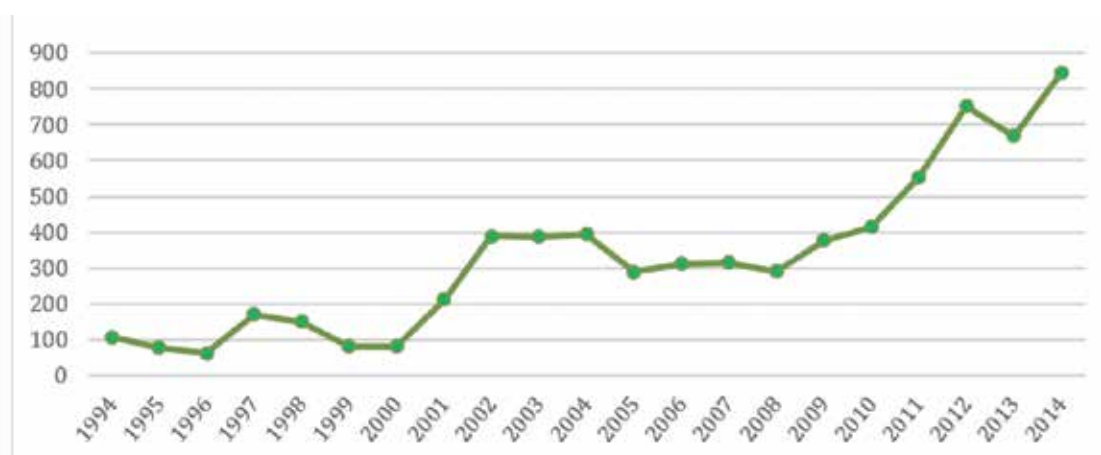
33 See also CRUZ SANTIAGO, Claudia, et al., "México. La guerra invisible, historias, cifras y negocio de los carteles criminales y la impunidad de las mafias en México", Mexico, 2013, available at: <http://www.slideshare.net/carloscauce/dossier-libera-mexico-la-guerra-invisible> (March 9, 2015).

34 SEGOB, National Registry of Missing or Disappeared Persons, available at: <http://secretariadodejecutivo.gob.mx/rnped/consulta-publica.php> (May 30, 2016).

35 See, IACHR, "Human Rights Situation in Mexico", Op. Cit.

36 Consejo de la Judicatura Federal, Nota informativa: Juez federal condena a 31 años de prisión a militar acusado de desaparición forzada, Mexico City, Mexico, august 18, 2015, available at: <http://www.cjf.gob.mx/documentos/notasInformativas/docsNotasInformativas/2015/notaInformativa88.pdf> (May 15, 2016)

Similar to the preceding graphs, this graph represents the number of reports of torture filed in public human rights organs, demonstrating that since the start of the implementation of the "Security Strategy" serious violations of human rights have skyrocketed.



Created by: CMDPDH . Source: Information obtained from the state public human rights bodies and through analysis of their annual reports.

In addition to murder, torture, and enforced disappearance, as of the end of 2016, it was estimated that at least 310,527 persons were internally forcibly displaced in 15 states in the country: Baja California, Chiapas, Chihuahua, Coahuila, Durango, Estado de México, Guerrero, Michoacán, Morelos, Nuevo León, Oaxaca, Sonora, Tamaulipas, Sinaloa, and Veracruz. The displacements were caused primarily because people fled their places of residence in order to avoid falling victim to crimes committed by members of criminal organizations or public servants, or because they had already been victimized.<sup>37</sup>

During Peña Nieto's administration, the situation has not changed. "Drugs continue traveling north to the United States, the great consumer, and arms return from the North to Mexico, where they continue to cause thousands of death. The systematic persecution of drug trafficking has resulted in a high number of detentions, including of some leaders of organized crime such as Joaquín 'el Chapo' Guzmán. Prisons are overpopulated. However, 41% of prisoners imprisoned for drug crimes were arrested for possession of substances valuing less than 500 pesos (around USD \$30). In the meantime, the transfer of cocaine continues, as well as trafficking in persons, trafficking in natural resources, extortion, and opium poppy plantations." From the time that Peña Nieto took office through today, the month of July 2016 was the most violent month in his entire mandate, with 2,073 people killed.<sup>38</sup>

One case that, while it occurred in a different state than the focus of this communication, exemplifies these types of grave human rights violations in Mexico, is that of the case of the "43 of Ayotzinapa." That case encompasses a series of crimes committed between the September 26 and 27 of 2014, when 43 students from the Escuela Normal Rural de Ayotzinapa were disappeared in the State of Guerrero. The IACHR created an Independent Group of Interdisciplinary Experts (GIEI) in order to monitor the precautionary measures that it had dictated. This group was created through an agreement with the Federal government, the victims, and the victims' representatives with financial support from Mexico. The GIEI had an initial mandate of six months, which was later renewed for an additional six months. It was intended to support the justice institutions in the search and identification of the 43 students, as well as to jointly assist in the investigation of the case.

<sup>37</sup> For more information, please see: <http://cmdpdh.org/temas/desplazamiento-interno/>.

<sup>38</sup> Online opinion article, México cumple una década de duelo por el fracaso de la Guerra contra el Narco , op. cit.



According to the GIEL's investigations, the police force of Igual Cocula participated in five out of the nine events that led to the disappearance of the 43 students. Additionally, "the degree of intervention by different policemen in different scenes, as well as the attacks in distinct moments as demonstrated by the documents, testimonies, and evidence evaluated by the GIEL, demonstrate the coordination and command structure that existed in order to carry out each action."<sup>39</sup> On the basis of these conclusions, the U.N. High Commissioner for Human Rights confirmed that the situation represented a case of enforced disappearances.<sup>40</sup>

## B. Specific Context of the Violence in Coahuila

Coahuila, with its capital city in the municipality of Saltillo, is the third largest state in Mexico, with a land area of 151,571 km<sup>2</sup>. One of five Mexican states that border the United States, it borders the U.S. state of Texas on the North, and the Mexican states of Zacatecas to the south, Nuevo León to the east, and Durango and Chihuahua to the west. According to the results of the 2010 Census, the state's population accounts for 2.4% of the total national population, with 2,748,391 residents. 1,384,194 of its residents are women and 1,364,197 are men. 90% of the population lives in urban areas, principally in the most populated cities of Saltillo, Torreón, Monclova, Piedras Negras, and Acuña, which together house a total of 1.8 million residents. The remaining 10% of the state's population lives in rural areas, in a large number of small, disperse towns whose locations makes it difficult that their residents' needs be appropriately met.<sup>41</sup>

While violence deriving from organized criminal groups and misguided security policy is an indisputable fact in much of the country, the IACHR has established that "its impact has been harsher in certain regions", including in the states that border the United States, among them Coahuila<sup>42</sup>. As a result of the territorial dispute and collusion between organized criminal groups and state, federal, and local governments, "[p]owerful and violent cartels, some of them reaching far beyond the borders of Mexico, have become entrenched" and have even "infiltrated sectors of the Government"<sup>43</sup>, as documented in the U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions' report on his mission to Mexico in 2013.

Coahuila has not been an exception to that rule. As we will see below, the most recent years of the state's history demonstrate the positioning of organized criminal groups, acting in a coordinated way with state security forces, or infiltrating those state forces as well as the highest levels of the state political hierarchy charged with ensuring public safety. The actions and omissions of these actors have defined the recent history of Coahuila, and have been determinative in terms of the numbers of crimes that constitute crimes against humanity.

The analysis in this section of the context of Coahuila from 2006 forward allows for a greater understanding of the situation of violence in that State, identifying the most representative events and principal actors.

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39 Interdisciplinary Group of Independent Experts (GIEL), Executive Summary (available in Spanish), Washington: pag. 13, 2015.

40 "Statement of the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, on his visit to Mexico", OHCHR, October 7, 2015. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16578>

41 Government of Coahuila. Available at: <http://coahuila.gob.mx/> (accessed November 30, 2016).

42 IACHR, "Human Rights Situation in Mexico", op. cit., paras. 29.

43 United Nations, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns on his Mission to Mexico (April 22, 2013 to May 2, 2013), A/HRC/26/36/Add.1, April 28, 2014, para. 9.

## 2005 to 2011: Administration of Governor Humberto Moreira Valdés<sup>44</sup> and the Zeta's Territorial Control in Coahuila

Humberto Moreira Valdés<sup>45</sup>, from the PRI party, was elected Governor of Coahuila for the 2005–2011 term. That period was the starting point for the violence arising from the disastrous connection between organized criminal groups and all levels of authorities responsible for security in Coahuila.

### The Zetas' Quest for Territorial Control in Coahuila

Between 2005 and 2006, the area of La Laguna,<sup>46</sup> located between Coahuila and Durango, was at the crossroads of a territorial dispute between the organized crime groups in the north of Mexico, specifically, the Pacific Cartel, the Arellano Cartel, and the Juárez Cartel. Later on, around 2008, the Gulf Cartel also entered into the scene with their armed branch known as the "Zetas" in order to also lay claim to the territory.<sup>47</sup>

Osiel Cárdenas Guillen<sup>48</sup>, head of the Gulf Cartel, founded the "Zetas" with a group of deserters from the Special Forces Airmobile Group (hereinafter: GAFE) of the Mexican Army, a group with training from the School of the Americas.<sup>49</sup> The Zetas group was placed under the leadership of Arturo Guzmán Decena (alias "Z-1").<sup>50</sup>

After Guzmán Decena's death in 2002 and the detention of Cárdenas Guillen in 2003,<sup>51</sup> Heriberto Lazcano Lazcano (alias "El Lazca"),<sup>52</sup> who was already a leader in the Zetas, was able to consolidate a predominant position in the Gulf Cartel.<sup>53</sup> The Zetas, already the armed branch of the Gulf Cartel, adopted an initial strategy of seeking to eliminate the "enemy" and display their violence, a method that had not previously been used by criminal groups in Mexico. That method became the

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44 Previously, Humberto Moreira Valdés, acted as Mayor of Saltillo from January 2003 to July 15, 2005. Humberto Moreira is currently accused of money laundering and corruption in the United States.

45 Online article, "Confirma el Tribunal Electoral Triunfo del PRI al Gobierno de Coahuila", Sala de Prensa del Tribunal Electoral del Poder Judicial de la Federación, November 23, 2005. Available at: <http://portal.te.gob.mx/prensa/boletin-prensa/confirma-el-tribunal-electoral-triunfo-del-pri-al-gobierno-coahuila> (accessed: January 14, 2017).

46 Lagunera District (Comarca Lagunera): made up of the municipalities of Torreón, Matamoros, San Pedro de las Colonias, Francisco I. Madero, Viesca and Parras, Coahuila, and Gómez Palacio, Lerdo, Tlahualilo de Zaragoza, Mapimí, Cuencamé de Cenicerros, San Pedro del Gallo, San Luis del Cordero, Rodeo, Nazas, General Simón Bolívar, San Juan de Guadalupe, Santa Clara, Hidalgo, and Inde, Durango.

47 Centro de Estudios Internacionales de El Colegio de México, Comisión Ejecutiva de Atención a Víctimas (CEAV). En El Desamparo. Los Zetas, El Estado, La Sociedad Y Las Víctimas De San Fernando, Tamaulipas (2010) Y Allende, Coahuila (2011). Mexico City (pp. 11-14), 2016. First Edition. Online article, "La batalla de Torreón, disputado por los cárteles del Golfo, de Sinaloa y de Juárez", El Diario de Coahuila, February 24, 2008. Available at: <http://www.eldiariodecoahuila.com.mx/locales/2008/2/24/batalla-torreon-88075.html> (accessed March 15, 2017).

48 Osiel Cárdenas Guillen took over the leadership of the Gulf Cartel in 1998. He was detained on March 14, 2003 by the Mexican army and was extradited on January 19, 2007 to the United States, where he pled guilty to charges of drug trafficking and was sentenced to 25 years of prison and a fine of USD \$ 50 million.

49 The Special Forces Airmobile Group was created inside of the Mexican Army as part of a counterinsurgency strategy against the Zapatista Army of National Liberation (EZNL)

50 Ravelo, Ricardo (2013) Osiel, vida y tragedia de un capo. Mexico: DeBolsillo

51 Online article, Del primer zeta a El Zeta-42, Milenio, March 4, 2015. Available at: [http://www.milenio.com/policia/cartel\\_de\\_los\\_zetas-Omar\\_Trevino\\_Morales-brazo\\_armado\\_los\\_zetas-historia\\_Los\\_Zetas\\_0\\_475152821.html](http://www.milenio.com/policia/cartel_de_los_zetas-Omar_Trevino_Morales-brazo_armado_los_zetas-historia_Los_Zetas_0_475152821.html) (accessed January 14, 2017).

52 Online article, Del primer zeta a El Zeta-42, Milenio, March 4, 2015. Available at: [http://www.milenio.com/policia/cartel\\_de\\_los\\_zetas-Omar\\_Trevino\\_Morales-brazo\\_armado\\_los\\_zetas-historia\\_Los\\_Zetas\\_0\\_475152821.html](http://www.milenio.com/policia/cartel_de_los_zetas-Omar_Trevino_Morales-brazo_armado_los_zetas-historia_Los_Zetas_0_475152821.html) (accessed March 15, 2017).

53 Online article, "Los Zetas convirtieron una cárcel en un campo de secuestro y exterminio", El País, June 9, 2016. Available at: [http://internacional.elpais.com/internacional/2016/06/08/mexico/1465357276\\_063743.html](http://internacional.elpais.com/internacional/2016/06/08/mexico/1465357276_063743.html) (accessed November 30, 2016).

mark that characterized the actions of the Zetas and converted them into the most violent group in the country.<sup>54</sup> Our analysis leads us to believe that the "enemy" was any member of another organized crime group or drug trafficking group that disputed the Zetas' territorial control as well as anyone, in general, who did not collaborate with the group's activities or any innocent person whose disappearance could contribute to financing their control.

The group's actions have been characterized by extreme sadism, and they subject their enemies to brutal torture, including mutilation and decapitation, and then hang their bodies in bridges and streets. "Often they would videotape their atrocities and put them on Youtube. When they wanted to disappear bodies, they would eliminate any trace in acid or burn them in flaming barrels of oil."<sup>55</sup> One murder method that the Zetas have used often is to cut and "cook" their victims. The process consists in cutting off the arms or legs of the victim with an axe until the victim dies, and then tossing the body parts in a tub of acid, to disintegrate the body.<sup>56</sup> Their actions can be summed up by the following equation:

"With more brutality, the people are more frightened, the authorities are more subjugated, the media is more silent, and, combining all of this, [the Zetas] can achieve an uncontested control of the territory in which they operate."<sup>57</sup>

These brutal practices, combined with the collusion of the Coahuila authorities, gave rise to a situation of terror among the civilian population, clearly fulfilling the goals of the criminal group. Going out on the street became a risky action, resulting in a de facto curfew assumed by civil society.<sup>58</sup>

The strategy of the Zetas, inspired by their military training, was also targeted at taking control of institutions—among others, for example, co-opting the control of the municipalities and their police. According to the doctrine of the Zetas, in this way they would control the municipal security and, accordingly, the population and territory. "Los Zetas transformed the traditional way that cartels operated in Mexico. [They became] a professional armed group, with aggressive expansionist aims and with interests in various criminal activities. A good part of this transformation is due to the fact that Los Zetas introduced a model of territorial market to the business, where [...] it was necessary to control everything in order to minimize risks."<sup>59</sup>

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54 Online article, "Silencio, aquí se mata", El País, June 8 2016. Available at: [http://internacional.elpais.com/internacional/2014/07/05/actualidad/1404594964\\_269006.html](http://internacional.elpais.com/internacional/2014/07/05/actualidad/1404594964_269006.html) (accessed November 30, 2016).

55 Ibid

56 Testimonies of Jose Luis Rodriguez (p. 55-73), Jorge de Leon-Navarro (p. 24-37), Saul Fernandez, and Rodrigo Humberto Uribe Tapia (112-113). In all of the testimonies of the accused, they mentioned 17 of these cases, see: "Control... over the entire State of Coahuila: A report on analysed trial testimonies of Zetas members in San Antonio and Austin, Texas." The University of Texas School of Law Human Rights Clinic (Spring 2017): p. 50-51.

57 Online article, "Así masacraron Los Zetas: 'Cuando se terminó, dormimos normalmente'", El País, October 10, 2016. Available at: [http://internacional.elpais.com/internacional/2016/10/09/mexico/1476044097\\_559947.html](http://internacional.elpais.com/internacional/2016/10/09/mexico/1476044097_559947.html) (accessed November 30, 2016).

58 Interview with victims by FIDH.

59 "El Dominio del Miedo". Available at: <http://www.nexos.com.mx/?p=21671>. See also, Guillermo Vázquez Del Mercado, "Los Zetas", available at: [http://research.ridgway.pitt.edu/wpcontent/uploads/2012/05/LosZetas\\_PROFILEFINAL.pdf](http://research.ridgway.pitt.edu/wpcontent/uploads/2012/05/LosZetas_PROFILEFINAL.pdf), p. 3. Regarding the Zeta's objective of obtaining territorial control, also see the report, "Atrocidades Innegables. Confrontando crímenes de lesa humanidad en México", The Open Society Foundations (OSF), 2016 p. 97 a 98. Available at: <https://www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-esp-20160602.pdf> (accessed April 5, 2017)..



### **Collusion between the Zetas and the Coahuila government**

Testimonies given during the trials of the members of the Zetas in San Antonio and Austin, Texas since 2013 have provided information about the ways that the Coahuila government has supported crimes of the Zetas and their impunity.<sup>60</sup> These trials have as their principal focus crimes related to drug trafficking. Nevertheless, they have confirmed that both high ranking and low ranking authorities in the Coahuila government have received money from the Zetas in the context of their drug trafficking activities, for supporting and permitting crimes committed by the group.

For example, several witnesses have detailed payments made to Humberto Moreira Valdés: Humberto Uribe Tapia<sup>61</sup> explained that the former governor Humberto Moreira Valdés, while acting in his role as Governor, received quantities of money totalling millions of U.S. dollars from the Zetas.<sup>62</sup> In his testimony before a jury, Uribe Tapia mentioned that he packed USD \$2 million in suitcases and gave them to a personal assistant of the former governor of Coahuila, Humberto Moreira, in a hotel in Saltillo. Another time, he brought USD \$2 million packed in vacuum-sealed bags to a gas station in Saltillo, where he affirms that gave them to someone from the office of the State Attorney General, Jesús Torres Charles.<sup>63</sup> Adolfo Tavera Alvarado recounted that they

60 "Control... over the entire State of Coahuila": A report on analysed trial testimonies of Zetas members in San Antonio and Austin, Texas." The University of Texas School of Law Human Rights Clinic (Spring 2017): 3.

61 Testimony during the trial of Marciano Millán, a member of the Zetas who was condemned to 20 years of prison by the Federal Court of San Antonio, Texas on July 19, 2016, for several crimes: 1) for killings, in some chopping up his victims, or causing the death of an unknown number of victims including at least 5 women and 8 men, all parallel to the commission of crimes related to drug trafficking; 2) for having recruited minors under 18 years of age for drug trafficking activities; 3) for seven crimes related to drug trafficking.

62 Online Article, "Testigo acusa a Moreira de recibir sobornos de los Zetas; el exgobernador asegura que son fantasías", Animal Político, July 7, 2016. Available at: <http://www.animalpolitico.com/2016/07/los-zetas-pagaron-a-humberto-moreira-al-menos-2-millones-de-dolares-declara-testigo-en-eu/> (accessed March 15, 2017).

63 Jesús Torres Charles was General Prosecutor (2005-2009) and then after the reform was Attorney General of Coahuila under the government of Humberto Moreira, and appointed again by Ruben Moreira. In February 2012 he was separated from public administration in the context of a scandal regarding protection granted to the Zetas, along with his brother, Humberto Torres Charles, who also worked in the Coahuila Attorney General's Office as an agent. He was accused of receiving 300 thousand Mexican pesos each month in exchange for protecting the Zetas Cartel. Like his brother, he was identified in 2016 by former leaders of the Zetas in a Court in San Antonio, Texas, for having received money from the Zetas in exchange for protection and the facilitation of their activities in Coahuila.

64 Online Article: "San Antonio Trial Reveals How Guns, Drugs and Corruption Turned a Mexican Border State into a Graveyard", Sacurrent, August 3, 2016, pp. 4 y 5. Available at: <http://www.sacurrent.com/the-daily/archives/2016/08/03/a-local-trial-reveals-how-guns-drugs-and-corruption-turned-a-mexican-border-state-into-a-graveyardn> (accessed December 19, 2016).

sent Humberto Moreira “a Chevrolet Suburban filled with suitcases of money.” The money was sent to the Beto Cañas estate with the objective of contributing to his gubernatorial campaign<sup>65</sup>.

Humberto Morería Valdés was detained by the Spanish National Police<sup>66</sup> on January 15, 2016, seemingly because of information that the U.S. government had obtained from the trial against Ronaldo González Treviño in San Antonio, Texas.<sup>67</sup> The Spanish Special Prosecutor’s Office for Corruption charged Morería Valdés before the Spanish National Audience with crimes of money laundering, misappropriation of public funds, criminal organization, and bribery. The Examining Magistrate stated, “[...as the charges are not sufficiently justified...] and that [...it is therefore appropriate to declare the provisional dismissal of the judicial proceedings.”<sup>68</sup> For its part, the Mexican government got involved in a scandal after the local Spanish press alleged that it had intervened before the Spanish government to try to secure the release of Moreira Valdés. The Mexican government, speaking through the Secretary of Foreign affairs, has categorically denied such intervention.<sup>69</sup>

Uribe Tapia also stated that they bribed, “the State police, some of the federal police, local police, mayors, and other politicians,”<sup>70</sup> as well as some members of the military.<sup>71</sup> He also indicated that the police were not just paid, but that sometimes they were even completely integrated into the hierarchy of the Zetas Cartel.<sup>72</sup>

According to Humberto Uribe, these bribes allowed the members of the Zetas access to official vehicles and even helicopters,<sup>73</sup> among other things.

Adolfo Efrén Tavira Alvarado<sup>74</sup> stated that they also bought off directors in the Federal Police and some members of the Mexican Army, and that they had agreements with some of the staff of Federal General Prosecutor’s Office.<sup>75</sup> He also testified that the Zetas gradually gained increasing control in the Penitentiary System that was under the prevue of the Secretary of Government.<sup>76</sup>

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65 “Control... over the entire State of Coahuila’: A report on analysed trial testimonies of Zetas members in San Antonio and Austin, Texas.” The University of Texas School of Law Human Rights Clinic (Spring 2017): 43.

66 Twitter Account of the Spanish National Police. January 15, 2016. Available at: <https://twitter.com/policia/status/688051839011565569>.

67 Article online: “Prisión para el expresidente del PRI detenido en Barajas.” January 15, 2016. Available at : [http://www.elespanol.com/espana/20160115/94740553\\_0.html](http://www.elespanol.com/espana/20160115/94740553_0.html).

68 Spain. National Audience (Criminal Chamber, Section 1ª). Case Number: 25/2014 of February 9, 2016. Available at: <http://www.poderjudicial.es/stfls/AUDIENCIA%20NACIONAL/JURISPRUDENCIA/AN%20Jdo.%20Central%20Inst%201%20feb%202016.pdf>

69 Mexico. Secretariat of Foreign Affairs, Comunicado 74 “La Embajada de México en España niega categóricamente haber realizado gestiones para liberar a Humberto Moreira.” Available at: <http://www.gob.mx/sre/prensa/la-embajada-de-mexico-en-espana-niega-categoricamente-haber-realizado-gestiones-para-liberar-a-humberto-moreira-20834>.

70 Testimony of Rodrigo Humberto Uribe Tapia (p. 14-15), investment advisor who laundered assets in Piedras Negras from 2006 to 2011. Uribe Tapia has been a confidential informant for the application of the law since 2009.

71 Testimony of Adolfo Efrén Tavira-Alvarado (p. 102), production manager for Televisa and drug trafficker in Piedras Negras from 2004 to 2013. He turned himself in to the U.S. authorities in 2013.

72 Testimony of Rodrigo Humberto Uribe Tapia (p. 14-15), investment advisor and money launderer in Piedras Negras from 2006 to 2011. Uribe Tapia has been an informant the United States since 2009.

73 Article online: “San Antonio Trial Reveals How Guns, Drugs and Corruption Turned a Mexican Border State into a Graveyard”, op.cit., p. 6.

74 Adolfo Efrén Tavira Alvarado is a member of the Zetas completing a 30 year prison sentence in the U.S. His declaration was given in the trial against Marviano Millán

75 See also, article online: “Marciano Millán Vázquez, el sanguinario miembro de los ‘Los Zetas’ que Estados Unidos declare culpable”, op.cit.

76 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), December 8, 2008. Internal Regulations of the Centers for Social Reintegration in the State of Coahuila.

Today it is also known that, from 2008 forward, the CERESO, operated by the Coahuila government and located in the municipality of Piedras Negras, became a centre of operations for the Zetas.<sup>77</sup> Zeta prisoners entered and left the state prison at a whim, and on the inside, they produced the supplies they needed for their criminal activities (bullet-proof vests, fake police and military uniforms, modified car bodies, etc.)<sup>78</sup> Additionally, the leaders of the group hid inside of the facility when they thought federal forces were pursuing them.<sup>79</sup> Later on, the prison “began to function as a reception centre for the victims of Zeta cells operating in Coahuila,” converting it into an extermination camp. The Zetas dragged their victims to the prison, at least 150 of them. They then tortured them, tore them to pieces, and eliminated them, including using acid and/or fire in steel tanks.<sup>80</sup> Their remains were carried 30 kilometres away by the waters of the San Rodrigo River. Many of the victims were themselves members of the Zetas, some were rivals, others had simply been in the wrong place at the wrong time.<sup>81</sup> Accordingly, “for many years, the prison was a nightmare that experienced what certain Mexican authorities euphemistically call, ‘self government.’”<sup>82</sup> This situation lasted until the end of 2012.<sup>83</sup>

At the beginning of 2016, the then director of the Office of the Assistant Prosecutor for Disappeared Persons announced that the investigation of crimes committed at the State Penitentiary of Piedras Negras was underway and that he would make the results public when they had finished collecting the testimonies of at least eight prisoners recaptured in September 2012. In this way, he affirmed that “what has been determined through investigations is that more than 150 people were imprisoned, taken to the prison, and inside of the prison they were [...] killed, burned, and then their remains were thrown into a river.”<sup>84</sup>

While since 2014 there has been a case underway about the crimes committed in the Cereso, it is surprising that to date, none of the officials who were in charge of the penitentiary system have been involved in the case, including the governors of Coahuila from 2008 to 2012. Similarly, despite the testimonies and trials that have taken place in San Antonio and in Austin, there does not appear to be any investigation open in Mexico regarding the actions of public officials that, according to testimony in U.S. courts, received millions of dollars to collaborate with the Zetas.

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77 See the explanation of Jose Angel Herrera, Current Assistant Prosecutor for Disappeared Persons, <https://www.youtube.com/watch?v=-yVxZ4X7gS4>. Online article, “Los Zetas convirtieron una cárcel en un campo de secuestro y exterminio,” op. cit.

78 Online article, “Los Zetas convirtieron una cárcel en un campo de secuestro y exterminio,” op. cit.

79 See the explanation of Jose Angel Herrera, Current Assistant Prosecutor for Disappeared Persons, <https://www.youtube.com/watch?v=-yVxZ4X7gS4>. Online newspaper article, “Penal de Piedras Negras usado como ‘campo de exterminio’; incineraron a 150 personas”, *Proceso*, February 24, 2016. Available at: <http://www.proceso.com.mx/431257/en-cereso-de-piedras-negras-asesinaron-e-incineraron-al-menos-a-150-personas>, (accessed November 30, 2016). Online article, “Los Zetas convirtieron una cárcel en un campo de secuestro y exterminio,” op. cit.

80 *ibid*

81 “Among the innocent victims are women who were brought to the Cereso to participate in parties that the criminal group organized. There were also five deaf and mute men who arrived at the border to sell their products. Among others, there are two federal policemen and one former federal agent from caminos. The majority of the victims had connections with organized crime and were brought to the Cereso after forty trucks with hit men from Tamulipas arrived to “conduct a cleaning” of their organization in Northern Coahuila, beginning at the end of 2010.” Online article, “Penal de Piedras Negras usado como ‘campo de exterminio’; incineraron a 150 personas”, op. cit.

82 Online article, “Los Zetas convirtieron una cárcel en un campo de secuestro y exterminio”, op. cit.

83 See the explanation of Jose Angel Herrera, Current Assistant Prosecutor for Disappeared Persons, <https://www.youtube.com/watch?v=-yVxZ4X7gS4>.

84 Online article, “El penal de Piedras negras un campo de exterminio en el Estado de Humberto Moreira.” Available at: [http://www.lespanol.com/mundo/20160116/94990523\\_0.html](http://www.lespanol.com/mundo/20160116/94990523_0.html); Online article, “Penal de Piedras Negras usado como ‘campo de exterminio’; incineraron a 150 personas”, op. cit.





Evidence regarding these connections between the Zetas and the authorities has also arisen from the case against the former interim Governor Jorge Torres López. He is a fugitive from the federal government of the United States, accused of money laundering.<sup>85 86</sup>

That connection was fortified through the protection and tolerance of the State Office of the General Prosecutor and later Attorney General, Jesús Torres Charles,<sup>87</sup> among others, thanks to the reforms undertaken under Governor Humberto Moreira.

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85 Online article, "Persigue en Coahuila DEA a Jorge Torres López", Zócalo-Salttillo, February 8, 2016. Available at: <http://www.zocalo.com.mx/seccion/articulo/persigue-en-coahuila-dea-a-jorge-torres-lopez-1454940623> (accessed November 30, 2016).

86 Online article, "'Crímenes de Estado', las desapariciones y muertes de familias en Allende, Coahuila", La Jornada, June 19, 2016. Available at: <http://www.jornada.unam.mx/2016/07/17/politica/015n1pol> (accessed November 30, 2016).

87 Torres Charles, Estado Mayor, Blog de información militar y seguridad nacional, February 20, 2012. Available at: <http://www.estadomayor.mx/737> (accessed November 30, 2016). It is worth noting that the blog 'Estado Mayor' is edited by Isabel Arvide Limón, onetime advisor to Governor Humberto Moreira Valdés. In that sense, the information on the blog could include biased data with the intention of partially "cleaning" the image of the governor in question and attributing responsibility to other political actors from that period.

## Institutional Reforms and the Zetas

In 2009, with a inconsistent attitude, the Governor Humberto Moreira implemented a series of reforms with the alleged objective of fighting the increasing violence, while at the same time he named and increased the powers of public actors who facilitated the crimes committed the Zetas, sometimes with the collaboration of the public forces.

Faced with the exacerbated violence that different regions of Coahuila were experiencing, the Government presented a strategy of public security and anti-corruption. The strategy was called the "Coahuila Model" (2009-2010). That model consisted in assigning leadership positions in the offices of public security, strategic municipalities, and state police to members of the military (in general, members of the military who were on leave or retired). The plan was organized by the leadership of the Military Region,<sup>88</sup> but with direct orders from the Governor.<sup>89</sup> Despite a lack of legal regulation that would give the power to the Governor to designate police chiefs, the Governor did appoint them. Accordingly, the command chain that was used was unique; it did not appear to recognize the military hierarchy, but all of the military leaders (in retirement or on leave) in charge of the police in Coahuila had the same hierarchy, as they were organized by Military Region but directed by the Governor through an advisor.<sup>90</sup> Although the state police (operative and investigatory) were formally under the command of the military, in practice they were operating under the invisible hand of Humberto Torres Charles<sup>91</sup>, brother of Jesús Torres Charles, who years later would be accused by the PGR for his relationship with the Zetas.<sup>92</sup>

The strategy that he proposed was to take control of the leadership of police forces in small municipalities (in terms of population) that abutted the borders with Nuevo León-Tamaulipas, Durango, Chihuahua, and the U.S. border state of Texas. When, as it developed, the Model Strategy did not fulfil its objective, the Governor decided, probably for electoral reasons, to send military commanders to municipalities with higher numbers of inhabitants, to give a sense of security.<sup>93</sup>

Additionally, the strategy involved a process of culling the municipal police through a process known as 'Confidence Control' (control de confianza). The Confidence Control basically consisted of undergoing physical exams and screening for connections with criminal organizations. To

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88 Online article, "El Modelo Coahuila", Estado Mayor, Blog de información militar y seguridad nacional, November 25, 2015. Available at: <http://www.estadomayor.mx/59080> (Accessed November 30, 2016).

89 Torres Charles, Estado Mayor, Blog de información militar y seguridad nacional, February 20, 2012, available at: <http://www.estadomayor.mx/737> (accessed November 30, 2016). During that period, the situation of corruption and impunity within the police corps was aggravated by the presence of Humberto Torres Charles, brother of the Prosecutor Jesús Torres Charles. Humberto Torres Charles, who had been Legal Director of the Health Secretariat, gave protection to drug traffickers and controlled groups of elite police, sending orders as a "chief of chiefs" to the Police Director himself. Online article "Desaparición y muerte en la era de Torres Charles. Fuerzas Unidas por nuestros desaparecidos en Coahuila", Zócalo Saltillo, February 20, 2012. Available at: <http://www.zocalo.com.mx/seccion/articulo/desaparicion-y-muerte-en-la-era-torres-charles> (Accessed November 30, 2016). See also, Humberto Torres Charles, Estado Mayor, Blog de información militar y seguridad nacional, February 22, 2012. Available at: <http://www.estadomayor.mx/730> (accessed November 30, 2016) and <http://www.vanguardia.com.mx/pgrofrece3mdpporhumbertotorrescharleshermanodeexfiscaldecoahuila-1233704.html>

90 Isabel Arvide Limón was the advisor that designed the Coahuila Model. Arvide Limón decried that the model failed because of the tolerance that Humberto Moreira Valdés had for Jesús Torres Charles, who Arvide Limón has accused in numerous occasions of having connections with the Zetas. <https://www.estadomayor.mx/68013>

91 Online article, "Coahuila fue controlado por Los Zetas en tiempos de Humberto Moreira: Arvide", Vanguardia, October 12, 2016. Available at: <http://www.vanguardia.com.mx/articulo/coahuila-fue-controlado-por-los-zetas-en-tiempos-de-humberto-moreira-arvide> (accessed January 14, 2017). And <http://www.estadomayor.mx/68013>

92 Preliminary Criminal Investigation of May 12, 2011, initiated at the Specialized Office for Investigation of Crimes Against Health (UEIDCS) which is part of the Assistant Prosecutor for Specialized Investigations in Organised Crime (SIEDO) APP/PGR/SEIDO/UEIDCS/197/2011

93 Interview with a former bureaucrat under Humberto's administration at that time.

conduct a Confidence Control, members of the municipal police were isolated for days—without judicial oversight—with the justification of ensuring the reliability of the evidence. The individuals that did not pass the exams were fired without any sort of monitoring that would emphasize the risk that they would continue working for the Zetas or join the Zetas if they were not previously affiliated.<sup>94</sup>

Although the Coahuila Model lasted little more than a year (2009-2010) during that time 16 military commanders operated with over 160 soldiers as well as the members of the municipal police under their command. Of those military commanders, ten were in charge of the municipal police forces of Acuña<sup>95</sup>, Arteaga<sup>96</sup>, Matamoros<sup>97</sup>, Monclova<sup>98</sup>, Ramos Arizpe<sup>99</sup>, Parras<sup>100</sup>, Piedras Negras<sup>101</sup>, San Pedro de las Colonias<sup>102</sup>, Saltillo<sup>103</sup> and Torreón.<sup>104</sup> One was in charge of the General Coordination of the State Police,<sup>105</sup> one was in the General Police Directorate,<sup>106</sup> one was the Chief of Staff of the General Coordination,<sup>107</sup> one was in the Operative Coordination of the Coordination of Special Investigations,<sup>108</sup> one in the Deputy Operative Directorate for the State Police,<sup>109</sup> and one in the Undersecretariat of Social Reintegration.<sup>110</sup>

As part of the Coahuila Model operation, in March 2009, Governor Humberto Moreira Valdés also promoted a legal reform in the area of security,<sup>111</sup> which consisted of merging the functions of the State Secretariat of Public Safety and the State General Prosecutor for Justice (hereinafter: PGJE) in a single organ named the Coahuila State Attorney General's Office,<sup>112</sup> which had among its stated responsibilities the "public safety and the pursuit of justice."<sup>113</sup> This Office of the Attorney General was endowed with technical, operative, and financial autonomy, supposedly in order to guarantee its independence.<sup>114</sup> This weakening of the separation of powers created a control

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94 Online article, "Pide SNSP seguimiento a policías cesados", Terra noticias, November 6, 2012. Available at: <https://noticias.terra.com.mx/mexico/pide-snsn-seguimiento-a-policias-cesados,1d8a98e5526da310VgnCLD2000000dc6eb0aRCRD.html> (Accessed March 15, 2017).

95 General for the Diplomatic Division of the Chief of Staff (retired) Ubaldo Ayala Tinoco, May 2009; General Raúl Cadena Negrete, 2010

96 Infantry Major Mario Humberto Zapata Carrillo, 2010.

97 General Juan Carlos Pacheco Rodríguez, 2010.

98 General (retired) Juan Carlos Pacheco Rodríguez, May 2009; Brigade General Juan José Castilla Ramos, end of 2009

99 Lieutenant Colonel Manuel de Jesús Cícero Salazar, May 2009; Coronel Marcelino Salvador Blanco, 2010

100 Air For Lieutenant Colonel (retired) Antonio Ocampo Cortés, June to July 2009; Brigade General Bibiano Villa García, July to December 2009; General José Francisco Castillo Zaragoza, 2010

101 Infantry Colonel (retired) Arturo Navarro López, April 2009. During the 18 days in his post, he was assassinated. Colonel Salvador Méndez Cachú, 2010

102 General Rafael García Barbosa, 2010

103 General Marco Antonio Delegado Talavera, May 2009

104 Brigadier General Bibiano Villa García, December 2009

105 General for the Diplomatic Division of the Chief of Staff (retired) Jesús Ernesto Estrada Bustamante, May 2009

106 Lieutenant Colonel Manuel de Jesús Cícero Salazar, (April) 2010

107 General (retired) Jesús Ernesto Estrada Bustamante, 2010; General for the Diplomatic Division of the Chief of Staff (retired) Ubaldo Ayala Tinoco, 2010

108 Brigade General Juan José Castilla Ramos, May 2009; Major Heriberto Serna Medero, (April) 2010

109 Brigadier General (retired) Rafael García Barboza, August 2009; Coronel Alfonso Flores del Angel, (April) 2010

110 Brigadier General José Luis García Durante, May 2009

111 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Decree 14 of March 16, 2009. Available at: <http://periodico.sfpcoahuila.gob.mx/ArchivosPO/21-EXT-16-MAR-2009.PDF> (accessed January 14, 2017).

112 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Decree 52 of May 12, 2009. Available at: <http://periodico.sfpcoahuila.gob.mx/ArchivosPO/38-PS-12-MAY-2009.PDF> (accessed January 14, 2017).

113 Organic Law on the Attorney General's Office of Coahuila de Zaragoza, Article 1.

114 Organic Law on the Attorney General's Office of Coahuila de Zaragoza, Article 8 and 22

scheme in the areas of public security and pursuit of justice that facilitated impunity. Humberto Moreira named former General Prosecutor Jesús Torres Charles as Attorney General for a period of eight years with the possibility of reappointment for another term.<sup>115</sup>

Not satisfied with just concentrating the responsibilities of public safety and pursuit of justice into one institution, the law was reformed again in June of the same year, to add the control of the penitentiary system. The penitentiary system was previously under the purview of the General Secretariat of Government, through the Decentralized Unit for the Execution of Penalties and Social Reinsertion,<sup>116</sup> which was also under the command of a member of the military.

As previously discussed, although the State Police were under the formal command of members of the military under the Coahuila Model, they operated *de facto* under the command of the Torres Charles brothers, who were appointed by Governor Moreira. In that context, in August 2009, and with the apparent intent of combatting drug trafficking, Jesús Torres Charles, in his role as Attorney General, formed the Immediate Reaction Group (GRI). The group was made up of 64 officials chosen from among 700 candidates. The first generations of those officials were trained by José Ortiz Rodríguez (alias "Odín"), a Spanish Instructor at the Ramos Arizpe Superior Institute of Public Security Studies. An expert fighter from the Spanish army, Ortiz Rodríguez is trained in urban counterterrorism tactics and handling explosives and long arms. Some characterize him as known for his extreme violence and limited dialogue with the cadets.<sup>117</sup> Torres Charles presented the GRI as a security force that should "achieve a decrease in the rates of insecurity and maintain a close collaboration, with the other areas of government, to combat organized crime."<sup>118</sup> In reality, as we will see below, the functioning of the GRI and other special forces groups within the State security apparatus increased crime rates in Coahuila. Consequently, the creation of this type of special group gave way to the appearance of crimes committed directly by the public security forces—such as the GRI—and such crimes continued to increase in subsequent years.

Between 2009 and 2012, cases were reported where the municipal and state police detained residents of Coahuila to then turn them over to the Zetas, allegedly to support the Zetas in their quest for territorial control.<sup>119</sup> Members of the municipal and state police detained victims while acting under colour of law—using patrols as well as official uniforms, weapons, badges, and communication radios—and then turned them over to members of a criminal organization<sup>120</sup>.

In the cases analysed below, we do not refer to cases of forced recruitment, despite this being a very common phenomenon in the timeframe and a possible explanation of some of the disappearances analysed. This phenomenon particularly affects undocumented migrants that pass through the Mexican territory. It has been documented by other recognized authorities, such as the United Nations High Commissioner for Refugees (UNHCR) in their report entitled "Cuaderno sobre secuestro de Migrantes. Dimensión, contexto y testimonios de la experiencia de la migración en tránsito contexto y testimonios de la experiencia de La migración en Tránsito por México."<sup>121</sup> That report contains 33 testimonies about how in the states of Zacatecas, Tamaulipas,

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115 Organic Law on the Attorney General's Office of Coahuila de Zaragoza, Article 66

116 Law on the Execution of Punishments involving Deprivation and Restriction of Liberty for the State of Coahuila, Article 2 (June 18, 2009)

117 Online article, "El escuadrón negro grupo de armas y tácticas especiales", *op. cit.*

118 Online article, "Crean en Coahuila un Grupo de Reacción Inmediata equipado con la más alta tecnología", *Crónica*, August 29, 2009. Available at: <http://www.cronica.com.mx/notas/2009/454558.html> (Accessed November 30, 2016).

119 See Appendices 1 and 2. considera que: : por su parte la procuraduria general ...die macion n le gvt de Calderon.

120 See Appendices 1 and 2.

121 United Nations High Commissioner for Refugees (UNHCR), Cuaderno Sobre Secuestro De Migrantes. Dimensión, Contexto Y Testimonios De La Experiencia De La Migración En Tránsito Por México. Saltillo: Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C.; la Casa del Migrante de Saltillo, 2011.



and Coahuila, the Police permitted, ignored, and/or supported criminal bands such as the Zetas in kidnapping migrants. In some cases, the police even engaged in a sort of pre-selection of those persons who would subsequently be kidnapped by these criminal groups with the goal of getting money from them or their families for their freedom.<sup>122</sup> While they are imprisoned, these migrants are subjected to acts of torture, trafficking in persons, forced labour, and sexual crimes.

The testimonies of members of the Zetas who fled to the United States and were put on trial in San Antonio and Austin, Texas,<sup>123</sup> indicate that the cartel coerced people into working for them by kidnapping them and threatening them with death or the death of their family members.<sup>124</sup> In 2012, when the Zetas cartel freed 130 prisoners from the Cereso prison in Piedras Negras (with full knowledge and support of the local police), the cartel's members require that those prisoners who did not already belong to the organization go to work "patrolling and guarding the Zetas' areas."<sup>125</sup>

In 2010, a time when the Zetas had indisputable power, a crisis of leadership arose in the Gulf Cartel: once the Zetas had been able to achieve territorial control in favour of the Cartel, Zetas members wanted to be leaders of the Gulf Cartel and not just be seen as the cartel's armed branch.<sup>126</sup>

In April 2010, this tension culminated in a rupture between the Gulf Cartel and the Zetas. That rupture contributed to violence in Coahuila, since both groups started fighting to obtain territorial control. In the open war between the Gulf Cartel and the Zetas, the "annihilation of anyone who smelled like the enemy" became the Zetas' strategy.<sup>127</sup> Later, Zeta leader "el Lazca" died in a confrontation with the Navy and his body was mysteriously stolen from a funeral home shortly thereafter.<sup>128</sup>

2010 closed with a terrified population and the Zetas in control of the territory, thanks to the support of the authorities. In areas like Torrejón, several bars were attacked leaving dozens of

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<sup>122</sup> See testimonies 7, 8, 9, 12, 15, 16, 17, 18, 19, 21, 23, 25, 27, 29, 32 y 33 in the Report Cuaderno Sobre Secuestro De Migrantes

<sup>123</sup> See for example, op. cit. University of Texas School of Law Human Rights Clinic, p. 63 Jorge de León Navarro, was kidnapped, threatened, and forced to work for the cartel; in his testimony he describes: they told us that we had to work for someone from the Zetas. The first person who they asked told them that he didn't want to work with them, they responded that was okay, that there wasn't any problem, and then when he turned around they shot him. The testimony of Mario Alfonso Cuellar also confirms that anyone who refused to work for the cartel was assassinated: "In 2007, the Zetas went to Piedras Negras and they started to look for people to work with them, [everyone who responded] to the contrary they killed"

<sup>124</sup> University of Texas School of Law Human Rights Clinic. "Control... over the entire State of Coahuila: A report on analysed trial testimonies of Zetas members in San Antonio and Austin, Texas." 2017. Page 62 y 63

<sup>125</sup> Ibid, p. 63.

<sup>126</sup> Online article, "Z-40, el capo que guisaba a sus enemigos", El País, July 20, 2013, available at: [http://internacional.elpais.com/internacional/2013/07/20/actualidad/1374353027\\_865248.html](http://internacional.elpais.com/internacional/2013/07/20/actualidad/1374353027_865248.html) (accessed November 30, 2016).

<sup>127</sup> Online article, "Así masacraron Los Zetas: 'Cuando se terminó, dormimos normalmente'", op. cit. In the neighbouring state of Tamaulipas, "the Zetas' violence reached its peak in August 2010, when 72 Central American emigrants that had been tortured and killed were found in mass graves in San Fernando (Tamaulipas)." Effectively, "the Zetas and the Gulf Cartel found themselves in open war for control of Tamaulipas, and the strategy of the Zetas of annihilation of anyone who smelled like the enemy was at its most deranged point. In the midst of rumours that the Gulf Cartel was recruiting migrants to fight against them, the Zetas [...], intercepted [...] 72 migrants, imprisoned them in a ranch, and offered them to join their organization." Three said yes, according to the declaration of one of the two only survivors. Next, the Zetas murdered the rest. See, online article, "Z-40, el capo que guisaba a sus enemigos", El País, July 20, 2013, available at: [http://internacional.elpais.com/internacional/2013/07/20/actualidad/1374353027\\_865248.html](http://internacional.elpais.com/internacional/2013/07/20/actualidad/1374353027_865248.html) (accessed November 30, 2016), and Online article, "Así masacraron Los Zetas: 'Cuando se terminó, dormimos normalmente'", op. cit. See also, Centro de Estudios Internacionales de El Colegio de México. Informe "En el desamparo. Los Zetas, el Estado, la sociedad y las víctimas de San Fernando, Tamaulipas (2010) y Allende, Coahuila (2011), Mexico, 2016.

<sup>128</sup> Online article, "Los Zetas convirtieron una cárcel en un campo de secuestro y exterminio", op. cit.

dead,<sup>129</sup> and even private parties began to be attacked by the criminal organization, leaving death in its wake.<sup>130</sup>

In January 2011 Governor Humberto Moreira requested permission from the Coahuila Congress to resign from his position<sup>131</sup> in order to be able to present himself as a candidate to be national president of the PRI party, a position he won in March of that year. As explained above, there are various proceedings against Humberto Moreira for charges of corruption: U.S. federal prosecutors filed a suit to seize a San Antonio, Texas home connected to Humberto Moreira that they argue was purchased with money obtained through bribes.<sup>132</sup> Currently, federal agents are investigating whether Humberto Moreira and his former assistant washed millions of dollars in bribes in the area of San Antonio<sup>133</sup> and abroad<sup>134</sup>.

In 2011, during the departure of Humberto Moreira from his position as Governor, the Zetas demonstrated their disagreement with violent actions carried out in the state capital. These actions took place on the day that his resignation was registered and on the day he was made President of the PRI in March 2011.

## **2011 (January–November): Interim Governor Jorge Juan Torres López<sup>135</sup>**

Jorge Juan Torres López, a member of the PRI party, was named as Interim Governor by the Coahuila Congress for the period of January through November 2011.<sup>136</sup> Additionally, Armando Luna Canales, former Secretary of Government under the government of Humberto Moreira, assumed the role of CDHEC President.<sup>137</sup> During that period violence continued and got worse in Coahuila.

During the months of Torres López's tenure, terror in the population was absolute.<sup>138</sup> Distrust in

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129 Online article, "Cronología Ataques a bares en México", El Universal, August 14, 2012. Available at: <http://archivo.eluniversal.com.mx/notas/864382.html> (accessed January 14, 2017).

130 Online article, "Matan a 17 personas en una quinta en Torreón", El Siglo de Torreón, July 18, 2010. Available at: <https://www.elsiglodetorreon.com.mx/noticia/541357.matan-a-17-personas-en-una-quinta-en-torreon.html> (accessed January 14, 2017).

131 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Decree Number 447 of January 7, 2011. Available at: <http://periodico.sfpcoahuila.gob.mx/ArchivosPO/02-PS-07-ENE-2011.PDF> (accessed January 14, 2017).

132 Online article, <http://www.mysanantonio.com/news/local/article/San-Antonio-house-seized-as-part-of-Coahuila-10955041.php#item-38489>

133 Online article, Detallan relación entre Moreira y Zetas, El Norte, July 25, 2016. Available at: <http://www.elnorte.com/aplicacioneslibre/articulo/default.aspx?id=900227&v=10&md5=c58d7af01347fab352657a711c6bca80&ta=0dfdbac11765226904c16cb9ad1b2efe> (accessed December 19, 2016). See also, online article, "Trial offered inside look at a violent, bloody cartel," San Antonio Express-News, July 23, 2016. Available at: <http://www.expressnews.com/news/local/article/Trial-offered-inside-look-at-a-violent-bloody-8405250.php> (accessed December 19, 2016).

134 [http://internacional.elpais.com/internacional/2017/05/16/mexico/1494958532\\_294235.html](http://internacional.elpais.com/internacional/2017/05/16/mexico/1494958532_294235.html)

135 Previously, Jorge Torres López acted as Saltillo Comptroller (2003-2005), Secretary of Finance of the State Government of Coahuila (2005-2007), Mayor of Saltillo (2008-2009), and as Secretary of Social Development of the State Government of Coahuila (2010). He is wanted by the DEA for conspiracy to commit money laundering, see: <http://www.proceso.com.mx/429213/jorge-torres-lopez-exgobernador-de-coahuila-entre-los-mas-buscados-por-la-dea>

136 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Decree Number 448 of January 7, 2011. Available at: <http://periodico.sfpcoahuila.gob.mx/ArchivosPO/02-PS-07-ENE-2011.PDF> (accessed January 14, 2017).

137 The president of the CDHEC is nominated by the Governor and appointed by the local Congress.

138 Online article, "Terror por balacera en Torrelit en Saltillo" El Diario de Coahuila, November 2, 2011. Available at: <http://www.eldiariodecoahuila.com.mx/locales/policiaca/2011/11/2/terror-balacera-torrelit-salttillo-261340.html> (accessed march 15, 2017). See also online article "Terror en Allende, Coahuila Fotos...", La Policiaca, April 21, 2011. Available at: <http://www.lapoliciaca.com/nota-roja/terror-en-allende-coahuila-fotos/> (accessed March 15, 2017).



the police forces, which collaborated closely with the Zetas, generated a state of uncertainty in the population. Detention by the police could end in being turned over to the criminal group. In that context, the army and security forces were on the streets all the time, supposedly carrying out joint operations to combat organized crime in different population centres.<sup>139</sup> Testimonies reported people running in the streets to avoid being targeted by bullets. According to the citizens of Coahuila, corpses were everywhere.<sup>140</sup>



## The « Allende Massacre »

In this massacre, almost no effort has been made to clean up the scenes of the crimes. Entire blocks still lie in ruins. Strwn in the rubble are remnants of lives that came to a violent end.  
 © Kirsten Luce/ National Geographic. From the July issue of National Geographic, co-published with ProPublica:  
<http://www.nationalgeographic.com/magazine/2017/07/making-of-a-massacre-mexico/>,  
<https://www.propublica.org/article/allende-zetas-cartel-massacre-and-the-us-dea>

In this period, it is important to mention that in March 2011 the “Allende Massacre”<sup>141</sup> took place in the municipality of Allende and neighbouring areas,<sup>142</sup> apparently as a strategy of revenge . Héctor Moreno Villanueva, the son of a wealthy family, and his partner, José Luis Garza Gaytán, had trafficked for Miguel Ángel Treviño Morales (alias “Z-40”), leader of the Zetas, by laundering money through buying horses.<sup>143</sup> Both fell into disgrace, and Moreno allegedly began to act as

<sup>139</sup> Online article: “Retoman operativos el Ejército y policías”, El Siglo de Torreón, January 26, 2011. Available at: <https://www.elsiglodetorreon.com.mx/noticia/594607.retoman-operativos-el-ejercito-y-policias.html>

<sup>140</sup> Interviews with victims and NGOs in 2016.

<sup>141</sup> Regarding this specific case, the authors know of a communication presented by a Mexican citizen to the Office of the Prosecutor of the ICC on July 12, 2016, entitled “Report of Incidents Constituting Crimes Against Humanity.”

<sup>142</sup> This city forms part of a region known as “The 5 Springs” (“Los 5 Manantiales”), which is made up of Allende, Morelos, Nava, Villa Unión, and Zaragoza and so-named because each of those municipalities has a natural water source.

<sup>143</sup> In his declarations to the American courts, this local leader recognized that every month he brought 800 kilograms of cocaine to the United States and that every ten days he sent Treviño four million collars. Online article, “Silencio,

an informant to the Drug Enforcement Administration (hereinafter: DEA) and someone told Z-40. Moreno fled with the earnings (between five and eight million U.S. dollars) north of the Río Bravo, and later Garza Gaytán followed him. It was then that Z-40 and his brother (alias "Z-42") decided to implement their revenge. On March 18, 2011, some forty trucks filled with armed men with their faces covered took over Allende in search of relatives of Moreno and Garza, with the direct participation or support of the Allende municipal police.<sup>144</sup> At that time the Zetas already had 20 members of the Allende Police at their service.<sup>145</sup>

Among those kidnapped were entire families, with men, women, elderly persons, and children. The crimes lasted several days and, according to the testimony of Moreno himself, also included incidents in Piedras Negras, Múzquiz, and Sabina. The Zetas called for pillaging and the houses were vandalised, shot at, and finally rammed with bulldozers in the view of the whole town. All of this occurred publically, and neither the police nor government authorities did anything to stop it. "No one intervened, no one confronted the hit men as they pulled dozens of families out of their homes and carried them off by force to complete their terrible revenge."<sup>146</sup> To the contrary, other testimonies recount the collaboration of the security forces.<sup>147</sup> According to subsequent statements by members of the Zetas and the neighbours' story, between 200 and 300 persons were disappeared and 10,000 fled. What is more, between 32 and 70 properties were ruined.<sup>148</sup> Our organizations maintain that according to the stories and the destroyed properties, at least 100 people were disappeared. For its part, the PGJE formally recognizes 23 victims, but its files on the case have information about 42 disappeared persons.<sup>149</sup> Recently an article was published in Propublica and National Geographic that estimated that around 60 people were identified as missing or dead in the Allende Massacre.<sup>150</sup> Consequently, the final number of victims of the massacre remains uncertain.

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aquí se mata", op. cit.

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145 Centro de Estudios Internacionales de El Colegio de México. Informe "En el desamparo. Los Zetas, el Estado, la sociedad y las víctimas de San Fernando, Tamaulipas (2010) y Allende, Coahuila (2011), op. cit., p. 13. Then Public Prosecutor of Coahuila, Claudia González López, to whom the investigation on the massacre was assigned, was even dismissed from her post a year after the massacre when it was discovered that she gave protection to the Zetas. Online newspaper article, "Silencio, aquí se mata", op. cit.

146 Online article, Ginger Thompson. How the U.S. Triggered a Massacre in Mexico, Propublica y National Geographic, June 12, 2017, <https://www.propublica.org/article/allende-zetas-cartel-masacre-y-la-dea>; "Silencio, aquí se mata", op. cit. See also, Fotogalería "Las ruinas de Allende", El País, July 6, 2014. Available at: [http://internacional.elpais.com/internacional/2014/07/06/album/1404601632\\_325117.html#1404601632\\_325117\\_1404601798](http://internacional.elpais.com/internacional/2014/07/06/album/1404601632_325117.html#1404601632_325117_1404601798) (accessed November 30, 2016).

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145 According to the report of the Centro de Estudios Internacionales at the Colegio de México, « the first time that they found indications that the Municipal Police had not just been failing to act, but rather that they had participated directly in the incidents, was June 13, 2014. That day, the Office of the Assistant Prosecutor for Investigation and Search for Missing Persons and Services for Victims, Wronged persons, and Witnesses was informed that of the detention of a person named PP2 by the GATES. In his declaration, on that same date, PP2 indicated that various members of the Zetas had gone to the V1 and that, with the help of two municipal police officials—PP3 and PP4—they removed him, his wife and one of their children, to later taken them in a squad car. The participation of those two police officers is pointed out again on June 28, 2014, in the testimony of PP5, commander of Municipal Public Security in Allende during the period of 2010 to 2013. PP5 confirms that he informed the director, but did not do anything because he was threatened. Similarly, on July 22, 2014, T3—a municipal police officer active as of March 2011—stated in his testimony that one month after the incidents, a police officer named PP18 told him that he and PP3 had taken victims V1, V2, V3 y V4, and that they had turned them over to the Zetas." Centro de Estudios Internacionales de El Colegio de México. Informe "En el desamparo. Los Zetas, el Estado, la sociedad y las víctimas de San Fernando, Tamaulipas (2010) y Allende, Coahuila (2011), op. cit., Appendix 6, pp. 4, 17-22.

148 Online article, "Silencio, aquí se mata", op. cit.

149 Centro de Estudios Internacionales de El Colegio de México. Informe "En el desamparo. Los Zetas, el Estado, la sociedad y las víctimas de San Fernando, Tamaulipas (2010) y Allende, Coahuila (2011), op. cit., p. 13. There they indicate that although the PGR only recognized 23 disappeared persons, the dossier has 42.

150 Cfr. Ginger Thompson. How the U.S. Triggered a Massacre in Mexico, Propublica y National Geographic, June 12, 2017, <https://www.propublica.org/article/allende-zetas-cartel-masacre-y-la-dea>.

In March 2011 the Special Prosecutor's Office for the investigation of Missing Persons' Affairs was created, with the authority to investigate and prosecute crimes in connection with the disappearance of a person.<sup>151</sup> Although the Delegates of the State Attorney General's Office had the obligation to designate "an Agent of the Public Prosecutor's Office to receive complaints that were presented in relation to the disappearance of a person in the regions of the State falling under their jurisdiction, and to immediately inform the Special Prosecutor and initiate the investigation of the facts,"<sup>152</sup> that chain of events did not come to pass with regards to the Allende Massacre, since it is known that an investigation began only three years later. Some time later, Jesús Torres Charles declared that they initiated "an investigation because of the complaint of one person and as a result they accumulated several more [complaints]." According to Torres Charles, "as soon as they had indications that it was a criminal organization [...] they had to inform the PGR because they had jurisdiction to investigate in that area."<sup>153</sup> Nevertheless there is information that that investigation has only registered one witness, one site visit, and the indignation of the population.<sup>154</sup>

In 2014, as the power of the Zetas declined, the first terrifying reconstructions of the "Allende Massacre" occurred. The Coahuila government conducted an operation with 250 agents, including federal agents and members of the military, in order to locate mass graves and incineration sites. Supposedly, the bones of 300 persons were discovered on the ranch of Luis Garza Gaytán.<sup>155</sup> The then Assistant Prosecutor for Disappeared Persons, Juan José Yáñez Arreola,<sup>156</sup> announced that more than 4000 bone fragments were found. Nevertheless, according to some the exhumations were undertaken without respect for the minimum requirements of forensic anthropology, for example in the use of heavy vehicles. Other irregularities occurred in the process, generating the indignation of various organizations. For example, the government first stated that it was impossible to do a genetic comparison with the remains, and, nevertheless, later announced that it had delivered human remains to six families. Subsequently, the Assistant Prosecutor for Disappeared Persons acknowledged in a statement recorded by the aforementioned civil society organizations that what was delivered to those families was just soil and not ashes.<sup>157</sup>

The Government recently reported that the Assistant Prosecutor for Disappeared Persons, in the context of the investigations related to Preliminary Criminal Finding No. 045/2012, "has succeeded in identifying 23 (really 42) victims that were deprived of their lives and whose bodies were incinerated, as well as three additional people who were subsequently disappeared."<sup>158</sup> Likewise,

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151 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Agreement by which the Special Prosecutor to Investigate Disappeared Persons' Affairs was created, published April 20, 2011.

152 Agreement on the Creation of the Special Prosecutor to Investigate Disappeared Persons' Affairs, Article 9.

153 Online article, PGR supo con "oportunidad" de 'levantones' en Allende, Coahuila: ex fiscal, La Jornada, May 15, 2014. Available at: <http://www.jornada.unam.mx/ultimas/2014/05/15/pgr-supos-con-oportunidad-de-levantones-en-allende-coahuila-ex-fiscal-5064.html> (accessed January 14, 2017), <http://www.zocalo.com.mx/seccion/articulo/pgr-si-supos-de-fosas-en-allende-jesus-torres-charles-1400131882>

154 COLMEX Report, op. cit.

155 Online article, "Silencio, aquí se mata", op. cit.

156 The State Congress designated Juan José Yáñez Arreola as an appointed judge on the Superior Court of justice, and he will be in that position for 15 years. "Nombran a Juan José Sánchez Arreola como magistrado del TSJ", Zócalo Saltillo, March 3, 2016. Available at: <http://www.zocalo.com.mx/seccion/articulo/nombran-a-juan-jose-yanez-arreola-como-magistrado-del-tsj-1457028851>, a 1 de octubre de 2016.

157 See appendix 7, Interview with the Representatives of Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas. See also, <http://www.jornada.unam.mx/2016/07/17/politica/015n1pol>.

158 Response of the State of Coahuila to the Report, "Undeniable Atrocities: Confronting Crimes against Humanity in Mexico"-published by Open Society Foundations (OSF), and Synthesis of Information on Actions Realized in the Area of Public security, Pursuit of Justice, Disappearance of persons and diverse topics in Human Rights, p. 10. According

he stated that they had “confirmed the culpability of fourteen individuals, of whom 7 belonged to the Zetas and seven were part of the Municipal Public Security Directorate of Allende, Coahuila. [They] were remanded on March 5, 2015 in the Second Criminal Court of the First Instance in Criminal Matters of the Rio Grande Judicial District in Piedras Negras, Coahuila.” According to the government, “of those individuals, nine have been detained.”<sup>159</sup> Nonetheless, victims’ organizations question the lack of an official list of those disappeared or killed, as well as the fact that the government has not offered an official detailed account of the tragedy in Allende.<sup>160</sup>

In November 2011, the Accredited State Police (PEA) emerged as a new security force “to strengthen the security forces” of the State.<sup>161</sup> From the moment the PEA appeared on the scene, there began to be reports of crimes committed by that force, which—unlike the municipal police—has jurisdiction all over the State and, accordingly, depends economically and operatively on the State government.<sup>162</sup>

Today, Torres López is a fugitive wanted for money laundering and other crimes connected to the Zetas.<sup>163</sup>

## **From 2011 through today: Governor Rubén Ignacio Moreira Valdés<sup>164</sup>**

Rubén Ignacio Moreira Valdés was elected Coahuila Government, running on the PRI’s ticket, for the 2011 – 2017 term.<sup>165</sup> His brother, Humberto Moreira, was already national president for the PRI. Between 2012 and 2015, Armando Luna Canales also again had a public position, as Government Secretary of Coahuila.<sup>166</sup>

Moreira Valdés entered office with a discourse about distancing himself from the previous administration and even make strong statements regarding the control that organized crime exercised over the government. “We were at the point—if it hadn’t already transpired—where the

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to that document, while it initially a figure of 27 disappeared victims was considered, it also has to consider many people who “fled from the place upon hearing that the perpetrators of those terrible acts, members of the Zetas, looked for the family members of Alfonso Villanueva and José Luis Garza, many of them going to the United States since they already had a visa or nationality from that country, others moved to other cities in Coahuila or Mexico.” Response of the State of Coahuila of Zaragoza to the Report; “Undeniable Atrocities...”. op. cit., p. 12.

159 Response of the State of Coahuila of Zaragoza to the Report; “Undeniable Atrocities...”. op. cit., p. 11.

160 Online article, “Silencio, aquí se mata”, op. cit.

161 Online article, “Coahuila tendrá Policía Estatal Acreditada”, Excelsior, November 20, 2011. Available at: <http://www.excelsior.com.mx/2011/11/20/nacional/785645> (accessed November 30, 2016).

162 Interview with representatives from the Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas.

163 <http://www.proceso.com.mx/429213/jorge-torres-lopez-exgobernador-de-coahuila-entre-los-mas-buscados-por-la-dea>. See also this article from June 2017 (serving to provide context): <http://www.sinembargo.mx/06-06-2017/3234276>

Jorge Torres López, Interim Governor of Coahuila in 2011 and member of the PRI: In 2013 he was reported to the PGR for the crime of money laundering in the United States, he is under investigation for management of resources of illicit origins in connection to USD \$26 million. He is also connected to the case of Dragon King Luis Carlos Castillo Cervantes, under investigation for money laundering and for bribing former governors, who was released in May 2017.

164 Previously, Rubén Moreira Valdés acted as Under Secretary for Educational Planning in the Secretariat of Public Education in the State of Coahuila (2003-2005), Under Secretary for Political Issues in the Coahuila Secretary of Government (2005-2007). In addition to acting as President of the State PRI Committee (2007-2010), he was also a Federal Congressional Representative (disputado) and, in that role, President of the Human Rights Commission and member of the Commissions for culture and National Defense (2009-2010).

165 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Decree 561 of December 2, 2011. Available at: <http://periodico.sfpcoahuila.gob.mx/ArchivosPO/96-SS-02-DIC-2011.PDF> (accessed January 14, 2017).

166 Subsequently, Armando Luna Canales was elected a Federal Congressional Representative (disputado) (2015-2018) and, as such, he undertook the role of President of the Human Rights Commission, and members of the Commissions of Justice and of Constitutional Topics.



government would no longer have the monopoly of power, and rather criminal elements would have it." <sup>167</sup> Despite that discourse, his administration has been defined by a inconsistency, with positive reforms for human rights protection and, at the same time, an absence of legal proceedings against high ranking public servants who form part of criminal organizations, and the creation of various special forces groups that have become a source of serious human rights violations.

## Reforms and State Structure

The first action that Rubén Moreira Valdés undertook as Governor of Coahuila was to ask Congress to confirm the polemical Jesús Torres Charles as State Attorney General,<sup>168</sup> without regard for the repeated indications of his connections to the Zetas and without having accredited the PGR's Confidence Control tests.<sup>169</sup> This first act suggests continuity with the previous administration in the area of security. In December 2011, the controversial Jesús Torres Charles left the position of Attorney General to be named State Legal Counsel,<sup>170</sup> a position that had not previously existed in the government's institutional structure and, it is said, was created specifically for him.<sup>171</sup> Nevertheless, in February 2012, amidst a corruption scandal about a corruption network where the Zetas paid millions of dollars in "wages" to Army officials, the PGR, and special agents of the Coahuila Attorney General's Office, Governor Rubén Moreira announced that Jesús Torres Charles had resigned.<sup>172</sup> Until February 2014, the presence Torres Charles in the government marked the most violent period in the history of Coahuila, when drug trafficking grew dramatically and the highest number of Coahuila residents were disappeared, and many crimes remained in impunity.<sup>173</sup>

As part of his discourse of a fight against the Zetas, Rubén Moreira Valdés has tried to cut off—at least in terms of appearances—any relationship with his brother in terms of previous

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167 Online article, Rubén Moreira admite que su hermano avaló poder del narco en Coahuila, *Aristegui Noticias*, November 27, 2013. Available at: <http://m.aristeginoticias.com/2711/mexico/ruben-moreira-admite-que-su-hermano-avalopoder-del-narco-en-coahuila> (accessed January 14, 2017). The original article was published by the *Diario Vanguardia* but is no longer available online.

168 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Decree 562 of December 2, 2011. Available at: <http://periodico.sfpcoahuila.gob.mx/ArchivosPO/96-SS-02-DIC-2011.PDF> (accessed January 14, 2017).

169 Online article, "Torres Charles fue fiscal pese haber reprobado exámenes de confianza," *Vanguardia*, October 13, 2015. Available at: <http://www.vanguardia.com.mx/articulo/torres-charles-fue-fiscal-pese-haber-reprobado-examenes-de-confianza> al 14 enero 2017. See also, *Jefes en los estados reprueban en control y confianza de PGR*, 24 horas, 12 octubre 2015. Available at: <http://www.24-horas.mx/jefes-en-los-estados-reprueban-en-control-y-confianza-de-pgr/> (accessed January 14, 2017).

170 Online article, "Pide licencia fiscal general de Coahuila," *Azteca Noticias*, December 18, 2011. Available at: <http://www.aztecanoticias.com.mx/notas/estados/87381/pide-licencia-fiscal-general-de-coahuila> (accessed January 14, 2017).

171 Official Newspaper of the State of Coahuila de Zaragoza (Periódico Oficial del Estado de Coahuila de Zaragoza), Decree 547, Organic Law of the Public Administration of the State of Coahuila de Zaragoza, which creates the Office of Legal Council, November 30, 2011. Available at: <http://periodico.sfpcoahuila.gob.mx/ArchivosPO/95-EXT-30-NOV-2011.PDF> (accessed January 14, 2015). Online article, "El ex Fiscal y ex Consejero Jurídico de Coahuila, vinculado a Los Zetas, se hizo al amparo de los Moreira", *Sinembargo.mx*, February 20, 2012. Available at: <http://www.sinembargo.mx/20-02-2012/155890> (accessed November 20, 2016).

172 Online article, "Tumba narcoescándalo a Jesús Torres Charles", *Zócalo Saltillo*, February 20, 2016. Available at: <http://www.zocalo.com.mx/seccion/articulo/tumba-narcoescandalo-a-jesus-torres-charles> (accessed November 30, 2016).

173 During the administration of Torres Charles, the homicide rate increased. By November of 2011 there had been 676 homicides that year, 66% more than in all of 2010 (407) and 181% more than the total number registered in 2009 (240), according to the statistics of the National System for Public Safety (SNSP). Online article, "Tumba narcoescándalo a Jesús Torres Charles", op. cit. See also, online article, "Desaparición y muerte en la era de Torres Charles. Fuerzas Unidas por nuestros desaparecidos en Coahuila", op. cit. Despite this, Torres Charles was exonerated by a federal judge.



public security policies.<sup>174</sup> He also reactivated the investigation into the "Allende Massacre" and in response to the demands of the families of disappeared persons he created the Office of the Assistant Prosecutor for Disappeared Persons.<sup>175</sup>

In early 2012, in response to an initiative by Governor Rubén Moreira before the State Congress, the State Attorney General's Office was eliminated in order to return to the previous framework, with a separate General Prosecutor's Office for Justice and Secretariat of Public Safety. In that same year the Governor proposed that the crime of enforced disappearance be included in the Penal Code. Nevertheless, civil society organizations argue that his proposal did "did not comply" with the standards of international law in the area of human rights and demonstrated the lack of commitment on the part of the executive and the legislature to the families of disappeared persons and [...] the validity of human rights in the State.<sup>176</sup> At the insistence of the Autonomous Working Group (hereinafter: GAT)<sup>177</sup> on the shortcomings of the norm, it was revised in November 2013 and subject to a series of reforms in May 2014.

In July 2014, the Law to Prevent and Punish Torture in the State of Coahuila de Zaragoza was published.<sup>178</sup> According to the government, that "set of laws has generated the commission of actions geared to institute [...] permanent programs and procedures to promote or foster a proper protection of persons preventing and combating torture."<sup>179</sup>

### Special Forces

In 2011, under the same logic as the GRI, the Specialized Weapons and Tactics Group (hereinafter: GATE) was created,<sup>180</sup> supposedly to "undertake operations against organized crime in coordination with the federal and military authorities," under the training of former soldiers from the Special Forces Airmobile Group (hereinafter: GAFE), an elite unit of the Mexican Army.

The legitimacy of this group was questioned since its origins, due to the absence of an organic law to clearly regulate its creation, organization, and functions.<sup>181</sup> This base irregularity allowed the GATE to become a principal violator of individual rights in the state, always under the pretext

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174 Interview with representatives of Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas.

175 Online article, "Silencio, aquí se mata", op. cit.

176 Online article by the Comité de Familiares de Detenidos Desaparecidos ¡Hasta encontrarlos!, "Tipifican a medias la 'desaparición forzada' en Coahuila", March 3, 2012. Available at: [http://hastaencontrarlos.org/spip.php?article693&debut\\_article\\_rubrique\\_date=250, a 307 de noviembre de 2016](http://hastaencontrarlos.org/spip.php?article693&debut_article_rubrique_date=250, a 307 de noviembre de 2016).

177 The GAT is an autonomous group, made up of experts, members of civil society, academics, and the Office of the U.N. High Commissioner of Human Rights in Mexico, with the goal of identifying, clarifying, collaborating, and evaluating the actions that the State government undertakes to comply with the recommendations made by the U.N. Committee on Enforced Disappearances. It was created through an agreement with the families of the disappeared that form part of the Fundem and Governor Rubén Moreira

178 Law to Prevent and Punish Torture in the State of Coahuila de Zaragoza, Issue June 10, 2014 and published July 11, 2014. Available at: <http://cdhec.org.mx/archivos/pdf/ley%20para%20prevenir%20y%20sancionar%20la%20tortura.pdf> (accessed November 30, 2016).

179 Response of the State of Coahuila of Zaragoza to the Report; "Undeniable Atrocities...". op. cit., p. 24.

180 See, online article, "El escuadrón negro grupo de armas y tácticas especiales", op. cit.

181 This situation was widely questioned by civil society organizations, the inconformity is emphasized in a registered complaint with the CNDH and in the Amparo in Appendix 8. Both of these argued that if the state law established that a special group of that nature should be formed, that should be as under the command of the Director of Police Operatives, something that has never come to pass. See, online article, "Denunciarán ante la OEA a grupo de élite de Coahuila", Milenio.com, April 1, 2014. Available at: [http://www.milenio.com/policia/Denunciaran-OEA-grupo-elite-Coahuila\\_0\\_272972747.html](http://www.milenio.com/policia/Denunciaran-OEA-grupo-elite-Coahuila_0_272972747.html) (accessed November 30, 2016). According to his recount, it was the director of the State Security Commission that was in charge of the coordination and operation of the Operative Police, of the Accredited Police Force (PEA) of the team of penitentiary guards and of the GATE. See, online article, "Ratifican nombramiento del comisionado de seguridad", Diario Digital Sureste, August 20, 2013. Available at: <http://www.infonor.com.mx/index.php/sureste/6/54823-ratifican-nombramiento-de-comisionado-de-seguridad> (Accessed November 30, 2016).

of acting within the framework of the so-called "War on Drugs." According to CDHEC records, ever since the beginning of the GATE's operations complaints were presented against the group for violations of human rights (enforced disappearance, arbitrary detention, illegal detention, intimidation and injuries, threats, burglary, improperly benefitting from public service, isolation, robbery). Despite these complaints, local authorities were unable to get the group to adhere to the substance of the law.<sup>182</sup> Only in June 2014 was the Organic Law of the State Security Commission of Coahuila issued, which regulated the creation of the GATE,<sup>183</sup> still without specifying its functions and organization.

Until July 2012, at the municipal level, the Municipal Specialized Weapons and Tactics Groups (hereinafter: GATEM) and/or the GRUPO ÉLITE were created and positioned. Meanwhile, in other parts of the state, such as the capital of Saltillo, the Response and Mixed Operations Group (hereinafter: GROM) arose, which depended administratively on the municipalities and operationally on the GATE, through the State Security Commission.<sup>184</sup>

In 2012, the then State Police Commissioner, Rubén Delgado Sánchez, went so far as to recognize that the GATEM did not record the entry and exit of detainees, "because detainees only remained in their base of operations for the time it took to complete the paperwork on availability."<sup>185</sup> All of this to justify the practice of indiscriminate deprivation of physical liberty put into place by these special groups, which often leads to cases of torture and/or enforced disappearance of persons, as we will see below.

What is more, that year, there was more and more evidence of the contradiction between the legality of the creation of the new security forces and the way that they acted de facto. The declarations of some of the highest-ranking authorities in Coahuila make this clear:

- The Director of Public Security of Piedras Negras, the Army Infantry Major José Antonio Campa Arredondo, indicated that the Directorate under his control, "only provides the necessary support so that the [members of the GATE] can carry out their daily work," for example, providing official institutional vehicles, uniforms, gasoline, food, etc. According to Campo Arredondo, GATE's command operative was directed by Commander Eduardo Hernández González, who only received orders from Commander Héctor Flores, who in turn was the state level GATE commander, subordinate to the State government. Therefore, according to the Director of Public Security of Piedras Negras, the GATE acted with orders

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<sup>182</sup> According to the statistics of the CDHEC, in 2012 14 complaints against the GATE were filed, a number that increased impressively in 2013 to 118. In 2014, 133 were reported, and by September 2015, 56 complaints had already been filed. Accordingly, since 2012, the CDHEC has received 321 against the GATE. Online article, "El doble infierno de los GATES en Coahuila", Milenio Diario, May 31, 2015. Available at: [http://www.milenio.com/policia/gates\\_fuerza\\_especial\\_coahuila-baja\\_delincuencia\\_coahuila-gates\\_0\\_527347516.html](http://www.milenio.com/policia/gates_fuerza_especial_coahuila-baja_delincuencia_coahuila-gates_0_527347516.html) (accessed November 30, 2016). On February 6, 2015, Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas held a press conference where they denounced the Governor of Coahuila for covering the police group GATE for its excesses, detentions, and disappearances that it committed in Coahuila. According to the organization, the GATE, pushed by the State government, had a connection to at least 95 Enforced Disappearances and complaints at the CNDH for torture to frame people for crimes. Online article, "Denunciarán ante la OEA a grupo de élite de Coahuila", op. cit.

<sup>183</sup> Organic Law of the State Security Commission of Coahuila de Zaragoza of May 22, 2014, published June 10, 2014. Available at: <http://201.144.124.181:8080/ces/Empresas/005%20-%20Ley%20Org%C3%A1nica%20de%20la%20Comisi%C3%B3n%20Estatad%20de%20Seguridad%20del%20Estado%20de%20Coahuila%20de%20Zaragoza.pdf> (Accessed November 30, 2016).

<sup>184</sup> Interview with the Special Commissioner for Security, Captain Hugo Eduardo Gutiérrez Rodríguez, in online article, "GATES, policías de élite que combaten narcos en Coahuila, bajan la delincuencia...", Milenio Diario, May 30, 2015. Available at: [http://www.milenio.com/policia/gates\\_fuerza\\_especial\\_coahuila-baja\\_delincuencia\\_coahuila-gates\\_0\\_526747678.html](http://www.milenio.com/policia/gates_fuerza_especial_coahuila-baja_delincuencia_coahuila-gates_0_526747678.html), (Accessed November 30, 2016).

<sup>185</sup> See Appendix 8, Amparo 692 "Gates: permiso para secuestrar", op. cit., pp. 30-31.

and information from said Commander Flores.<sup>186</sup>

- The General Legal Director of the State Security Commission, Jesús Alberto Rodríguez Cantú, indicated to a judge that his office “was not hierarchically superior to the special forces, given that there was not an Organic Law that designated that.”<sup>187</sup>

- The then Secretary of Government, Armando Luna Canales, “admitted that his office was responsible for the GATE through the [State Security Commission].” Nonetheless, his response also made it clear that that group had been operating irregularly. Luna Canales told a judge that “in accordance with the Organic Law of Public Administration of Coahuila, the Secretary of Government assists in the [State Security Commission], which exercises hierarchical command powers over the group in question (GATE)”, and specified that the person responsible for the State Public Security Commission was Ricardo Aguirre Cuéllar, whose appointment as commissioner had just been submitted by the governor to the State Congress for its approval.<sup>188</sup>

The result was “an increase in human rights violations, and above all in cases of disappeared detainees.”<sup>189</sup>

In March 2016, in the midst of new scandals regarding the crimes committed by the special forces, all special forces were dissolved. That month, the “Coahuila Force” was created as a single state police that would bring together the different former police forces.<sup>190</sup> In that context, the so-called “Control and Confidence Examinations” would be carried out, including internal tests in the security forces so that members of other security forces could transfer to be part of the new “Coahuila Force.” For human rights organizations in Coahuila, this shift represents only a simple change in name to “clean” the image of the security forces, given that the same people who formed part of the municipal police, the Accredited State Police (PEA), the GRI, the GATE, the GATEM and/or the GRUPO ÉLITE, and the GROM—including their high-ranking commanders—now would form part of the “Coahuila Force.”<sup>191</sup> Presently, crimes committed by the new security forces are reported.<sup>192</sup>

## The Weakening of the Zetas

In 2012, the federal military forces attacked the Zetas. On September 17 the authorities announced the alleged escape of 132 prisoners from the Piedras Negras CERESO, the majority of them

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186 “Gates: permiso para secuestrar”, op. cit., p. 30.

187 “Gates: permiso para secuestrar”, op. cit., pp. 30-31.

188 The State Congress approved this nomination until August 20, 2013, three weeks after the Moreira administration told a federal judge that Aguirre Cuéllar was already responsible for the State Security Commission. “Gates: permiso para secuestrar”, op. cit., pp. 30-31.

189 See Appendix 8, Amparo 692 “Gates: Permiso para secuestrar”, Revista Proceso, February 1, 2015, p. 29.

190 The Coahuila Force has five specialized groups: 1) Reaction Group; 2) Preventative Police Group; 3) Social Closeness Group; 4) Procedural Police Group (which contributed to the new criminal justice system) and 5) penitentiary guard group.. Response of the State of Coahuila of Zaragoza to the Report; “Undeniable Atrocities...”. op. cit., p. 25. See also, Institutional Video of the Government of Coahuila, “Fuerza Coahuila, protección y justicia”, March 2016. Available at: <https://www.youtube.com/watch?v=ao3YVe1XAjk> (accessed November 30, 2016). Youtube Video, #Comparecencia In Coahuila 21 municipalities operate under the Unified Command minute 00:30. Available at: <https://www.youtube.com/watch?v=ETLw7xFDLVs> (accessed April 4, 2017).

191 Interview with representatives of Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas.

192 Online article, “Acusa a Fuerza Coahuila de extorsión, amenazas y tortura”, Zócalo Saltillo, June 8, 2016. Available at: <http://www.zocalo.com.mx/seccion/articulo/acusa-a-fuerza-coahuila-de-extorsion-amenazas-y-tortura-1465351606> (accessed November 30, 2016). See also online article, “Norteamericana acusa a Fuerza Coahuila de privación ilegal y tortura”, Vanguardia, July 26, 2016. Available at: <http://www.vanguardia.com.mx/articulo/norteamericana-acusa-fuerza-coahuila-de-privacion-ilegal-y-tortura> (accessed November 30, 2016).

members of the zetas. They probably left the prison or were forcibly recruited to the Zetas in order to defend the criminal organization to defend against attacks from the federal forces.<sup>193</sup> On September 27, the Marines detained Iván Velázquez Caballero, alias "El Z-50" or "El Talibán", who was considered by the PGR to be one of the leaders of the Zetas. At the beginning of October, the son of Humberto Moreira was murdered, probably in revenge for the attacks against the Zetas.<sup>194</sup> On October 11, 2011 the Marines brought down the leader of the Zetas, Heriberto Lazcano Lazcano.<sup>195</sup>

One hypothesis suggests that Ruben Moreira facilitated, particularly from 2012 forward, the weakening of the Zetas and that from that date forward other groups, with the help of the special forces, took on/are taking on the drug trade.



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193 See the explanation of Jose Angel Herrera, Current Assistant Prosecutor for Disappeared Persons, <https://www.youtube.com/watch?v=-yVxZ4X7gS4>.

194 Ruben Moreira did not attend the funeral. The widow of Humberto Moreria's son tweeted, "You don't know how to govern!!! This is your fault, bastard. Quit." ("No sabes gobernar!!! Esto es tu culpa maldito. Renuncia"). A banner also appeared that said, "nephew by nephew." <http://www.proceso.com.mx/426363/humberto-moreira-cuando-la-desgracia-se-volvio-tragedia>; <http://www.proceso.com.mx/489382/la-dinastia-moreira-artifices-del-quebranto-coahuilense>

195 <http://www.proceso.com.mx/426363/humberto-moreira-cuando-la-desgracia-se-volvio-tragedia>

### III. CRIMES AGAINST HUMANITY IN COAHUILA

According to Article 7.1 of the Rome Statute, a 'crime against humanity' is defined as any of the following acts committed as part of a generalized or systematic attack against a civilian population, with knowledge of the existence of that attack:

- a) Murder;
- b) Extermination;
- c) Slavery;
- d) Deportation or forcible transfer of population
- e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f) Torture;
- g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3 [of article 7], or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- i) Enforced Disappearance of Persons;
- j) The crime of apartheid;
- k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

As has been mentioned above, this communication is based on an analysis of 32 cases involving 73 victims of crimes against humanity in Coahuila. (See Appendices No. 1, 2 and 3); two databases of missing or disappeared persons that report totals of 195 and 367 victims, respectively, and publically available information about the facts of the "Allende Massacre" and the "CERESO de Piedras Negras".

Given the general and specific context described in the last section, and building off of the sources referred to therein, the following section will demonstrate that between 2009 and 2016 crimes against humanity have been committed that fall under the jurisdiction of the ICC. In addition to the Zetas, the direct perpetrators of those crimes have been the state security forces (Municipal Police, Accredited Police Force, GRI, GATE, GATEM and/or GRUPO DE ELITE, GROM):

- From 2009 to 2011: the responsible state security forces committed crimes against humanity in coordination with the Zetas. They also supported the commission of crimes by the Zetas or failed to act to prevent them
- From 2011 to 2016: The responsible state security forces directly committed crimes against humanity.

This communication does not describe the command chain in detail, nor does it focus in the individualized criminal responsibility of high-ranking authorities. It also does not undertake the analysis that would allow for a decisive evaluation of whether, during the period of 2009 to 2011, it would be appropriate to consider the entire apparatus of the State in Coahuila as the organization



where the attack directed against the civilian population originated, or only the state authorities responsible for security. Because of this, we refer in both periods to responsible state security or government authorities. The analysis of this communication instead focuses on the objective elements that constitute crimes against humanity.

### **A. Existence of an attack against the civilian population pursuant to or in furtherance of a State or organizational policy to commit such attack**

Under Article 7(2)(a) of the Rome Statute, an attack is “a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.” According to the Elements of the Crimes, it is not necessary that that attack be a military attack.<sup>196</sup>

In this section we concentrate on demonstrating the existence of an attack directed against the civilian population and the existence of a State or organizational policy to commit that attack.

In the State of Coahuila, the context described above and the cases of reference demonstrate “the existence of an attack directed against the civilian population.” The Zetas and the members of the security forces of Coahuila (municipal police, Accredited State Police, GRI, GATE, GATEM and/or GRUPO ELITE, GROM) have committed multiple violent attacks including the crimes of severe deprivation of physical liberty, torture, and enforced disappearance of persons, all of them committed against the civilian population of the state.

Normally, severe deprivation of physical liberty has been the departure point and criminal framework for the commission of crimes of torture and enforced disappearance;

- Deprivation of Physical Liberty – the Inter-American Commission has established that one of the grave problems in Mexico is arbitrary deprivation of liberty.<sup>197</sup> In Coahuila, the members of the Coahuila security forces have subjected the civilian population to severe deprivations of physical liberty, violating fundamental norms of international law. The respective perpetrators have been conscious of the factual circumstances that determine the gravity of their conduct. Additionally, according to the information provided in the section on context and which will be provided below, the perpetrators had knowledge that their conduct was part of a systematic attack directed at the civilian population in Coahuila.<sup>198</sup>

The 32 cases detailed in the appendices to this communication provide information about 73 people in Coahuila who have been victims of severe deprivation of physical liberty. The same is true for the 195 and 367 victims reported in the database of missing or disappeared persons compiled by Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas and the Centro Diocesano para los Derechos Humanos Fray Juan de Larios, respectively. In a significant number of cases, multiple crimes are committed in a same case. In this sense, it is possible to affirm that 100% of the cases that support this communication constitute a severe deprivation of physical liberty as a crime against humanity, in accordance with the terms prescribed by the Rome Statute. As an example:

In the case of A7 (See Appendix Num. 1), two of the three victims were in the family home when they realized that members of the GATE, dressed in all black, had broken down the door to the house, without identifying themselves and without any warrant or judicial order. When the GATE agents saw them, they pointed their weapons at them,

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<sup>196</sup> Rome Statute, op. cit., Article 7; Elements of the crimes, op. cit., Crimes against humanity, Introduction, at para. 3.

<sup>197</sup> IACHR, “Human Rights Situation in Mexico”, op. cit., para. 297.

<sup>198</sup> Rome Statute, op. cit., Article 7 (1) (e); Elements of the crimes, op. cit., Article 7 (1) (e).

ordered them to get on the floor and handcuffed them. Later they pulled them out of the house in underclothing and they put them in the back of the car. Later, they put them in the trunk, handcuffed and hooded.

In the case of A8 (See Appendix Num. 1), the two victims were in their home drinking beer and watching movies, when suddenly five men from the Accredited State Police, dressed in plainclothes, knocked down the door and entered their house, without identifying themselves and without a warrant or judicial order. The five members of the Accredited State Police overturned everything in the house, took the things of value with them, and, suddenly, handcuffed one of the victims, hitting him in different parts of his body and asking him where the radio and weapons. The victim responded that he didn't know what they were talking about and then the agents started to load the valuable things that they had taken into a truck. In that same truck they carried off the two victims.

In the case of A18 (See Appendix Num. 1), the two victims were in a truck, when they came across a police roadblock in the middle of the highway. Several agents, who appeared to be men and were dressed in black or dark blue uniforms, conducted the inspections. At their side four white trucks could be seen, without any logos, one of which had flashing lights like a patrol car. One of the agents came towards the vehicle where the victims were traveling. Later, without identifying himself and without any warrant or judicial order to support his action, he required the victims to get out of the vehicle, he handcuffed them, and he made them get into one of the trucks. Until today, the two victims are disappeared.

These severe deprivations of physical liberty have violated fundamental norms of international law. Effectively, in the 32 cases referred to, the victims were deprived of their liberty without an arrest warrant or a situation in flagrante delicto (when the suspect is caught in the commission of the crime). Additionally, according to the facts of these cases, these deprivations of liberty have extended in time during several hours and even, in the case of 33 victims, turned into enforced disappearances, without the victims being brought before a competent judicial authority. Worse still, during the time that the victims have been deprived of their liberty, they have also been subject to torture. Accordingly, the severe deprivations of physical liberty have been committed as part of a systematic attack directed against a civilian population supposedly suspected of forming part of drug trafficking organizations, or considered an obstacle for those groups.

- Torture – The U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, stated after his trip to Mexico that “[t]orture and mistreatment are generalized in Mexico,” upon learning about various documented cases that demonstrate torture’s frequent use “in various parts of the country by municipal, state and federal police, state and federal ministerial police and the armed forces.”<sup>199</sup> In that regard, the Rapporteur observed, “disturbing similarities”<sup>200</sup> between the testimonies of torture victims, including victims from Coahuila, including:

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199 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Méndez, on his Mission to Mexico, (April 21 to May 2, 2014), A/HRC/28/68/Add.3, December 29, 2014, paras. 23. Available at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx>.

200 Ibid para. 26

- “[g]enerally speaking, people report having been detained by individuals dressed as civilians, sometimes hooded, who drive unmarked cars, do not have an arrest warrant and do not give the reasons for the arrest. When people are arrested at home, such individuals generally enter the home without a warrant and property is damaged and stolen.”<sup>201</sup>
- “victims of torture and ill-treatment are people who are poor or from marginalized social sectors, a situation that exacerbates problems of stigmatization and inadequate safeguards.”<sup>202</sup>
- The goal of these detentions is “to inflict punishment or to extract confessions or information.”<sup>203</sup> Accordingly, “people with no apparent link to the criminal conduct under investigation report having been detained, forced to sign statements under torture and, in some cases, sentenced on the basis of these statements.”<sup>204</sup>
- “During their arrest, people are hit, insulted and threatened. They are blindfolded and driven to unknown locations, including military bases, where the torture continues, consisting of a combination of: punches, kicks and beatings with sticks; electric shocks through the application of electrical devices such as cattle prods to their bodies, usually their genitals; asphyxiation with plastic bags; waterboarding; forced nudity; suspension by their limbs; threats and insults.”<sup>205</sup>
- “[o]ccasionally, days go by without anyone being informed of the detainee’s whereabouts or without the detainee being brought before the ministerial police or judicial authority”<sup>206</sup>.
- “[v]ictims have often been paraded before the media as criminals without having been convicted; this in itself constitutes degrading treatment.”<sup>207</sup>

In the same vein, the Inter-American Commission has stated that, in addition to arbitrary deprivation of liberty, the generalized use of torture and other cruel, inhumane, and degrading treatment during the moments following the detention of the person and until the person is placed before judicial authorities, is a serious problem in Mexico.<sup>208</sup> Additionally, the Commission has highlighted that: “[t]he types of torture consist of a combination of punches, kicks with boots, and beatings with sticks and the butts of weapons to different parts of the body; insults, threats, and humiliation; electric shocks to different parts of the body; insults, threats, and humiliation; electric shocks, generally to the genitals; witnessing or hearing others being tortured; dry asphyxiation and waterboarding; and even forced nudity and sexual torture.”<sup>209</sup>

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201 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., para. 26 y 47.

202 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., para. 29.

203 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., para. 25.

204 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., para. 29.

205 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., para. 26.

206 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., paras. 26 and 48.

207 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., para. 26.

208 IACHR, “Human Rights Situation in Mexico”, op. cit., para.192.

209 IACHR, “Human Rights Situation in Mexico”, op. cit., para. 214.

Certainly, in Coahuila, members of the security forces have inflicted grave pain and/or physical and mental suffering on victims deprived of their physical liberty and under their custody and control. That pain or suffering has not been the result of the imposition of legitimate punishments, nor has it been inherent or incidental to the application of such punishments. As we will see, these acts of torture have been committed as part of a systemic attack directed against the civilian population—a civilian population supposedly suspected of forming part of drug trafficking or criminal organizations, or considered an obstacle for those groups—and the respective perpetrators have had knowledge of that attack. Indeed, the perpetrators have intended that their conduct form part of an attack of this type.<sup>210</sup>

Of the 32 cases detailed in the appendices of the present communication, 23 report acts of torture, involving 44 victims. Additionally, considering the context described above, it is reasonable to assume that most of the 195 and 367 victims of enforced disappearance have probably been subject to physical and/or psychological torture. For example:

In the case of A4 (See Appendix Num. 1) the GATE agents began to hit the victims in different parts of their body, such as their faces and ribs, in addition to putting a plastic bag over their face so that they could not breathe. In that condition they carried them off, detained, putting them into GATE vehicles. During approximately two hours they headed towards the land of Lienzo del Charro, in the fairground area. The agents took them out of the vehicles and again began to hit them in the face, the ribs, and the legs. Then they wet them down and gave them electric shocks with a cattle prod in diverse parts of their bodies, hitting them with a radio.

In the case of A2 (See Appendix Num. 1), one of the GATE members took the victim by the arm and said, “get down you son of a bitch,” threw him to the ground and started to kick him. Afterwards the agent picked him up and another of the GATE members came with a plastic bag, which he put over the victim’s head but the bag covered A2 all the way to his ankle. A2 felt that one of the GATE members tightened the bag around his face and began to tie it around his neck. A2 began to asphyxiate while they hit him in the stomach and the ribs, and later he fainted. He does not know how much time passed before he could react again. The process of depriving him of oxygen was repeated around ten times, and A2 fainted every time. One of the GATE members told another colleague, “do you want him cut up or should we just break his knees so he fits in the bag?” clearly alluding to what they were thinking of doing to him.

In the case of A6 (See Appendix Num. 1), AG1 was hit in the head by members of the Accredited State police. AG1 was bleeding in the head and the nose, and with this last blow his vision got cloudy, he lost consciousness, and he was no longer responsive. After all of that they threw a pot of water and he woke up. Afterwards they drove him around in the truck, and continued hitting him there. Later they brought him, now together with his cousin, to the Accredited State Police base. There they handcuffed them and hit them, putting a tire between them. The next day, they tied them to a fence. AG1 was falling over because he was bleeding a lot from the nose and he felt that he fainted. Subsequently he began to throw up blood, so they unlatched him from the fence, while he remained faded but conscious. AG1 heard one of the agents say, “this one already died, he already died,” and bringing him to a type of water tank where they stuck his

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210 Rome Statute, op. cit., Article 7 (1) (f); Elements of the crimes, op. cit., Article 7 (1) (f).

head in, and he came around a bit.

So are the acts of torture that they have committed as part of a systematic attack directed against a civilian population supposedly suspected of forming part of drug trafficking organizations, or considered an obstacle for those groups.<sup>211</sup> It is important to emphasize that it was only in seven of the 23 cases that the direct, surviving victims presented complaints in which they could recount the acts of torture that they were subjected to during the time that they were severely deprived of their liberty at the hands of the members of the Coahuila security forces.

- Sexual Violence - The U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment emphasized his concern regarding "the use of sexual violence as a form of torture, mainly against women detainees." According to the Rapporteur, "[s]exual torture includes forced nudity, insults and verbal humiliation, groping of breasts and genitals, insertion of objects in the genitals and repeated rape by multiple individuals."<sup>212</sup> For its part, the Inter-American Commission has established that, in the case of women detained in Mexico, sexual violence, as a form of torture, constitutes an extended manifestation of gender-based violence.<sup>213</sup> In some of the cases that underlie this communication, members of the Coahuila security forces have committed sexual acts against the persons deprived of their liberty, or have made the detainees commit a sexual act through use of force, threat of force, duress (such as duress caused by fear of violence, intimidation, detention, psychological oppression or abuse of power), or taking advantage of a coercive environment or the incapacity of those persons to give willing consent. Such conduct has a gravity comparable to the crimes described in Article 7 1) g) of the Rome Statute, and it is possible to affirm that the perpetrator was conscious of the circumstances of the crime that determined the gravity of such conduct. This conducted was committed as part of a systematic attack directed against a civilian population supposedly suspected of forming part of drug trafficking organizations, or considered an obstacle for those groups.<sup>214</sup>

Among the 32 cases detailed in the appendices of this communication, four report acts of sexual violence affecting four victims. For example:

In the case of A5 detained in Saltillo (See Appendix Num. 1), a GROM commander said that since A5 was of no use to them, they should hang her in the bridge, "as they still haven't reported her." They left her in the GROM battalion for the whole night. The agents were hitting her, and every member of the force that came in fondled her, "they stuck their fingers inside of her and told her that they were going to rape her." They put a black bag over her around five times, official came in and started touching her all over her body, pressuring her breasts with a lot of force to the point that it caused her pain. That same official stuck his fingers in A5's vagina, telling her "that he wanted to check the merchandise." Shortly thereafter, a new official came in and told her that if he wanted to, "he could rape her at that moment, and all the others who wanted to do so could also."

In the case of A9 (See Appendix Num. 1), the victim declared that a police official entered her cell and "grabbed her face with one of his hands, and with the other hand

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211 Rome Statute, op. cit., Article 7 (1) (g) (6); Elements of the crimes, op. cit., Article 7 (1) (g) (6).

212 United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit., para. 28.

213 IACHR, "Human Rights Situation in Mexico", op. cit., para. 301.

214 Rome Statute, op. cit., Article 7 (1) (g) (6); Elements of the crimes, op. cit., Article 7 (1) (g) (6).



undid his pants and took out his penis and put it in her mouth, forcing her to conduct oral and it was for approximately a minute [...], subsequently he told her to get up, he turned her around and he himself undid her pants and then took down her pants [...] he continued hitting her with his open hands and told her to stand on her tiptoes, she obeyed because of fear, and then felt that he entered his penis in her vagina for a space of about ten minutes...she saw that other police officers, who were [members of the Accredited State Police], brought her husband and paced him in front of her cell and said to him, 'look dog at what we are doing, because we are also going to fuck you' [...]" In the case of A3 (See Appendix Num. 1), the GATE members got angry and went back to adjusting the black bag on her head, to the point where he lost consciousness. But a few seconds later he woke up because a GATE member was on his back, he ripped the denim pants that A3 was wearing, while he said to him, "he is really good for us to fuck," clearly alluding to a violation. Later he put a gun in his anus, insisting, "he was going to fuck him." A3 asked them please not to do anything to him, that it would be better if they killed him.

These cases demonstrate that sexual violence committed by the Coahuila Security Forces has affected both women and men.

- Murder- The Inter-American Commission has made public its deep concern regarding the "extrajudicial executions . . . and the endemic character of impunity for these crimes"<sup>215</sup> in Mexico. In Coahuila, the members of security forces have killed victims of severe deprivation of physical liberty. This conducted has been committed as part of a systematic attack directed against a civilian population supposedly suspected of forming part of drug trafficking groups, or considered an obstacle for those groups, and the respective perpetrators have had knowledge of that attack.<sup>216</sup>

Of the 32 cases detailed in the appendices of this communication, fifteen report acts of enforced disappearance involving 33 victims. In those cases, given the time that has passed, it is reasonable to assume that the victims have been murdered. In the same way, it is reasonable to assume that there have been significant number of assassinations among the 195 and 367 victims identified as missing or disappeared in the databases of the organizations Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas and Centro Diocesano para los Derechos Humanos Fray Juan de Larios.

On the other hand, in the context of the coordinated action between the Coahuila security forces and the Zetas (2009-2011), it is worth highlighting the murders that occurred where, with extreme sadism, the Zetas eliminated the bodies of their victims using acid or burning them in flaming barrels of oil.<sup>217</sup> According to what happened in the CERESO case cited above, the Zetas, under the view and patience of the Coahuila state authority, murdered around 150 people using these practices.<sup>218</sup>

- Enforced Disappearance – The U.N. Committee on Enforced Disappearances has

215 IACHR, "Human Rights Situation in Mexico", op. cit., para. 192. The World Health Organization (WHO) maintains that a rate equal to or higher than 10 homicides per 100,000 residents corresponds with epidemic levels of violence.

216 Rome Statute, op. cit., Article 7 (1) (a); Elements of the crimes, op. cit., Article 7 (1) (a).

217 Online Article, "Los Zetas eliminaban los cuerpos de sus víctimas utilizando ácido o quemándolos en barriles de aceite en llamas", El País, July 18, 2013. Available at: <http://www.elpais.com.uy/mundo/lider-zetas-hacia-guisos-victimas.html> (accessed March 25, 2017).

218 Online Article, "Penal de Piedras Negras usado como "campo de exterminio"; incineraron a 150 personas", Proceso, February 24, 2016. Available at: <http://www.proceso.com.mx/431257/en-cereso-de-piedras-negras-asesinaron-e-incineraron-al-menos-a-150-personas> (accessed March 15, 2017).

maintained that in Mexico there is “a situation of widespread disappearances in much of the State party’s territory, many of which may be classified as enforced disappearances”<sup>219</sup>. That affirmation has been shared by the U.N Working Group on Enforced or Involuntary Disappearances.<sup>220</sup> The Inter-American Commission has considered “[e]specially particularly the widespread and consistent information the IACHR has received through its different mechanisms regarding the existence of a practice of forced disappearances [in Mexico,] at the hands of agents of the state, or with their participation, acquiescence, or tolerance.”<sup>221</sup> In Coahuila, the members of the security forces have apprehended, detained, or kidnapped citizens, and/or they have refused to acknowledge the apprehension, detention, or kidnapping or give information about the status and whereabouts of the concerned persons. It is reasonable to assume that the perpetrator was conscience that such an apprehension, detention, or kidnapping would be followed in the typical course of events by a failure to recognize the deprivation of liberty or to give information about the status and whereabouts of the person; and/or that such denial was preceded by or accompanied by this deprivation of liberty. On the basis of that information, those perpetrators had the intention of leaving the victims outside of the protection of the law for a prolonged period of time. The conduct was committed as part of a systemic attack directed against the civilian population—supposedly suspected of forming part of drug trafficking or criminal organizations, or considered an obstacle for those groups—and the respective perpetrators have had knowledge of that attack. Indeed, the perpetrators have intended that their conduct form part of an attack of this type.<sup>222</sup> In 2015, Mexico reported 26,798 “missing” or disappeared persons. In January 2017 that figure was 29,917, demonstrating the ongoing nature of this phenomenon and the critical levels that this crime has reached in the country.<sup>223</sup>

Of the 32 cases detailed in the appendices of this communication, fifteen reported the enforced disappearance of a total of 33 victims. To that statistic we should add the 195 and 367 missing or disappeared persons registered by the organizations Familias Unidas en la Búsqueda y Localización de Personas Desaparecidas and Centro Diocesano para los Derechos Humanos Fray Juan de Larios, all in the time period covered by this communication. Additionally, we must consider the official statistic from the State Assistant Prosecutor for Disappeared Persons, who reports a total of 1,791 complaints filed reporting 1,830 persons as disappeared in Coahuila.<sup>224</sup> For example:

In the case of A10 (See Appendix Num. 1), the members of the GRUPO ELITE entered the room where he was sleeping and they asked him where the radio was. A10 replied, “Which radio? I don’t know what you are talking about.” In front of him, members of the GRUPO ELITE began to turnover everything in the house, and then said to his wife that they were going to take A10 with them and that they would return him in half an hour. The agents took A10 and put him in their patrol car. His spouse waited for A10 to return, but that never happened.

In the case of A19 (See Appendix Num. 1) workers at the Rehabilitation Centre went

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219 U.N., Committee on Enforced Disappearance, Concluding Observations on the report submitted by Mexico under article 29, para. 1, of the Convention, CED/C/MEX/CO/1, March 5, 2015, para. 10. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/043/63/PDF/G1504363.pdf?OpenElement>.

220 U.N., Working Group on Enforced or Involuntary Disappearances, Follow-up report to the recommendations made by the Working Group. Missions to Mexico and Timor Leste, A/HRC/30/38/Add.4, September 11, 2015, para. 7.

221 IACHR, “Human Rights Situation in Mexico”, op. cit., paras. 6 y 100.

222 Rome Statute, op. cit., Article 7 (1) (i); Elements of the crimes, op. cit., Article 7 (1) (i).

223 IACHR, “Human Rights Situation in Mexico”, op. cit., paras. 5 y 28.

224 See Appendix 6.

looking for a young woman with the intention of hospitalizing her. En route they were blocked by a patrol car from the Municipal Police. A 19 got in touch with the director of the Centre to tell him that they had been detained for a routine search, and that they would take away their radio and pone. Fifteen minutes later the director of the Centre called A-19's cell phone and A 19 told him that everything was okay and that they were going to let them go shortly. Subsequently, the director of the Centre called A19 again but A19 did not answer anymore and he has not had any news about them since.

In the case of A20 (See Appendix Num. 1), the victims were on the way to a soccer game, but stumbled into a Municipal Police operative on the way. That operative resulted in the disappearance of A20. The representatives of the Saltillo Municipal Directorate of Public Safety turned the respective detainees over to the Zetas.



Finally, as indicated above, the Allende Massacre resulted in the disappearance of between 42 and 300 people, and it is thought that at least 150 persons were assassinated in the Cereso in Piedras Negras.

The breakdown of the security forces involved in crimes documented by the Coahuila State Human Rights Commission (See Appendix 11) shows 18 recommendations involving GATE between 2010 and 2014 (largely crimes of enforced disappearances and torture involving a total of 47 victims), 5 recommendations related to the GROM between 2012 and 2013 (crimes of enforced disappearances and torture involving a total of 14 victims) and 15 crimes involving the police, investigated by the Coahuila PGR (crimes of torture, murder, and femicide involving 34 victims).

Ultimately, the overwhelming victim in these crimes has been the civilian population living under the jurisdiction of the State of Coahuila.

## Description of the civilian population victim of the attack

The 'civil' nature of the population is established in contrast to the armed forces and other legitimate combatants – e.g., the 'civilian population' incorporates all of those who are not members of the armed forces or other legitimate categories of combatants.<sup>225</sup> Under this definition, it is not necessarily that the entire civilian population of a specific geographic area be the object of the attack, but rather that the principal objective of the attack is to target the civilian population and that the civilian population is not just an accidental victim.<sup>226</sup>

The 32 cases that underlie this communication demonstrate that everyday citizens, men or women, minors, adolescents, or adults, whether they are at their workplace, resting at home, driving to do errands, or traveling on the highway, can fall victim to the illegal and arbitrary state security forces. 95% of the victims are male and the remaining 5% are female. The age of the victims fluctuated between 17 to 50 years of age.

The civilian population principally affected by these crimes, in both periods of time analysed, presented characteristics of particular vulnerability, given that the victims are typically lower middle class and lower class men and women. That statement is evidenced by the fact that in the majority of cases the victims have not completed university studies, are either unemployed, or employed in manual labour, the informal economy, or selling goods.<sup>227</sup> Victims also typically lived or worked in humble neighbourhoods or settlements in certain municipalities in Coahuila (among them, Acuña, Allende, Francisco I. Madero, Matamoros, Monclova, Parras, Piedras Negras, Sabinas, Saltillo, and Torreón). This further demonstrates that the cases involve victims living in poverty or with few economic resources, and, accordingly, victims with greater obstacles to accessing justice in the face of the crimes committed against them.<sup>228</sup> This vulnerability is further exacerbated when the victims are women or minors.

Regarding the 195 disappeared that have been registered by the Familias Unidas en la Búsqueda

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225 ICC-01/04-01/07-3436, Trial chamber II, The Prosecutor v. Germain Katanga, Judgment pursuant to article 74 of the Statute, March 7, 2014, para. 1102. Similarly, in an agreement with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, about its visit to Mexico, "civilian population" is understood as civilians, as opposed to the armed forces or other actors who International Humanitarian Law recognizes as having the status of a combatant. U.N., Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, Report on the Visit of the Subcommittee to Mexico, CAT/OP/MEX/1, May 31, 2010, para. 82.

226 ICC-01/05-01/08, Pre-Trial Chamber III, The Prosecutor v. Jean-Pierre Bemba Gombo, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, June 15, 2009, para. 154.

227 Similarly, HRW's 2011 report confirms that, in Mexico, extrajudicial executions, disappearances, and torture are directed at individuals from lower or working class backgrounds. HRW, 'Neither Rights Nor Security, Killings, Torture, and Disappearances in Mexico's "War on Drugs"', 2011, p. 7, available at [https://www.hrw.org/sites/default/files/reports/mexico1111webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/mexico1111webwcover_0.pdf), last accessed June 17, 2016. See also, FIDH, CMDPDH, CCDH, Mexico. Report on the alleged commission of crimes against humanity in Baja California between 2006 and 2012, op. cit., pp. 10–11.

228 In this regard, the U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his trip to Mexico recognized that in Mexico, "[g]enerally speaking, victims of torture and ill-treatment are people who are poor or from marginalized social sectors, a situation that exacerbates problems of stigmatization and inadequate safeguards." He also "draws attention to the many cases in which people with no apparent link to the criminal conduct under investigation report having been detained, forced to sign statements under torture and, in some cases, sentenced on the basis of these statements." United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, op. cit., para. 29. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/092/08/PDF/G1609208.pdf?OpenElement>.

y Localización de Personas Desaparecidas, 77% of the victims are male and 23% are female. These missing or disappeared persons are also characterized by a situation of vulnerability. The victims' occupations were generally: shopkeeper, employee, unskilled workers, technicians, stonemasons, housewives, and day labourers. This registry indicates that a significant number of victims were unemployed or that the organisation did not have knowledge regarding the victims' occupation.<sup>229</sup>

The 367 disappeared persons that have been registered by the Centro Diocesano para los Derechos Humanos Fray Juan de Larios demonstrate a similar profile. In their database, 84% of the victims are male and 16% are female. The ages of the majority of the victims range from 18 to 40. Vulnerability is also a shared characteristic among the missing or disappeared persons on this list, who had as their occupation shopkeeper, seller, professional, technician, student, labourer, manual labourer, driver, construction worker, employee, among others.<sup>230</sup>

The victims are not members of the military forces nor is any considered to have the status of combatant.

Even if all of the victims were petty drug traffickers or were related to petty drug traffickers, that would not change their status as civilians. In the collection of crimes that form the basis of this communication, at the moment that the members of the security forces appeared, there was no confrontation.

### **Organizational Policy to Commit the Attack**

For the commission of a crime against humanity, the crimes should form part of a systematic or generalized attack committed against the civilian population "pursuant to or in furtherance of a State or other organizational policy to commit such attack."<sup>231</sup>

When attacks against a civilian population can be classified as systematic, in principal the existence of a State or organizational police will be assumed.<sup>232</sup> However, these two terms—a 'police' and 'systematic'—cannot be considered synonyms.<sup>233</sup> [...] Surely the demonstration of the existence of a police on the one hand and of the systematic of the attack on the other definitively arise from the same requirement: the requirement which seeks to establish that the individual act is part of a chain and is related to a system or a plan.

According to the 'Elements of the Crimes,' the phrase "policy to commit such an attack" is understood to mean that "the State or organization actively promote or encourage such an

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229 Appendix Num. 4\_ Lista\_Desaparecidos\_A.

230 Appendix Num. 5\_ Lista\_Desaparecidos\_B. See also, Centro Diocesano para los Derechos Humanos Fray Juan de Larios, PowerPoint Presentation, 2015 Statistics. Available at: <https://fuundec.org/estadistica/> (accessed November 30, 2016).

231 Rome Statute, op. cit., Artículo 7(2)(a).

232 The Prosecutor v. Germain Katanga, Judgment pursuant to article 74 of the Statute, op. cit., para. 1111.

233 In the verdict against Germain Katanga, the judges made a differentiation between the nature of a systematic attack and the police that is followed. According to the judges, the proof of the attack's systematic nature requires more than the proof of the policy, which is limited to verifying that the State sought to undertake the attack. Nevertheless, demonstrating both elements arises from the same need: to establish that an individual attack is a link in a chain that is joined together by a system or a plan. What matters is demonstrating that a given course of action was undertaken in the application of or pursuit of a policy, without necessarily needing to demonstrate the relationship between the course of action and the operation, with the State. It is also not necessary, in order to show the policy, to show that the criminal intention of the perpetrators coincides with the criminal policy. ICC-01/04-01/07-717, Pre Trial Chamber I, The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui, Decision on the confirmation of Charges, September 26, 2008, paras. 1115-1116.



attack against a civilian population.” Also according to the Elements of the Crimes, “[a] policy which has a civilian population as the object of the attack would be implemented by State or organizational action. Such a policy may, in exceptional circumstances, be implemented by deliberate failure to take action, which is consciously aimed at encouraging such attack. The existence of such a policy cannot be inferred solely from the absence of governmental or organizational action.”<sup>234</sup>

According to the interpretation of the Preliminary Chamber in the Confirmation of Charges contra Jean Pierre Bemba, “The policy need not be formalised. Indeed, an attack which is planned, directed, or organizations – as opposed to spontaneous or isolated acts of violence – will satisfy this criteria.”<sup>235</sup> Trial Chamber II in the Katanga case specified that: “[a]s regards proof of the existence of such a policy, it is important to underline that it is relatively rare, although cannot be wholly excluded, that a State or organisation seeking to encourage an attack against a civilian population might adopt and disseminate a pre-established design or plan to that effect. In most cases, the existence of such a State or organisational policy can therefore be inferred by discernment of, inter alia, repeated actions occurring according to a same sequence, or the existence of preparations or collective mobilisation orchestrated and coordinated by that State or organisation.”<sup>236</sup>

In the Katanga case, Trial Chamber II, also clarified the elements defining the term “organization” as contained in Article 7(2)(a):

Turning first to its plain meaning, the term “organisation” must be understood as an “[a]ssociation, régie ou non par des institutions, qui se propose des buts déterminés” [TRANSLATION: an association, whether or not governed by institutions, that sets itself specific objectives]<sup>237</sup>. This very general definition does not, however, allow the contours of an organisation to be clearly circumscribed. To such end, the Chamber places the term in its context. The question then arises as to whether the normative connection of the organisation to the existence of an attack within the meaning of article 7(2)(a) may affect the definition of the characteristics of such organisation. In the Chamber’s view, the connection of the term “organisation” to the very existence of the attack and not to its systematic or widespread nature presupposes that the organisation has sufficient resources, means and capacity to bring about the course of conduct or the operation involving the multiple commission of acts referred to in article 7(2)(a) of the Statute. It therefore suffices that the organisation have a set of structures or mechanisms, whatever those may be, that are sufficiently efficient to ensure the coordination necessary to carry out an attack directed against a civilian population. Accordingly, as aforementioned, the organisation concerned must have sufficient means to promote or encourage the attack, with no further requirement necessary. Indeed, by no means can it be ruled out, particularly in view of modern asymmetric warfare, that an attack against a civilian population may also be the doing of a private entity consisting of a group of persons pursuing the objective of attacking a civilian population; in other words, of a group not necessarily endowed with a well-developed structure that could be described as quasi-State.”<sup>238</sup>

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234 Elements of the Crimes, op. cit., Footnote 6.

235 The Prosecutor v. Jean-Pierre Bemba Gombo, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, op. citi. para. 81. See also, The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui, Decision on the confirmation of Charges, op. cit. para. 396.

236 The Prosecutor v. Germain Katanga, Judgment pursuant to article 74 of the Statute, op. cit., para. 1109.

237 Dictionnaire Français, Grand Robert de la Langue Française. See also Centre national de ressources textuelles et lexicales, “Organisation”: “ensemble structuré (de services, de personnes) formant une association ou une institution ayant des buts déterminés” [TRANSLATION: a structured body (of departments or people) forming an association or an institution with specific objectives.]

238 The Prosecutor v. Germain Katanga, Judgment pursuant to article 74 of the Statute, op. cit., para. 1119.

For a better understanding of the situation in Coahuila, in particular with regards to the evolution of the policy to commit an attack, we have divided the analysis into two temporal periods. These periods are permeable and there are overlaps:

In accordance with the context and cases described in this communication (See Appendices 1, 2 and 3) until 2011, we have two colluding organisations (the Coahuila government and the Zetas) actively promoting the execution of a systemic attack directed against the civilian population and, later, from 2011/2012 forward, the Coahuila special forces and their commanders committing systematic attacks against the civilian population that are more concentrated in the border region of the state.

We focus, above all, on the elements relevant to the existence of a policy arising from a state structure with full command capacity in the concerned territory and with full capacity to commit a systematic attack directed against the civilian population.

### **From 2009 to 2011**

The Zetas<sup>239</sup> consolidated their territorial control in many of the zones in which they were operating in Coahuila and continued to maintain objectives of territorial control and expansion through the use of fear. Their control militarized methods, together with the indiscriminate use of violence as a means of maintaining it, reinforced the cartel's capacity to carry out an attack directed against the civilian population. During this time, from 2009 to 2011, the different public security forces, under the command of the government of Coahuila, acted in collaboration with the Zetas. While it may be redundant to say that the government of a federal unit (state) and its public security forces form part of a State, it is important to recall that they can be considered as the State under Article 7 of the Rome Statute.<sup>240</sup>

This section will demonstrate that the attack on the civilian population in Coahuila was not a casual mistake or coincidence, but rather formed part of a policy. Effectively, the revelations regarding corruption, the legal reforms undertaken in Coahuila that facilitate the covering up of crimes and the concentration of command responsibility in the perpetrators within the State, as well as the inaction or collaboration in crimes committed in Allende and in the Piedras Negras CERESO, all demonstrate the repetition of crimes realized under the same logic. That logic dictates state forces nominally acting in the name of the fight against organized crime, when in reality working in favour of the Zetas with the objective of ensuring the organization's supremacy and control

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239 The Zetas have a hierarchical structure established on the basis of a military-style chain of command that implies different ranks, centres to train young recruits, the development of sophisticated tactics and a division of roles in order to undertake illicit activities in a controlled territory. In summary, the structure of the Zetas has contributed the development of "professional criminal armies [transforming] the traditional way that cartels operated in Mexico." What is more, this group continued to have the objective of territorial control and expansion, and in order to achieve that objective the cartel developed a precise procedure that consisted in meeting with other local criminals and confronting them with the dilemma of collaborating with them or accepting death. Once they had acquired territorial control, they divided the territory into "plazas" (units of area), which were under control of a "jefe de plaza" (leader of the 'plaza) with the control, help, and bribing of the municipal police. In this *modus operandi* "obedience to authority is derived from a combination for the military hierarchy [...] [and] fear of its ruthless leaders". They even got to the point of establishing a process of control and monitoring of their closest collaborators in order to eliminate any intent of betrayal. For example, the "jefes de plaza" are in charge of sewing terror in the community, and they have at their command "soldiers" that fulfil the functions of hitmen and kidnappers. In a case of betrayal, the group implements bloody methods like cutting out the tongue or finger for the whistle-blowers.

240 ICC-01/09-19, Situation in the Republic of Kenya, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, para. 89 Pre-Trial Chamber II, March 31, 2010, available at: [www.icc-cpi.int/NR/exeres/422F24A9-5A0F-4FD0-BC3E-9FFB24EC7436.htm](http://www.icc-cpi.int/NR/exeres/422F24A9-5A0F-4FD0-BC3E-9FFB24EC7436.htm). The ICC considers that the policy does not necessarily have to have been conceived of in the highest level of the state. Accordingly, it could for example be a policy adopted by a regional government, or even local organs of the State.

over the territory of Coahuila. Those revelations and actions, evidenced in this communication, also show prepared and coordinated actions, further demonstrating the existence of a policy to commit an attack directed against the civilian population.

As explained above, the trials in the United States against members of the Zetas continue to reveal more details about the collusion and corruption that led the highest levels of authority in the Coahuila government to implement a policy of committing crimes in support of the Zetas, while publically speaking about the government's supposed fight against organized crime groups. According to these testimonies, at one time the Zetas gave money to the then governor and Attorney General, among others.

The emphasis on structural hierarchy from 2009 forward, by means of the legal reforms described above, allowed for the concentration of the functions and powers of Attorney General, Head of the public forces, and prison director in the hands of just one person. This concentration facilitated the crimes of severe deprivation of physical liberty, torture, and enforced disappearance, among other crimes that constituted the attack.

The Coahuila Model, which lasted from 2009 to 2010, was also presented as a security strategy, and ultimately assigned the leadership of the directorate for public security in key municipalities, as well as the state police, to members of the military. This scheme was nominally organized and supervised by the governor, a member of the military, and an advisor, although many report that in fact the Torres Charles brothers were directing the security forces.

This support and coordination with the Zetas was exercised at all levels of the high-ranking authorities in entities in Coahuila charged with tasks of public safety, criminal investigations, and prison operations. The material perpetration of the crimes began with the severe deprivation of liberty by authorities in the diverse range of security forces. According to the reports summarized in Appendices 1 and 2, the members of the public municipal and state security forces deprived victims of their liberty in order to then turn them over to the Zetas, and neglected to act when they witnessed crimes or received reports of crimes committed by public officials or the Zetas.<sup>241</sup>

All of this demonstrates a policy to attack civilians in order to contribute to the Zetas maintaining territorial control and undertaking lucrative illicit activities in the State of Coahuila.

Moreover, in declaring the existence of a policy, it is relevant to remember that from 2008 to 2012, the Piedras Negras prison was, de facto, managed not by the authorities but rather by the Zetas. They assassinated people and "cooked" them in facility. It is clear that if the Zetas could undertake criminal actions in places like the Piedras Negras Prison, which was only possible with the support of the Coahuila authorities. In the same way, some members indicate that the mayor, but also the Governor, had knowledge of serious crimes such as the Allende Massacre, and that their failure to act was due not to a lack of knowledge but rather to their collusion with the criminal group.<sup>242</sup> The mayor of Allende at the time of the massacre, Sergio Alonso Lozano Rodríguez, was detained on November 17, 2016 after being accused of aggravated kidnapping and was detained at the Piedras Negras CERESO. The former mayor refused to produce a statement regarding the accusations of aggravated kidnapping.<sup>243</sup>

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241 See Appendices 1 and 2.

242 Centro de Estudios Internacionales de El Colegio de México. Informe "En el desamparo. Los Zetas, el Estado, la sociedad y las víctimas de San Fernando, Tamaulipas (2010) y Allende, Coahuila (2011), op. cit., Appendix 4, p. 22 and Appendix 6, pp. 4 y 13.

243 Online Article. Available at: <http://www.excelsior.com.mx/nacional/2016/11/18/1129104> (accessed January 23, 2017).

According to a communication from the PGJE to the press, the former mayor had knowledge of the grave crimes that were going to happen, given that he and another bureaucrat "had a meeting with [...] the Zetas, who told them about the illegal activities that they were going to undertake in the subsequent days, [and] where they agreed not to intervene in order to facilitate their commission."<sup>244</sup> Additionally, testimonies from the inhabitants of Allende before the Public Prosecutor's Office confirm that Lozano Rodríguez regularly received the head of the Zetas, alias "El Canelo", given that "everyone saw [El Canelo]'s truck outside of the mayor's property [forrajera] on a daily basis."<sup>245</sup>

The police also received orders "not to patrol and to imprison all of those that had the last name Garza 'to turn them over to the Zetas.'"<sup>246</sup> When the armed men detained three members of that family, to transfer them to the ranch known as Los Garza Lozano Rodríguez was right outside of their domicile, in front of the Garza family home.

### **From 2011 forward**

We have shown that until 2011/2012, the Zetas, working in collaboration with or with the support of the Coahuila government through the state security forces, terrorized the Coahuila population in order to control it, and thereby facilitate the organization's territorial control. From 2011 forward, the Coahuila security forces acted directly, depriving individuals of their physical liberty, torturing people, and disappearing people. In contrast to other Mexican States, the pattern of crimes committed in Coahuila surpasses a 'false positives' scheme,<sup>247</sup> given that many of the victims are simply disappeared, without ever being presented as suspected members of drug trafficking organizations and organized crime, and consequently detained or executed. The reasons underlying these crimes against the civilian population are not a legal element of the definition of crimes against humanity,<sup>248</sup> but they can help us to understand the facts.

Our investigation has allowed us to formulate two hypotheses, subject to further analysis, about the reason behind the crimes in this second period (2011–2016),<sup>249</sup> because of which we request the intervention of the Office of the Prosecutor in determining the motivations:

1. The perpetrators maintain that those suspected of drug trafficking can be disappeared / killed immediately in order to recuperate territorial control from drug traffickers, but in reality they do not touch those who are truly alleged offenders, but rather innocent people or individuals guilty of only petty drug dealing.
2. The perpetrators commit crimes of severe deprivation of liberty, torture, and enforced disappearance against innocent civilians, petty drug dealers, or members of rival drug trafficking organizations, thereby terrorizing the civilian population so that drug trafficking

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244 Online Article. Available at: <http://www.jornada.unam.mx/2016/11/19/estados/027n1est> (accessed January 23, 2017). See also the following online report: [https://www.vice.com/es\\_mx/article/el-manantial-masacrado](https://www.vice.com/es_mx/article/el-manantial-masacrado) (accessed January 23, 2017).

245 Id.

246 Online Article. Available at: <http://www.sinembargo.mx/21-11-2016/3117565> (accessed January 23, 2017).

247 See, Office of the Prosecutor of the ICC, Situation in Colombia: Interim report, 2012, para. 93. Available at: <https://www.icc-cpi.int/NR/rdonlyres/3D3055BD-16E2-4C83-BA85-35BCFD2A7922/285202/OTP2012035032COLResumenEjecutivodelReporteIntermed.PDF> ("unlawful killings of civilians, staged by security forces to look like lawful killings in combat of guerrillas or criminals.")

248 Situation in the Democratic Republic of the Congo in the Case of The Prosecutor v. Germain Katanga: Judgement Pursuant to article 74 of the Statute." The International Criminal Court (March 2014), p. 427 para. 1125.

249 These crimes are on going, thus it is much more complicated to obtain testimonies and information. See appendices 1 and 2.

and maintained control over border territories can continue.

This part demonstrates that, from 2011 through today, the attack against civilians in the border areas of Coahuila has not been a casual mistake or coincidence, but rather part of a policy. In effect, the lack of a legal basis for the security configurations created by the governor, the lack of certainty regarding the mandate and responsibilities of the Coahuila security forces, the repetition of crimes committed under the same logic, and the efforts by the authorities to support and defend the legitimacy of the actions of the special forces, all demonstrate the existence of a policy to commit said attack.

### **Lack of legal basis and uncertainty regarding responsibilities**

As described in the section on context above, in 2011 there continue to be a very high number of crimes committed against the civilian population in Coahuila. The new governor as of December 2011, despite being the brother of the former governor Humberto Moreira, recognized that “We were at the point—if it hadn’t already transpired—where the government would no longer have the monopoly of power, and rather criminal elements would have it”<sup>250</sup> and said he wanted to distance himself from those practices. He created the GATE (December 2011), the GATEM and the GROM (2012), supposedly to fight against drug trafficking. At the same time, however, he created a special position of State Legal Counsel for the highly questioned Jesús Torres Charles, who quit his position as Attorney General in order to occupy this new high-ranking position in the state government. The governor also appointed Luna Canales as Coahuila Secretary of Government.

In 2011, there began to be increasing reports of cases of deprivation of liberty, torture, murder, and enforced disappearance committed directly by the GATE<sup>251</sup> (after its creation), and the Accredited State Police. From 2012 forward, there were increasing reports of similar crimes committed by the GATEM and/or FUERZA ÉLITE and GROM. In the years leading up to and including 2015, crimes have been reported with one of these security groups as their direct perpetrators. And, as indicated above, since the beginning of 2016, the members of these distinct security forces have been integrated into the “Fuerza Coahuila” (“Coahuila Force”), a mere cosmetic change of name for a security force that appears to continue to commit the same crimes.<sup>252</sup> Over 50% of the crimes in the cases in Appendices 1 and 2 detail crimes committed by special forces.

The lack of legal basis for these forces, and the uncertainty maintained by the authorities about the chain of command, is an element that suggests a willingness to create entities that were not going to respect legality.

In effect, even though as of 2014 there was no organic law that would regulate the creation, organization, and actions of the GATE, GATEM and/or GRUPO ELITE, and GROM, state authorities at all levels have at all times recognized and supported their existence and realization of their functions in Coahuila.<sup>253</sup> Armando Luna Canales, Secretary of Government of Coahuila from 2012

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250 Online Article, Rubén Moreira admits that his brother backed the power of the drug trafficking organizations in Coahuila, Aristegui Noticias, November 27, 2013. Available at: <http://m.aristeginoticias.com/2711/mexico/ruben-moreira-admite-que-su-hermano-avalo-poder-del-narco-en-coahuila> (accessed January 14, 2017). The original article was published by the but is no longer available online.

251 Since its creation through mid-2016, the CDHEC has released 18 recommendations about the GATE, including 2 for murder, 2 for enforced disappearances, and 15 for torture.

252 Online Article, “Envuelta en escándalos Fuerzas Coahuila, a pocos meses de creada,” Vanguardia, May 10, 2016; Online Article, “Policía de Coahuila es investigada por derechos humanos,” Vanguardia, May 10, 2016; Online Article, Acusan a policías de Fuerza Coahuila de matar a golpes, Vanguardia, September 17, 2016.

253 At various times, the General Legal Director of the State Commission on Public Safety, Mister Jesús Alberto Rodríguez Cantú, the General Coordinator of the State Police, Commissioner Rubén Delgado Sánchez, and the Director



to 2015, publically provided an interpretation in August 2013 to attempt to legitimize the existence of such security forces under the Organic Law on Public Administration in the State of Coahuila. At that time, the Secretary of Government stated, “in compliance with the Organic Law on Public Administration in the State of Coahuila, in issues related to the command of public forces, the [Secretariat of Government] will assist the State Commission on Public Security, and it is just that Commission [under the leadership of Mister Ricardo Aguirre Cuéllar, that] exercises hierarchical command authorities over the [GATE].”<sup>254</sup>

The Governor of the State of Coahuila, the General Legal Coordinator of the State Commission on Security, as well as the Director of Public Safety for the municipality of Piedras Negras and the mayor of that municipality, among others, also recognized the existence *de facto* – but not *de jure* – of these security forces, using them as their own bodyguards, as is well-known.

These special forces, shielded by the very illegality of their creation and the indistinct use of their names, had a *carte blanche* to systematically attack the civilian population in the border zones of Coahuila.

As indicated above, regarding the detentions by special forces, the State Police Commissioner, Rubén Delgado Sánchez, indicated that the GATEM did not have a registry of the entrance and exit of the people it detained, because detainees only remained in their base of operations for the time it took to complete the paperwork.

### **Repetition of crimes committed under the same logic**

The actions of the Coahuila security forces responded to a concerted effort, from the state institution, to indiscriminately attack the civilian population. The attacks after 2011 were sometimes presented as a necessary measure in the War on drugs. The cases described below do not represent isolated actions of individual State officials, even when some motivations of that type may exist among the actors.<sup>255</sup>

This point will be explored in detail in the Section on the systematic nature of the attack, but we can offer as an example the statement of retired General Carlos Bibiano Villa Castillo, who, in his time as Director of the Preventative Police of the Municipality,<sup>256</sup> indicated that, during an operation, they would pursue the suspected drug traffickers and “where we caught them we killed them.”<sup>257</sup> Villa Castillo asserted with no qualms, “when I caught a Zeta or Chapo I killed him. Why would I interrogate him? He can go tell Saint Peter what he did. The Army needs security and intelligence, it doesn’t need information. The day that they catch me they aren’t going to take me with kisses. Right? They are going to cut me up into pieces. And? That is what I am exposed to. The day that

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of Municipal Public Security, Mister José Antonio Campa Arredondo, have recognized that the police groups named “G.A.T.E” and “Grupo Elite” and/or “G.A.T.E.M”, do not have an Organic Law that would formally regulate their legal constitution, or that would recognize under which denomination they should be identified.

254 File related to the amparo (writ of judicial protection) in the case of the disappearance of Víctor Manuel Guajardo Rivas, pp. 238-240 (See Appendix 3).

255 As the judges indicate in the sentence against Germain Katanga, it is not necessary in order to show the police, to demonstrate that the criminal intention of those who execute the crimes against humanity is aligned with the attack policy, in order to demonstrate the general elements of the crimes against humanity.

256 Retired General Carlos Bibiano Villa Castillo was the Director of the Municipal Preventative Police of Parras de la Fuente from July to December 2009 y, subsequently, he was Director of the Municipal Preventative Police of Torreón from December 2009 through March 2011.

257 Online Article, “Si agarro a un zeta lo mato; ¿para qué interrogarlo?: jefe policiaco”, La Jornada, March 13, 2011. Available at: <http://www.jornada.unam.mx/2011/03/13/politica/007n1pol> (accessed November 30, 2016).

it's my turn, then we are caught and end of story."<sup>258</sup> For this official, the security forces were infallible in their identification of members of drug trafficking organizations and, accordingly, he confirmed, "We always shot drug traffickers to kill. Never civilians," given that, in his opinion, when civilians saw "that a confrontation is starting they would run and throw themselves down to protect themselves."<sup>259</sup> The retired general also demonstrated his lack of trust towards "the Federal Police, because they don't kill, they just detain. And the army and the marines kill."<sup>260</sup> To support this behaviour that was promoted by the State, Villa Castillo pointed to "the 'tough on crime' codes that mayors and governors in various states have decided to introduce in police forces that are ever more militarized."<sup>261</sup> As mentioned above, these crimes are not committed merely because of pressure to show results; the commission of these crimes goes further than a 'false positives' scheme, given that many of the victims are simply disappeared, without ever having been presented as suspected members of drug trafficking or criminal organizations.



### **Actions of the authorities to support and defend the legitimacy of the actions of the special forces**

The promotion of the special forces' attack directed against the civilian population after 2011 is also evidenced by the concrete measures that were taken to support the special forces' activities. While these measures are not themselves of a criminal nature, they occur in a context where the special forces have been created without proper legal basis, and the authorities, despite existing proof regarding the crimes committed by these forces, do not initiate any investigation or actions to prevent their commission, instead defending and supporting the special forces:

- the recognition of the existence and functions of the security forces by the highest level of the hierarchy in the area of public security in Coahuila, despite the initial absence of an organic law that would give these forces legal foundation, see above;
- the construction of a new detention centre for these forces to continue committing acts of severe deprivation of physical liberty, despite complaints of torture and disappearances;
- the functioning of a training academy in Saltillo to become a member in said forces;<sup>262</sup>

<sup>258</sup> Id.

<sup>259</sup> Id.

<sup>260</sup> Id.

<sup>261</sup> Id.

<sup>262</sup> Online Article, "Abre convocatoria Academia de la Policía en Saltillo", Laguna, February 22, 2014. Available at: [http://www.milenio.com/policia/Academia\\_de\\_la\\_Policia\\_de\\_Saltilllo-UVM-UANE\\_0\\_250175284.html](http://www.milenio.com/policia/Academia_de_la_Policia_de_Saltilllo-UVM-UANE_0_250175284.html) (accessed November 30, 2016).

- the construction of a statute in recognition of the work undertaken by the security forces in the great plaza in Saltillo<sup>263</sup> or giving them equipment (patrol cars, uniforms, weapons) or labour and housing benefits in favour of their members;<sup>264</sup>

- the government of Piedras Negras itself, in an institutional video, announced the creation of a new and modern GATE barracks, an investment of 34 million pesos. This barracks is to be built on a piece of land totalling 10,000 square meters donated by the municipal government, and will have different spaces (armoury, infirmary, dormitories for men and women, bathrooms, changing rooms, a gym, a kitchen and eating area, a training room, an internal courtyard, a reception and parking for armoured vehicles and guard towers. This barracks is one more on a list of barracks that have been installed in different regions in the state.<sup>265</sup>

- All of this, added to the declarations and interviews of high-ranking state authorities in the media where they declare themselves to support and congratulate the work of the Municipal Police, the Accredited State Police (PEA), the GATE, GATEM and/or GRUPO ELITE, and GROM. In that sense, in 2015, the Secretary of Government, Víctor Zamora Rodríguez, indicated that it would be inconvenient to dissolve the GROM, GATE or Accredited State Police (PEA) because they have managed to re-establish the security in the State. Concretely, the Secretary of Government said that he would not get rid of the GATE because it has gotten good results, highlighting the detention of the members of the Poniente Cartel in the city of Torreón and the dismantling of a cell tower belonging to the Los Zetas criminal band in Ciudad Acuña.<sup>266</sup> As previously explained, despite these declarations, the GATE was dissolved and replaced by the Coahuila Force only months later.

The high-ranking authorities of the Coahuila government have confirmed that thanks to the actions of these security forces, Coahuila is free of drug trafficking and organized crime groups; despite the reality that drug trafficking continues to operate in the State.<sup>267</sup>

Additionally, in the face of denunciations of the security forces made by journalists, citizens, and human rights organizations, the highest government authorities have argued that they represent a "smear campaign" in which the media and journalists, who are paid by the criminal organizations, participate so that the security forces stop patrolling the streets, crime comes back, and people return to living in fear. The Secretary of Government, Víctor Zamora Rodríguez, and the state Governor Rubén Moreira Valdés, have stated that these reports form part of a smear campaign organized by the Zetas against the GATE in order to bring organized crime back to Coahuila.<sup>268</sup> Accordingly, journalists who are involved in publically critiquing the security forces has been classified by the state authorities as 'narco-journalists' that are part of one of the "narco-payrolls"<sup>269</sup>. Worse still, said authorities have defended the security forces' allegations that the crimes that have been attributed to them were in fact committed by drug trafficking and organized crime. In that regard, the State of Coahuila itself has state that "while it is true that they have reported the GATE for disappearances and torture, what is also reported is that the

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263 <http://www.vanguardia.com.mx/recuerdanconestatuasapoliciascaidosensaltillo-2243279.html>

264 Institutional Video, "Entrega Rubén Moreira Valdés más elementos GATE a Coahuila". Available at: <https://www.youtube.com/watch?v=sl-x5fCbScw> (accessed November 30, 2016).

265 Institutional Video "Piedras Negras. Cuartel GATE". Available at: <https://www.youtube.com/watch?v=p-6KLuLYWEs> (accessed November 30, 2016).

266 Online Article, "Coahuila no desaparecerá al GATE", Milenio Diario, July 20, 2015. Available at: [http://www.milenio.com/policia/Secretario\\_de\\_Gobierno\\_Coahuila-GATE\\_en\\_Coahuila-Grupo\\_de\\_Armasy\\_Tacticas\\_Especiales\\_0\\_557944432.html](http://www.milenio.com/policia/Secretario_de_Gobierno_Coahuila-GATE_en_Coahuila-Grupo_de_Armasy_Tacticas_Especiales_0_557944432.html) (accessed November 30, 2016).

267 <http://www.animalpolitico.com/2016/07/asi-se-reparten-carteles-de-la-droga-en-mexico/>, <http://www.coahuilatrasmisgob.mx/BD/InformeAnualActividades/FGEInformeAnual.pdf>

268 Video from channel Envivoradio TV, "Segob Coahuila tiene Narco Nóminas de medios de comunicación y reporteros". Available at: <https://www.youtube.com/watch?v=kixbv2MHTA0> (accessed November 30, 2016).

269 Id.

criminal groups, especially the Zetas cartel, adopted a recurring practice of using the uniforms, tactical equipment, and even fake vehicles that appear to be official units from GATE and other security forces, in order to commit kidnappings, extortions, disappearances, and murders, as is evidence in diverse investigation files and in newspaper articles referring to who have found these objects.<sup>270</sup> The absence in that response of any mention of investigations or concerns, in the face of complaints filed about torture and disappearances committed by the GATE, is emblematic and contributes to institutions' continued commission of crimes.<sup>271</sup>

The policy of those responsible for public safety in Coahuila to commit a systematic attack directed against the civilian population has not only manifested itself through actions, but also through failures to take action when faced with the context of institutional criminality described, thereby promoting the systematic attack.

Additionally, the cover-up and/or situation of impunity that remains the response to the majority of cases filed that involve these security forces, demonstrates a deliberate omission on the part of the state that feeds the chronic repetition of a systemic attack directed against the civilian population (See *infra*). Without judgment and eventual criminal, administrative, or disciplinary sanctions for those responsible, it is only confirmed that state politics is behind the actions of the security forces, therefore explaining the resulting institutional support towards 'their own.' If the members of the security forces feel supported by the high-ranking authorities, any incentive to respect the law and the rights of the civilian population of Coahuila disappears.

This is verified through the following indicators:

The Public Prosecutor's Office's failure to bring a case against the members of the security forces. For example, in the case of the torture of A13 (See Appendix Num. 1), the mother of the victim came to the offices of the PGJE with the intention of filing a formal complaint. At first, she spoke with an agent at the Public Prosecutor's Complaint Receipt office named Iliana Serrano, who told her she should bring a photograph of her daughter. A13's mother returned to her home for that photograph. Nevertheless, when she returned, the same agent of the Public Prosecutors' Office told her that they could not bring her case since she was required to request permission from her superiors. That same agent also did not allow her to be accompanied by her lawyer. In that same line, in the case of A14 (See Appendix Num. 1), at the time that he went to report the crimes to which he had been victim, the agent of the Public Prosecutor's office also denied him the ability to take up a case against members of the GATE. There is a CD recording of this exchange.

- The failure of members of the security forces to inform victims of the accusations against them. Effectively, in the case of the enforced disappearance of A (See Appendices Num. 1, 2 and 3), a court clerk who went to the GATE offices was met with a Commander who refused to receive a notice of amparo (writ of judicial protection) proceedings. Said agent did not only indicated that he would not identify himself because "I am not allowed to do so for security reasons" but he also said that he "could not receive any notices because he had strict orders not to receive any notifications or documentation." According to what that agent said, any notification should be addressed to his superiors, even if it was orders from a federal judge. The behaviour of that agent remained the same despite the warning of the

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270 Response of the State of Coahuila de Zaragoza to the report: "Atrocidades Innegables...", op. cit., pp. 25-26. We did not find press articles that denounce these events.

271 ¿Qué son los GATES?, Estado Mayor, Blog de información militar y seguridad nacional, August 20, 2013. Available at: <http://www.estadomayor.mx/31846> (accessed November 30, 2016).

court clerk that, keeping with the Ley de Amparo<sup>272</sup> they would fine him, notwithstanding the fact that the notification of proceedings would be considered as properly served.<sup>273</sup> This situation is related to the failure by the members of the security forces to grant victims Access to the Public Prosecutor's Office, naturally due to the clearly criminal nature of the deprivations of physical liberty that they practice.

The generalized practice by security forces of not keeping any registry of persons deprived of their liberty. With regards to this, it is relevant to remember that, at one time, the General Legal director of the State Commission on Public Security, Mister Jesús Alberto Rodríguez Cantú, the General Coordinator of the State Police, Commissioner Rubén Delgado Sánchez, and the municipal Director of Public Security, Mister José Antonio Campa Arredondo, recognized that the GATE and the GATEM and/or the GRUPO ELITE did have any relationship with the persons that they detained, simply because they did not have registration books recording entrances and exits. According to these authorities, that practice was justified by the fact that members of such forces, supposedly, only kept individuals deprived of their liberty for the time necessary to complete the paperwork before making them available to competent authorities.

## **B. The systematic nature of the attack against a civilian population**

The systematic nature of the attack reflects "the organized nature of the violent attacks and the improbability of its being a coincidence."<sup>274</sup> This systematic nature also refers to the existence of a situation of crimes where similar criminal behaviours<sup>275</sup> come to be repeated deliberately and regularly; in other words, the existence of a pattern of crimes, whose similarity is not accidental.<sup>276</sup> Therefore, some elements to determine systematicity refer to organized nature, regular pattern, and execution with a basis in the public or private resources used.

The context and cases described in this communication (See Appendices 1, 2, and 3) allow us to affirm that, above all since 2009, a systematic attack directed against the civilian population of Coahuila has been triggered on the part of the state security forces. Between 2009 and 2010, there is evidence of crimes committed by the Accredited State Police and the municipal police in collaboration with the Zetas. In 2011, there are an increasing number of reports of crimes committed directly by the security forces, specifically, the GATE (after its creation), and the Accredited State Police. After 2012, there are also reports of crimes committed by the GATEM and/or the FUERZA ÉLITE and the GROM. In recent years and through 2016 crimes have occurred with one or more of these security forces as material perpetrators. And, as indicated above, since the beginning of 2016, the members of these distinct forces have become part of the Coahuila Force, just a change of name for a security forces that seems to continue committing the same crimes.<sup>277</sup>

### **Organized Nature and the Improbability of its being coincidental**

The members of the Municipal Police, the Accredited State Police, GRI, GATE, GATEM and/or FUERZA ELITE, and GROM, with their particularities inside of each force, have demonstrated a

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272 Ley de Amparo, Article 28, (1) and Article 245 in relation with Article 238.

273 File related to the amparo (writ of judicial protection) in the case of the disappearance of Víctor Manuel Guajardo Rivas, folio 63, p. 125 (See Appendix 3).

274 Id., para. 1123.

275 Id..

276 Id., para. 96.

277 Op.cit. footnote n°255.



clear organization in the commission of their acts of violence. As described above, the deprivation of physical liberty, the torture, and the enforced disappearance of victims, are not coincidences or casual mistakes. They arise, first, from 2009 through 2011/2012 from an undeniable collusion between the Zetas and the authorities responsible for security in Coahuila in all levels, and second, since 2011, from the lack of a legal basis for these groupings created by the Governor, the uncertainty surrounding the mandate and responsibilities of the special forces in Coahuila, the repetition of crimes committed under the same logic, the efforts of the authorities to help and defend the legitimacy of the actions of the special forces. These actions and characteristics demonstrate the organized nature of the attack.

In all of these cases we see agents who frequently do not formally identify themselves to the victims, but turn out to be easily identifiable because of details in their uniforms and types of weapons and vehicles that they use. Their mode of acting, according to witnesses to the severe deprivations of liberty, demonstrate a desire to appear that their actions are legal, even when in reality they are not.

In some cases, they communicate by radio to confirm to a superior, a colleague, or even to the criminal organization itself, that the severe deprivation of liberty has occurred.

Among different security forces, it is possible to identify a coordination that demonstrates that organized nature not only in cases of some joint operations, but also in the type of cover-ups that are crafted between colleagues of the same force or between forces, at the time of their being questioned by families of victims or the judicial authorities of the state that ask about the status and whereabouts of persons deprived of physical liberty. This has led to some situations where members of these forces explain the distribution of roles between them to family members of victims or authorities, in an attempt to free themselves from responsibility. That is the case, for example, in the case of the enforced disappearance of A11 (See Appendix Num. 1), his girl friend, found herself in such a situation when she went to the offices of the GATEM to ask about her partner. The person that received her accepted that the GATEM had participated in the events during which A11 was deprived of his liberty, but specified that the GATEM had arrived after the members of the GATE arrived to the place in question. According to the GATEM agent, it was members of the GATE who detained people and took away the bodies. A11's girl friend returned them to the office of the GATE, and when she reported what the GATEM agent had told her, the supervisor just stated that the people in that force "were assholes that always [...] always wanted to be giving them the blame".

### **Clear pattern of criminal activity**

The acts described above conform a clear and regular pattern of criminal activity. Everything begins with home invasions, traffic stops, or chasing people on the streets, which then results in a severe deprivation of the physical liberty of civilians, without any judicial order or warrant, and then leads to torture and/or the disappearance of the victims.

The facts of the cases that underlie this communication demonstrate way that officials intrude on victims, be it in their homes or on the street or highway, asking them about their membership in drug trafficking or criminal organizations. The victims' declarations and testimonies indicate that the security agents screamed at them, "Where is the money?" "Where are the drugs?" "Where are the weapons?" "Where are the radios?" The victims are not people who are confronting the security forces in military terms. Accordingly, the initial severe deprivation of liberty is not the result of a confrontation with the security forces in the exercise of their public functions, nor were

the victims detained in during the commission of a crime.

Faced with the victims' confusion in responding to such questions, the line of action continued with the detention or retention of the concerned individuals, who were subjected to torture for several hours or even days, be it in the offices of the security forces (fairgrounds, fire station), in public, or in clandestine places.

The torture techniques used in the described cases are similar and include: punches and blows with planks or cars; affixation by covering the heads of the victims with a bag; electric shocks in different parts of the body—including the genitals; water boarding; sexual torture; and death threats that reach the level of psychological torture.<sup>278</sup>

The relevant security forces also repeatedly deny information both to those families that choose to look for the victims immediately following the crimes, and even to the judicial authorities of the State itself (inter alia, the court clerk).

Intimidation of victims, witnesses, or legal personnel to avoid the opening or development of investigations or trials has also been a constant in cases that involve members of security forces as the accused. Normally, families and friends of the victims as well as witnesses are threatened with death to prevent them from making complaints or even just beginning to look for their loved ones. The threat also implies requiring victims and witnesses to withdraw complaints that have already been presented. In the case of severe deprivation of liberty of A11 (See Appendix Num. 1), a GATE member told A 11's spouse: "don't go to the press, or to a lawyer, or file a complaint, because we will come back and kill your family," "because if you do that we are going to come back and if we do that he will be dead." Similarly, in the case of A14 (See Appendix Num. 1), once the victim was freed, one of GATE members stressed to him that he should say to his lawyer that he wanted to withdraw the complaint that they had filed, and told him that the GATE would be watching his house and his workplace. Also in the case of the torture of A12 (See Appendix Num. 1), at the time that he was deprived of his liberty, the members of the GATE threatened his mother and wife, telling them that if they followed them or did anything "the only thing that they were going to achieve would be that [they might do away with A12] and that everything would be more difficult, insisting that it would be better that they just stay at home." In the case

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278 See, ICTY, *Blaskic* (trial judgment) about methods and the context in which they are undertaken, See Appendix 1 for example cases: A1, A2, A3, A4, A5, A6, A7, A9, A13, A14, A17, A21 A22 A23 A29, This corresponds with the information specific in the Report of the U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his trip to Mexico. In that report, the Rapporteur stated that he had received a series of testimonies from victims who generally reported "having been detained by individuals dressed as civilians, sometimes hooded, who drive unmarked cars, do not have an arrest warrant and do not give the reasons for the arrest. When people are arrested at home, such individuals generally enter the home without a warrant and property is damaged and stolen. During their arrest, people are hit, insulted and threatened. They are blindfolded and driven to unknown locations, including military bases, where the torture continues, consisting of a combination of: punches, kicks and beatings with sticks; electric shocks through the application of electrical devices such as cattle prods to their bodies, usually their genitals; asphyxiation with plastic bags; waterboarding; forced nudity; suspension by their limbs; threats and insults." According to the report of the aforementioned Special Rapporteur, in generally, the objective of the torture is "to inflict punishment or to extract confessions or information." In his report he highlights the existence of "evidence of the active participation of police and ministerial police forces from almost all jurisdictions and of the armed forces, but also of tolerance, indifference or complicity on the part of some doctors, public defenders, prosecutors and judges." Regrettably, as the Relator indicates, "Safeguards are weak, especially those for detecting and preventing torture in these first moments of detention and ensuring its prompt, impartial, independent and exhaustive investigation. Detention records and medical examinations are often inadequate and do not mention allegations or evidence of torture; there is inadequate monitoring of the legality of detention or the deadline for bringing detainees before the Public Prosecution Service; detainees are not given immediate access to an adequate defence; detainees' statements are given without judicial oversight or the presence of a lawyer; investigations are not launched automatically and evidence obtained under torture is not excluded automatically; and the Istanbul Protocol is being interpreted restrictively and incorrectly." Available at: <http://www.ohchr.org/EN/Countries/LACRegion/Pages/MXIndex.aspx>.

of sexual violence committed against A4 (See Appendix Num. 1), even after having gone to the PGR, a member of the GROM threatened her, telling her that they would kill her son if she filed any complaint regarding what had happened. Additionally, in the case of the enforced disappearance of A1 (See Appendix Num. 1), the members of the GATE and GATEM threatened his mother, telling her if she made any effort to find her son, if she reported to any authority or said anything to any media outlet, they were going to kill him, her, and all of her other children.

In the best of cases, and usually due to pressure from family members or from some human rights organizations, the security forces have brought the victims to the Public Prosecutor's Office or the competent judicial authority, accusing them of committing crimes of drug trafficking and/or organized crime. They force them to sign false confessions or plant drugs or arms that are really of the private use of the security agents on the victims. In that context, the agents of the Municipal Police, Accredited State Police (PEA), GATE, GATEM and/or GRUPO ELITE, and GROM have written and signed "Informing Party" with false reports where they say that the victims have voluntarily confessed that they belong to a drug trafficking or criminal organization, normally the Zetas. All of this of course has corresponding consequences in terms of violation of minimal judicial guarantees. What is more, the acts of torture committed by the acts are not an object of investigation in the framework of the respective proceedings against the victims.<sup>279</sup>

In the worst cases, the victims have died as a result of torture or have been murdered directly by the security force agents. Additionally, in almost half of the cases, enforced disappearance has been committed, through the absence of information about the status and whereabouts of the victim. The organized nature of the actions of the security forces of the State of Coahuila, through the regular repetition of the criminal behaviours described, also demonstrates a concrete willingness to commit these crimes, complementing a clear state police (see above)

Naturally, in the context of this repeated and deliberate attack against the civilian population, the Coahuila security forces have also compromised public resources, not only in terms of the salaries of respective personnel, but also in all the costs that go into uniforms, food, and transportation as well as the use of police offices and the vehicles and arms of the state security system, to give a few examples. The important point in common between the different special security forces is that they have "sufficient resources, means and capacity to"<sup>280</sup> be able to commit crimes against humanity. For example, the GRI members were trained by a combat expert from the Spanish army, who taught them urban counterterrorism tactics, as well as in the use of explosives and long arms. The GATE was trained by the elite unit of the Mexican army, the Special Forces Airmobile Group (GAFE). What is more, during the operations in which they have committed some of these alleged crimes, the members of the security forces have used all the material that the State has placed at their use for the supposed fight against drug trafficking. That material includes, among other things, vehicles, gas, and weapons. Their bases of operation have also been used as a detention centre for persons deprived of their physical liberty, because of which there is no registry of where they have been. Moreover, the security forces do not only have material means and resources in order to undertake the attacks, they also have the political support of the Governor of Coahuila, given that he directs their operations and can therefore guarantee them impunity.

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279 Juan Méndez, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, indicated after his recent trip to Mexico: "Typically, people are detained without a warrant, without a search, with a lot of violence. They use the criteria of flagrancy, but poorly understood. In that context they begin to hit them, in the vehicles they also hit them...typically a lapse of hours, up to 24 hours passes, and then they do put them before the Public Prosecutor's Office. In some cases they are removed from the cells are tortured again in the Prosecutor's Office. But they do not investigate their detention, nor do they allow them to file a complaint for torture." United Nations, U.N. Report, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his Trip to Mexico, op. cit.

280 The Prosecutor v. Germain Katanga, Judgment pursuant to article 74 of the Statute, op. cit., para. 1119.

The members of the Municipal Police and the Accredited State Police (AEM) wear dark blue uniforms, drive dark blue vehicles, and carry short and/or long arms. The members of GATE, and some of the members of GATEM and GROM, dress completely in black (pants, shirt, ski mask, glasses, gloves, helmets, shin guards, and boots) with their faces covered. They use bulletproof vests weighing approximately 25 kilograms and carry a weapon weighing between 6 and 8 kilogram, a helmet weighing between 3 8 kilograms – depending whether it is made of plastic or metal – and with kneepads and boots that limit their ability to run. The trucks they use are also dark, without licence plates and with special armour-plating, which make them heavier. The logo of the force consists in, "a skull with a dagger passing through it that enters through the upper jawbone and exits through the upper part of the skull, which is also crossed over by two pistols." On some occasions, this image appears inside a red circle with the words 'Special Forces,' and with an inscription that said *Élite* in white letters, in the bottom part of the circle. .

Consequently, the commission of crimes against humanity within the framework of the "War on Drugs" in Coahuila presents with an organized character, a clear and regular pattern that evidenced by the modus operandi of the agents of the state forces, from the time they deprive the victims of their liberty through the time that they are freed or placed before a competent authority, or until they are killed or disappeared,<sup>281</sup> and compromise public resources for their illegal activities.

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281 See, ICTR, Gatete, sobre la naturaleza organizada de los actos de violencia y la improbabilidad de la ocurrencia de dichos actos al azar, patrones.

## IV. CONCLUSION

This communication demonstrates that there is a reasonable basis to conclude that from 2009 to 2016, crimes against humanity falling under the competency of the ICC were committed in Coahuila. These crimes against humanity—including crimes of severe deprivation of physical liberty, torture, and enforced disappearances—formed part of a systematic attack directed against the civilian population of that state.

Such crimes against humanity have been committed by the Zetas and by the special forces charged with ensuring safety in Coahuila (Municipal Police, Accredited State Police, GRI, GATE, GATEM and/or GRUPO DE ELITE, GROM) in two different periods and with different nuances to their actions:

From 2009 to 2011/2012: the State security authorities have committed crimes against humanity with the Zetas in a context of undeniable collusion.

From 2011/2012 through 2016: State security authorities have directly committed crimes against humanity through the Special Forces.

Once the existence of crimes against humanity is demonstrated, in order for the ICC to declare competency, the Office of the Prosecutor should analyse complementarity. In accordance with Article 53(1)(b) and Article 17(1)(a) and 17(1)(c), and as confirmed in the Appeals Chamber, the principal question in the evaluation of complementarity is an empirical question: in the respective state, do there presently exist, or have there previously existed, relevant investigations or national trials regarding the case or cases identified by the Office of the Prosecutor.<sup>282</sup> The absence of national proceedings, which is to say, domestic inactivity, is sufficient cause for the case to be considered admissible.<sup>283</sup> In cases of inactivity, the evaluation of the question of unwillingness or incapacity is not necessary and the Office of the Prosecutor does not need to consider the other factors stipulated in Article 17.<sup>284</sup>

In the case that there are or have been investigations or national trials, the Office of the Prosecutor of the ICC examines whether those proceedings relate to the cases that it is examining and, in particular, whether they are targeted at the people with the greatest responsibility in the most serious crimes that have been committed. If the proceedings do involve the cases at hand, the Office of the Prosecutor will evaluate whether those domestic proceedings are corrupted by unwillingness or inability to really conduct them.<sup>285</sup>

In September 2017, the FIDH will undertake a mission with the objective of discussing this report with the authorities, and deepening the analysis of the situation in Coahuila, particularly regarding the complementarity analysis. According to the information that the organizations authoring this

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282 ICC-01/04-01/07- 1497, *The Prosecutor v. Germain Katanga y Mathieu Ngudjolo Chui*, Judgment on the Appeal of Mr. Germain Katanga against the Oral Decision of Trial Chamber II of 12 June 2009 on the Admissibility of the Case, September 25, 2009, para. 78.

283 *Id.*

284 Office of the Prosecutor of the ICC, Policy Paper on Preliminary Examinations, *op. cit.*, paras. 46-47.

285 Pre-Trial Chamber I has observed that “evidence related, inter alia, to the appropriateness of the investigative measures, the amount and type of resources allocated to the investigation, as well as the scope of the investigative powers of the persons in charge of the investigation are relevant for both limbs since such aspects, which are significant to the question of whether there is no situation of “inactivity” at the national level, are also relevant indicators of the State’s willingness and ability genuinely to carry out the concerned proceedings.” ICC-01/11-01/11-466-Red, *The Prosecutor v. Saif Al-Islam Gaddafi y Abdullah Al-Senussi*, Decision on the admissibility of the case against Abdullah Al-Senussi, October 11, 2013, para. 210



communication have to date, there is no evidence of concrete results where any of those directly responsible for the Coahuila security forces, nor the hierarchical superiors of those forces, nor any high-ranking government officials charged with public security in Coahuila have been punished for crimes against humanity or even just for criminal acts. The situation seems less clear with regards to the high-ranking members of the Zetas.

For all of these reasons, we submit this Article 15 Communication for the consideration of the Office of the Prosecutor of the ICC, requesting that the Court open a preliminary examination.

## Network of non governmental human rights organizations

### "All rights for all"

formed by the following organizations:

Agenda LGBT (Estado de México); Alianza Sierra Madre, A.C. (Chihuahua); Asistencia Legal por los Derechos Humanos, A.C. (AsiLegal) (Ciudad de México); Asociación Jalisciense de Apoyo a los Grupos Indígenas, A.C. (AJAGI) (Guadalajara, Jal.); Asociación para la Defensa de los Derechos Ciudadanos "Miguel Hidalgo" (Jacala Hgo.); Bowerasa, A.C. "Haciendo Camino" (Chihuahua, Chih.); Casa del Migrante Saltillo (Saltillo, Coah.); Católicas por el Derecho a Decidir, A.C. (Ciudad de México); Centro "Fray Julián Garcés" Derechos Humanos y Desarrollo Local, A. C. (Tlaxcala, Tlax.); Centro de Apoyo al Trabajador, A.C. (CAT) (Ciudad de México); Centro de Derechos de la Mujeres de Chiapas (San Cristóbal de Las Casas, Chis.); Centro de Derechos Humanos "Don Sergio" (Jiutepec, Mor.); Centro de Derechos Humanos "Fray Bartolomé de Las Casas", A. C. (San Cristóbal de Las Casas, Chis.); Centro de Derechos Humanos "Fray Francisco de Vitoria O.P.", A. C. (Ciudad de México); Centro de Derechos Humanos "Fray Matías de Córdova", A.C. (Tapachula, Chis.); Centro de Derechos Humanos "Juan Gerardi", A. C. (Torreón, Coah.); Centro de Derechos Humanos "Miguel Agustín Pro Juárez", A. C. (Ciudad de México); Centro de Derechos Humanos de la Montaña, Tlachinollan, A. C. (Tlapa, Gro.); Centro de Derechos Humanos de las Mujeres (Chihuahua); Centro de Derechos Humanos de los Pueblos del Sur de Veracruz "Bety Cariño", A.C. (Tatahuicapan de Juárez, Ver.); Centro de Derechos Humanos Digna Ochoa, A.C (Tonalá, Chis.); Centro de Derechos Humanos Paso del Norte (Cd. Juárez, Chih.); Centro de Derechos Humanos Toaltepeyolo (Orizaba, Veracruz); Centro de Derechos Humanos Victoria Diez, A.C. (León, Gto.); Centro de Derechos Humanos Zeferino Ladrillero (CDHZL) (Estado de México); Centro de Derechos Indígenas "Flor y Canto", A. C. (Oaxaca, Oax.); Centro de Derechos Indígenas A. C. (Bachajón, Chis.); Centro de Investigación y Capacitación Propuesta Cívica A. C. (Propuesta Cívica) (Ciudad de México); Centro de Justicia para la Paz y el Desarrollo, A. C. (CEPAD) (Guadalajara, Jal.); Centro de los Derechos del Migrante (Ciudad de México); Centro de Reflexión y Acción Laboral (CEREAL-Guadalajara) (Guadalajara, Jal.); Centro Diocesano para los Derechos Humanos "Fray Juan de Larios", A.C. (Saltillo, Coah.); Centro Juvenil Generando Dignidad (Comalcalco, Tabasco); Centro Kalli Luz Marina (Orizaba, Ver.); Centro Mexicano de Derecho Ambiental (CEMDA) (Ciudad de México); Centro Mujeres (La Paz, BCS.); Centro Regional de Defensa de DDHH José María Morelos y Pavón, A.C. (Chilapa, Gro.); Centro Regional de Derechos Humanos "Bartolomé Carrasco", A.C. (BARCA) (Oaxaca, Oax.); Ciencia Social Alternativa, A.C. KOOKAY (Mérida, Yuc.); Colectivo contra la Tortura y la Impunidad (CCTI) (Ciudad de México); Colectivo Educación para la Paz y los Derechos Humanos, A.C. (CEPAZDH) (San Cristóbal de Las Casas, Chis.); Comisión Ciudadana de Derechos Humanos del Noroeste (Mexicali, Baja California); Comisión de Derechos Humanos y Laborales del Valle de Tehuacán, A.C. (Tehuacán, Pue.); Comisión de Solidaridad y Defensa de los Derechos Humanos, A.C. (COSYDDHAC) (Chihuahua, Chih.); Comisión Independiente de Derechos Humanos de Morelos, A. C. (CIDHMOR) (Cuernavaca, Mor.); Comisión Regional de Derechos Humanos "Mahatma Gandhi", A. C. (Tuxtutepec, Oax.); Comité Cristiano de Solidaridad Monseñor Romero (Ciudad de México); Comité de Defensa de las Libertades Indígenas (Palenque, Chis.); Comité de Defensa Integral de Derechos Humanos Gobixha A.C. (CODIGODH) (Oaxaca, Oax.); Comité de Derechos Humanos "Fr. Pedro Lorenzo de la Nada", A. C. (Ocosingo, Chis.); Comité de Derechos Humanos "Sierra Norte de Veracruz", A. C. (Huayacocotla, Ver.); Comité de Derechos Humanos Ajusco (Ciudad de México); Comité de Derechos Humanos de Colima, A. C. 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**Design:**

CBT

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