Mexico after Ayotzinapa: A Conversation with the International Investigatory Group

Edited and translated by Elizabeth Oglesby | University of Arizona eoglesby@email.arizona.edu

The disappearance of 43 students from Ayotzinapa, Mexico, in September 2014 grabbed worldwide attention. During its 2016 Congress in New York at the end of May, LASA held a presidential session featuring three members of the Interdisciplinary Group of Independent Experts (Grupo Interdisciplinario de Expertos Independientes, or GIEI), appointed by the Inter-American Commission on Human Rights to investigate the Ayotzinapa case. Chaired by Elizabeth Oglesby (a professor of Latin American studies at the University of Arizona), the panel included opening remarks by Kate Doyle, Senior Analyst at the National Security Archive, and discussion with GIEI members Carlos Martín Beristain, Francisco Cox, and Claudia Paz y Paz Bailey. The fate of the 43 students remains unknown, but the GIEI’s work, which concluded in April, lays bare the nature of impunity in Mexico and provides a road map for what can be done. The Ayotzinapa investigation is an important precedent for human rights struggles across Latin America.

For background on the GIEI and to download the results of its investigation: http://prensagieiayotzi.wix.com /giei-ayotzinapa. For a full transcript of the LASA session in English or Spanish, write to eoglesby@email.arizona.edu.

Kate Doyle: Impunity has many dimensions in Mexico; it is multifaceted, like a crystal held up to the light. It can be abrupt and brutal; the murder of a journalist who gets too close to the truth. It can be furtive, a quiet campaign designed to undermine the public’s faith. It can be calculating, like the electric shocks applied to the soles of a detainee’s feet in order to produce what will later be called a confession. It can be true incompetence—police leaving footprints in the victim’s blood, evidence lost, files misplaced. Or it can be pretend incompetence—police leaving footprints in the victim’s blood, evidence lost, files misplaced. Impunity can be silence before the families of a disappeared. It can be a stonewalling, a cover-up. It can simply be “No,” a very firm no, an official no.

The experience of the experts in this case has implications that are both encouraging and troubling. On the one hand it signifies that “yes, we can”—we can create a mechanism of international cooperation that investigates even the most sensitive human rights cases to produce powerful results. But, on the other hand, the reaction of Mexico was deeply disturbing. It became clear that the Mexican government would only go so far in the Ayotzinapa case. There was a limit to Mexico’s willingness to support a true investigation. When the Group approached that limit, it was terminated.

It can be said that the Mexican authorities have a genius for impunity; they hold PhDs in the art of obstruction. The government learned its lesson long ago that it could mount a simulation of justice, human rights, transparency, and international cooperation, and most of the time that would satisfy its critics. To paraphrase Nietzsche: The Group stared into the face of impunity. And impunity stared back.

Carlos Martín Beristain: The GIEI’s work had three components: the criminal investigation; the search for the disappeared; and attention to the victims. These three things have to go together so that the investigation is not seen separately from working with the victims or continuing the search. In the end, the families are most interested in the search.

In our first report in September 2015, we tried to clarify the facts. The attack...
was far more complex than just against
the 43 students; it was an operation that
lasted five hours and had 180 victims,
including the 43 disappeared students and
six assassinations. All of that occurred
in ten different crime scenes. This gives
you a sense of how vast the operational
coordination was.

We were able to disprove many of
the government’s allegations. The students were
not infiltrated by the “Los Rojos” cartel. It
can’t all be blamed on the municipal police
from Iguala and Cocula. The area was
saturated with governmental authorities:
the state police was there, and the federal
police had set up a roadblock at the time
of the disappearance of the students.
Military authorities were transmitting
intelligence information at the various
spots where dozens of people were being
detained. All this gives you a sense of wider
responsibilities.

We showed the contradictions of
the official story. For example, we
commissioned a study by a fire expert that
demonstrated the scientific impossibility
that the students had been incinerated
in the Cozula garbage dump, as the
government claimed.

When we interviewed the students, we
discovered the existence of a fifth bus that
didn’t appear in the official case file. Our
hypothesis is that the students had taken
over buses in order to go to a protest
march. This was something they routinely
did, but that time they mistakenly took one
that had heroin or money. We found cases of
heroin trafficking between Iguala and
Chicago, using passenger buses that were
altered to hide drugs. That is our main
hypothesis of why the attack occurred.
In addition, there are elements that may
have aggravated the violence against the
students: the fact that even before the
attack they were stigmatized as being
students in that particular teacher’s college,
which has a reputation as being rebellious,
similar to the revolutionaries from the
Lucio Cabañas School.

No investigation of this scope and type can
be done without listening to the victims.
We wouldn’t have been able to do anything
without the victims’ trust, without the trust
of the surviving students who were afraid
to speak and had declined to speak with
the authorities many times, but who gave
us a lot of information. If you want to do
something serious in Mexico that helps to
confront the circle of violence, criminality,
and human rights violations, you have
to understand the victims and establish
a clear alliance. That is the fundamental
transformative energy of a case like this.

The first priority is to make sure that the
investigation doesn’t turn into another
form of revictimization. In this case
and many others in Mexico, the official
inquiries become another way to punish
victims. Part of the way to respect
victims is to make sure they have access
to information about the case, so that
they don’t have to hear about it through
the press. It’s important to establish a
relationship with the victims, so that they,
in turn, can establish a relationship of trust
with the institutions.

In many cases, victims in Mexico are left
to search on their own for the disappeared,
doing work that the state really should do.
At the same time, often the families have
experience, they have contacts, they are
good investigators, and all that needs to be
taken into account. You have to listen to
the families.

Francisco Cox: From the beginning, our
goals were to write a report about what
had happened in Ayotzinapa, but also to
make a series of recommendations about
structural problems we encountered
in the way these kinds of crimes were
investigated.

The Mexican criminal system is incredibly
formal; the number of duplicate, triplicate
declarations and documents swells the case
file and makes it unmanageable. This has
serious consequences for the ability of a
third party, for example, a representative
of the victims, to know what’s happening.
So, the level of formality and bureaucracy
is one of the key obstacles. If I tell you
that there were 65 prosecutors working
on this case, you might think, well, that’s
a good thing because there are 65 people
leading the investigation. But the problem
is that these 65 people don’t talk to each
other. They’re doing parallel tasks, taking
parallel statements, but then there’s no joint
analysis of the whole problem.

Another structural problem we saw is
the excessive dependence on testimonial
declarations. The confession is practically
the only proof needed. This obviously
incentivizes torturing people, as we
determined happened in this case. That’s
why one of our recommendations is to
create an independent office of technical
services to help prosecutors collect other
kinds of evidence beyond simply using
confessions to convict people.

Claudia Paz y Paz Bailey: Is it a problem
of know-how? Is it a problem of having
the right skills and training? Or is it a
problem of will? Is it because the Mexican
authorities don’t know how to solve the
case? Or is it because they don’t want to
solve it? As Kate said, is it incompetence, or
a pretend incompetence?

During our first six months, we had fairly
open access to information. The only “no”
we heard was when we asked to interview
the army and have access to military documents. That was a resounding no. We couldn’t interview the army directly, and the military documents were considered a state secret.

At the same time, we did have access to a lot of information. We could interview the federal police directly, as well as other authorities. We could interview the people who were being accused of the crime. That opening slowly closed during the second half of our mandate in late 2015 and early 2016. If the government had wanted to, it could have worked with us in a coordinated, planned way.

In our second report in April 2016 we documented that according to official information, including the medical forensic reports in the case file, in 17 cases there is strong evidence that suspects were tortured. These cases include police from Iguala and Cocula. Very importantly, these cases of torture include five detainees who supposedly confessed that the 43 missing students ended up being incinerated in the Cocula garbage dump. Those five suspects, presumed members of the Guerreros Unidos criminal gang, suffered wounds that were inflicted after they had been jailed.

We also demonstrated that a high-level Mexican government official was present at one of the key crime scenes, the San Juan River, even though that information was not recorded in the official case file. The San Juan River was where the only DNA evidence was found: a bone fragment from one of the disappeared students, found in a bag in the river and identified as belonging to Alexander Mora. Through photographs and video, we showed that on October 28—although it’s not in the file—the director of the Criminal Investigations Agency (similar to the Mexican FBI) was at the scene of the crime with one of the detainees who had given his statement ten hours earlier and who had lesions acquired after his detention. They were there without the presence of his defense lawyer, without a judge’s order authorizing that this person could be transported there. They touched forensic evidence, and no record of this visit exists in the official investigation. According to the official inquiry, the events begin on October 29 at 8:00 in the morning, and a black bag containing ossified remains is found by Navy divers in the San Juan River at 8:54. But there’s no record of anything that happened on the 28th.

It’s not a matter of knowledge, or resources, but will. The case could be solved. It’s possible to determine the students’ fate, but they didn’t want us to go forward. Why do I emphasize this, here at LASA in New York? Because when political will is lacking, international monitoring—the voices from outside—can push for this will. It’s vital to keep accompanying the parents who are waiting for their children, so that our departure doesn’t mean greater vulnerability for them. All of us together can make sure the case stays internationally relevant.

Carlos Martín Beristain: On the role of journalism and the media, sometimes the press posed threats to our work, by defaming us personally at particular moments of the investigation. But there were also journalists who helped us.

I want to mention the role of grassroots journalism. When we saw that some things about the crime scene at the San Juan River weren’t clear, we contacted local journalists. One journalist showed us photographs he had taken disproving the Mexican government’s version of events at the river. That’s how we started to see the big picture. So, grassroots journalism is important. These are journalists who may not appear in the mainstream press but who do very important work, sometimes risking their own lives. They helped us make sense of a lot of things.

Claudia Paz y Paz Bailey: The media campaign against us, especially after December 2015, started with one person, the director of an organization that works on topics of security in Mexico. A media source was an echo chamber for his messages. I have to say that this had a gender bias, since the two women in the GIEI suffered the most from the campaign: Were we guerrillas, were we antimilitary, that sort of thing. . . . It was a way to attack the messengers to destroy the message. We were discrediting the official version of the case, so the media campaign tried to discredit us, so the public would think “a pox on both houses.” The worst part was that the defamation campaign extended to the families.

Carlos Martín Beristain: The families have a great deal of clarity, and they are quite united, in part because of the accompaniment we’ve given and which their lawyers continue to give. The families have reacted very negatively to the government’s proposals for reparation. People say, “No, we don’t want reparations. What we want is to keep searching.” They haven’t backed down, and they’ve been consistent on that demand for justice. Obviously, like all families of disappeared people, they feel an emotional ambiguity. They are afraid of finding a grave; they want to find them alive. But the government’s offers have not made a dent with the families.

Francisco Cox: I think the families show the importance of not forgetting about the case. The big fear is that the pressure
these cases open for so many years. That transformative energy goes beyond just the specific situation of the victims; it’s a motor force for democracy.

We believe that the combination of local civil society with international pressure can make this case, and other cases, advance. The Ayotzinapa report establishes a methodology for how to do this type of investigation. Without a doubt there are many good organizations in Mexico, very solid, but we are contributing a road map.

Carlos Martin Beristain: One thing that stands out to us is what in psychology is called “learned helplessness.” In the case of Mexico, there is a learned helplessness on the part of many people, the idea that nothing can be done; there are no alternatives. But in our experience, yes, there are things that can be done. Clearly, you need a confluence of factors: an independent investigative team; a good relationship with victims; and a process in which victims feel respected, taken into account and able to push the investigation forward. And it’s also necessary to have an opening within the state to make this possible.

I don’t know if this experience is replicable. But we shouldn’t focus only on the obstacles to the GIEI’s investigation. It would be disastrous if that were the only lesson taken from our work. That’s only part of the story. The other part is that we had very significant advances, and we’ve shown a way of working with victims and doing this kind of investigation. We have to keep pushing those things to get even better results. Obviously, if there’s no political will that’s a problem. In Latin America, the families are the ones who have kept...