

**Briefing for the Human Rights Council's
Universal Periodic Review**

17th session of the UPR Working Group (21 October - 1 November 2013)

**Mexico
22 October 2013**

Summary of the Issue Addressed in this Briefing

This briefing describes existing evidence of forced internal displacement caused by intense criminal violence in Mexico during the review period. On the basis of that evidence, we urge the government to set up a response to address the vulnerability of people displaced by violence, and we provide specific recommendations based on international standards for how the government should implement such a response to protect the rights of internally displaced people (IDPs).

1. Evidence of forced internal displacement caused by criminal violence

1.1. Since 2007, Mexico has been confronted with an unprecedented wave of criminal violence, with criminal organizations combatting each other and, to a lesser degree, the State. This violence has had manifold impacts on the civilian population, which were acknowledged in the report of the Working Group on the review of Mexico (A/HRC/11/27). Nevertheless, one of the impacts of the violence, which has not thus far been acknowledged by the government, is forced internal displacement which can be arbitrary or legitimate. In human rights law, the prohibition of arbitrary displacement is implicit in provisions on freedom of movement and choice of residence (art. 12 ICCPR), and freedom from arbitrary interference with one's home (art. 17 ICCPR). The right to freedom of movement can only be subject to restrictions "which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant" (art. 12 ICCPR). In case of state of emergency, article 4 ICCPR becomes relevant regarding permissible restrictions and derogations.

1.2. There have been specific instances of mass forced displacement in the States of Tamaulipas (in 2010) and Michoacán (2011). These displacements have been widely reported and acknowledged because of their mass nature — with hundreds of people displaced at the same time following the same threats or clashes. In the state of Michoacán in May 2011, for instance, a confrontation between the La Familia Cartel and its offshoot the Caballeros Templarios caused the displacement of up to 2,000 people from the localities of Pizándaro, Vicente Guerrero, Purépero and Paredes Dos within a few days. Local authorities have provided support to people displaced but have emphasized the need for support from the Federal government.

1.3. However, what is less visible but a constant pattern of displacement is the people leaving their homes individually to avoid the risks related to generalised criminal and cartel violence. Because there are constant yet invisible streams of displacement, and because forced displacement happens alongside other forms of migration, there has been scarce recognition of it and response from State and Federal governments.

1.4. While no overall figures of the number of people displaced were available in the review periods, census data correlated with data on homicides and violent crimes showed that criminal violence caused displacement in the states most affected by drug cartel violence in the period under review, namely Baja California, Chihuahua, Coahuila, Durango, Guerrero, Michoacán, Nuevo León, San Luis Potosí, Sinaloa, Sonora, Tamaulipas and Veracruz.

1.5. This link was made even clearer at the sub-State level: census data showed that within those States, a hundred municipalities with the highest levels of violence experienced the highest levels of population loss. When the effect of other causes of migration, including economic and demographic conditions, and urbanization, were accounted for, the rate of people leaving violent municipalities was 4.5 higher than those leaving non-violent municipalities.

1.6. These data serve as a strong indication that, as is usually the case when intense violence takes place, people are not able to cope with violence and are forced to change their place of residence. We urge the government to set up a response to a) evaluate the scale of the phenomenon and the vulnerability of people affected, and b) create adequate mechanisms to protect their rights and vulnerabilities linked to people's forced displacement.

2. Recommendations for the government: setting up a response to internal displacement

2.1. The state has the obligation to protect the rights of IDPs enshrined in binding international human rights law. The Guiding Principles on Internal Displacement, which restate binding human rights law and humanitarian law, establish that the government is responsible for protecting the rights of internally displaced people. Specifically, this duty entails protecting IDPs' physical security and integrity (art. 6-9 ICCPR; art. 6, 37(b), 38(3) CRC; art. 2-3 CRC OP AC); providing IDPs access to their basic necessities of life, including food and water, shelter, clothing, and medical services, without discrimination (art. 11,12 ICESCR; art. 24(2)(c) and (e) CRC, art. 14(2)(h) CEDAW); assuring access to education to displaced children (art. 13 ICESCR; art 28(1) CRC; art. 10 CEDAW); and protecting their property (art. 17 UDHR, art. 15(2) and 16(1)(h) CEDAW). In order for the state to ensure that IDPs have equal access to their rights, we urge the government to take the following measures, in line with existing international standards, especially the *Framework for National Responsibility*:

- a) Set up a comprehensive data-gathering mechanism at the national level. To this end, include specific questions in the surveys implemented by the National Institute of Statistics and Geography (INEGI), specifically the 2015 population count and the 2020 census. Additionally, carry out qualitative profiling of displacement via surveys in the localities most affected by violence to estimate the number of people displaced by violence to be estimated, but, more importantly, their protection needs.
- b) On the basis of the information collected, create a mechanism for emergency assistance and support. This mechanism should draw on existing structures set up to provide emergency assistance, notably the National System for Civil Protection (SINAPROC). This agency currently responds to natural disasters, so its mandate should be expanded to include assistance to victims of violence, including IDPs. An effective mechanism should also include state and local authorities. The states on which this study focused, those worst-affected by violence, should be prioritized.
- c) Establish an institutional focal point. The Ministry of Interior should take the political lead on displacement, and the National Population Council (CONAPO) should be the institutional focal point, charged with leading and coordinating the government's response to displacement and providing accountability for it.
- d) Create a national federal fund for the attention of people displaced by violence. Such a fund would provide financial support to protection programmes.

- e) Document abuses and punish perpetrators. Independently of the normal channels available to prosecute crimes that lead to displacement, Províctima should be charged with registering and documenting cases of abuses against IDPs, and referring them to the appropriate judicial authorities for prosecution. The government should work with the 5th Inspection Unit of the National Commission on Human Rights and should give its recommendations due weight.
- f) Promote durable solutions, giving special attention to IDPs' access to livelihoods, education, health care and adequate housing, regardless of their location.
- g) Create channels for cooperation. The government should cooperate with international agencies and draw on their expertise providing technical assistance and setting up protection programmes worldwide.