

Mandate of the Special Rapporteur on the human rights of internally displaced persons

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the human rights of internally displaced persons (IDPs), pursuant to Human Rights Council resolution 32/11, tasking me to enter into dialogue with Governments, United Nations agencies and other relevant actors on the issues of internal displacement.

Following the visits to Honduras undertaken by my predecessor, Mr. Chaloka Beyani, in November 2015 and August 2016, I have continued to monitor closely the developments concerning the situation of IDPs in that country and the regional dimension of this phenomenon.

With regard to the regional dimension of the issue, Mr. Beyani in his report on internal displacement issues in Honduras made clear that *"While it is acknowledged that many people turn to migrant routes for economic and other reasons, including family reunion, it must also be recognized that many are victims of the culture of violence and fear in Honduras, with legitimate protection issues. A distinction must be recognized for those whose movement is based on a well-founded fear of violence against them that leads them to flee their homes."* (paragraph 65). He also added that the reception centres for returnees *"are insufficient to adequately identify persons displaced by violence or who have immediate and ongoing protection concerns. Even when protection concerns are identified, there are few if any assistance measures available, either within the reception centres or elsewhere. Consequently, those with serious protection needs remain largely unsupported and on their own"* (paragraph 69).

In this context, I would like to express my deep regret regarding the case of Mr. [REDACTED], who was killed in Honduras on 10 July 2016 following his return to the country after his asylum request was rejected in Mexico.

I am concerned that the resolution adopted by the *Comisión Mexicana de Ayuda a Refugiados* (COMAR), which rejected his application for asylum (CUR.-20161202-1038788), makes selective reference to the statement that the former Special Rapporteur on the human rights of internally displaced persons released upon conclusion of his official visit to Honduras on 27 November 2015, highlighting the efforts of the Honduran Government to address internal displacement and violence in the country.

I would like to emphasise that, while acknowledging the political will of the Government of Honduras to address such issues, the statement issued by my predecessor makes clear that Honduras is still far from being able to effectively provide protection to its citizens at risk of violence and stresses that *"the primary responsibility of the State to*

protect persons from criminal gangs-related displacement is constrained. It is intolerable that criminal gangs or maras have taken effective control of some neighbourhoods of cities including Tegucigalpa and San Pedro Sula that I visited. It is evident that gang members can conduct their criminal activities with almost absolute impunity and that the criminal justice system is not fulfilling its role."

The statement also highlights that the welcome establishment of the Inter-Agency Commission on Persons Internally Displaced by Violence "*must be quickly matched by concrete action on the ground to address the problem everywhere it exists. While the Inter-Agency Commission represents an important national focal point, it lacks any budget or implementation mandate*". In the report resulting from my predecessor's mission to Honduras, which he presented to the Human Rights Council in June this year, he stressed that this body "*remains largely a policy, research and advisory body with no operational functions to date. As such, it is not equipped to fulfil the need for additional measures to protect and care for internally displaced persons. The role of non-governmental actors, including national and international NGOs and humanitarian organizations, must be acknowledged. To date, the Government remains heavily reliant on such organizations as implementation and operational partners*" (paragraph 50). This was still the case at the time of his follow up visit to Honduras in August this year. During that visit, he found that the Government of Honduras had accepted the recommendations contained in his report and they were still working on implementing them.

As of December 2016, despite some efforts in this direction, Honduras continues to lack a legal framework on internal displacement which is essential to fully addressing the challenges, establishing the rights of IDPs in national law, identifying responsibilities and governance structures, and putting national budgets in place for an effective response.

Both the statement and report of my predecessor are precautionary as to the foreseeability of the risk of harm with regard to the circumstances in which Mr. [REDACTED] was killed. It is my considered opinion, along with that of my predecessor, on the basis of aforesaid statement and report, that there was a failure of responsibility for determining the protection needs of Mr. [REDACTED] upon his being refouled, by Mexico, to Honduras. This is a sad case of arbitrary killing, which was preventable with due diligence and is a dramatic reminder of the fact that internally displaced persons and returnees in Honduras, taking into account Government's efforts so far, do not yet enjoy effective protection and support to which they are entitled.

Therefore, I would urge your Excellency's Government to ensure that the statement and the report resulting from my predecessor's mission to Honduras is not used selectively to justify any decision that could result in the return of an individual to a situation of potential harm, as it has in this particular case.

Excellency, let me once again reiterate my offer of support and please accept the assurances of my highest consideration.

Cecilia Jimenez
Special Rapporteur on the human rights of internally displaced persons