

NGO Written Contribution for the Government of Mexico's  
7th Periodic Review on the Implementation of the  
International Covenant on Civil and Political Rights

Submitted to the  
UN Committee on Civil and Political Rights  
for consideration in the formulation of the  
List of Issues Prior to Reporting during the  
145th Session (2 – 19 March 2026)

by the  
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## PURPOSE OF THIS PARALLEL REPORT AND AUTHORS

1) The purpose of this parallel report is to assist the Human Rights Committee in their consideration of the Government of Mexico's seventh periodic report on the implementation of the Covenant on Civil and Political Rights in the formulation of the List of Issues Prior to Reporting during the 145th Session (2-19 March 2026).

2) The International Human Rights Center of Loyola Law School, Los Angeles, is committed to achieving the full exercise of human rights by all persons and seeks to maximize the use of international and regional political, judicial, and quasi-judicial bodies through litigation, advocacy, and capacity-building. Loyola Law School, Los Angeles, is the school of law of Loyola Marymount University, a Catholic university in the tradition of the Jesuits, the Religious of the Sacred Heart of Mary, and the Sisters of St. Joseph of Orange. This report was prepared by Jaeyoung Jin, J.D. Candidate 2026, and Ayaka Kimura, J.D. Candidate 2026, under the supervision of Professor Cesare Romano and Fernando Saldivar, S.J.

3) This report raises concerns over Mexico's treatment of detained migrants, and questions whether its practices align with the standards set forth under the Covenant, particularly with respect to its obligation to establish a national registry of detained migrants.

## BACKGROUND

### *Recent Migration Patterns in Mexico*

4) Historically, for migrants from Central and South America, Mexico has been both a destination and a country of transit on route north to the United States.<sup>1</sup> During the past fifteen years, for several reasons, there has been an increase in the influx of asylum seekers and refugees from countries south of Mexico. The figures are telling. Over a decade, the number of asylum protections Mexico granted increased dramatically, from just 262 in 2011 to 22,750 in 2022.<sup>2</sup> Just in 2022, an estimated 450,000 non-Mexicans arrived at the southern border of the U.S. with the intention of entering it.<sup>3</sup> During the same period, Mexico dramatically increased its immigration detention capacity from about 100,000 people in 2015 to 700,000 in 2023.<sup>4</sup>

5) Over the years, Mexico's attitude has fluctuated between prioritizing human rights and freedom of movement throughout the country and trying to deter immigration through stricter migration policies, increases in its border security, implementation of more migration inspections, and stepping up deportations, particularly during periods of economic and political pressure from the United States.<sup>5</sup> In 2019, Mexico caved to U.S. demands to keep asylum seekers intending to reach the U.S. in Mexico while awaiting a decision by U.S. immigration authorities.<sup>6</sup> That same year, under the threat of increased tariffs on Mexican exports to the U.S., the Mexican government

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<sup>1</sup> Working Group on Arbitrary Detention: Preliminary Findings from its visit to Mexico (18 to 29 September 2023), United Nations Human Rights, Office of the High Commissioner, (29 September 2023), at section 2.3.1.

<sup>2</sup> Mexico at a Crossroads Once More: Emigration Levels Off as Transit Migration and Immigration Rise, Migration Policy Institute, (23 May 2024) <https://www.migrationpolicy.org/article/mexico-crossroads-emigration-transit>.

<sup>3</sup> Id.; Matthew B. Flynn & Chris Ortiz-Gonzalez, Mexico's Immigration Policies and Human Rights Commitments: New Strategies or New Euphemisms?, Global Detention Project, Working Paper No. 26, at page 9, (31 July 2025) <https://www.globaldetentionproject.org/mexicos-immigration-policies-and-human-rights-global-detention-project-working-paper-no-26>.

<sup>4</sup> Mexico at Crossroads, *supra* note 2.

<sup>5</sup> Id.

<sup>6</sup> Id.

agreed to strengthen the military presence at its southern border and sent the National Guard to deter migration into Mexico and to assist the National Institute of Migration (*INM - Instituto Nacional de Migración*).<sup>7</sup> The INM is the federal agency empowered to monitor the entry and exit of persons into Mexican territory, deport or assist in the return of foreigners, and detain foreigners in detention centers.<sup>8</sup>

6) In January 2019, the U.S., under the first Trump administration, started implementing Migrant Protection Protocols (MPP -, also known as the "Remain in Mexico" protocols). In June 2019, Mexico and the U.S. agreed to curb irregular migration (joint declaration).<sup>9</sup> That month alone, Mexican authorities apprehended 31,000 migrants and deported 21,000 of them. By 2023, apprehensions of migrants had grown exponentially to 782,176.<sup>10</sup> The difficulty of reaching the U.S. has caused many transitory migrants to remain in Mexico,<sup>11</sup> prompting "a humanitarian crisis where migrants' exposure to extortion, kidnapping, and rape increased while being denied healthcare, education, and having limited access to legal aid and counsel."<sup>12</sup>

### Creation of the National Detention Registry

7) We recognize that Mexico has taken notable steps to reform its detention procedures. In May 2019, the legislature adopted the Law on the Registry of National Detentions (*Ley Nacional del Registro de Detenciones*), requiring governmental agencies at all levels to record the detention of a person immediately after arrest,<sup>13</sup> to prevent human rights violations, acts of torture, cruel, inhumane, and degrading treatment of detainees, and enforced disappearances through increased transparency.<sup>14</sup> The Law requires any arresting agency to record information including the person's name, age, nationality, sex, place, the reason for arrest, and the name and rank of the person making the arrest, among other data.<sup>15</sup>

8) In November 2019, the National Information Center of the Executive Secretariat of the National Public Security System (*Centro Nacional de Información del Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública*) issued guidelines for the creation, operation and conservation of a National Registry of Detentions (RND - *Registro Nacional de Detenciones*).<sup>16</sup> According to Article 5 of the Law on the Registry of National Detentions, the RND must be open

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<sup>7</sup> Flynn, *supra* note 3, at 13; Joint Declaration and Supplementary Agreement on Migration, U.S.-Mex., June 7, 2019, T.I.A.S. No. 19-607, <https://www.state.gov/wp-content/uploads/2019/09/19-607-Mexico-Migration-and-Refugees.pdf>; *Mexico at Crossroads*, *supra* note 2.

<sup>8</sup> *Country Report: Immigration Detention in Mexico: Between the United States and Central America*, Global Detention Project, at pp. 23 (February 2021) <https://www.globaldetentionproject.org/wp-content/uploads/2021/02/Immigration-Detention-in-Mexico-2021-GDP.pdf>; Ley de Migración [Migration Law] May 27, 2024, art. 20, <https://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra.pdf>

<sup>9</sup> Joint Declaration U.S.-Mex, *supra* note 7.

<sup>10</sup> Flynn, *supra* note 3, at 13.

<sup>11</sup> *Mexico at Crossroads*, *supra* note 2.

<sup>12</sup> Flynn, *supra* note 3, at 13.

<sup>13</sup> See Guidelines for the functioning, operation and maintenance of the National Registry of Detentions, Executive Secretariat of the National Public Security System - National Information Center, Diario Oficial de la Federación (DOF) 22 Nov. 2019, Objective 1 (Mex.) [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5579606&fecha=22/11/2019&print=true](https://www.dof.gob.mx/nota_detalle.php?codigo=5579606&fecha=22/11/2019&print=true) (Article 16, fifth paragraph, of the Political Constitution of the United Mexican States, establishes the obligation that there be an immediate record of the detention of a person. Furthermore, based on the provisions of articles 147 and 150 of the National Code of Criminal Procedure, members of police institutions who carry out or execute an arrest must record it.); Ley Nacional del Registro de Detenciones [Law on the Registry of National Detentions], May 27, 2019, art. 9, [https://www.diputados.gob.mx/LeyesBiblio/pdf/LNRD\\_270519.pdf](https://www.diputados.gob.mx/LeyesBiblio/pdf/LNRD_270519.pdf)

<sup>14</sup> Guidelines, *supra* note 13; Flynn, *supra* note 3, at 15.

<sup>15</sup> Guidelines, *supra* note 13.

<sup>16</sup> *Id.*

to public consultation, and the National Information Center (CNI – *Centro Nacional de Información*) has been tasked to issue guidelines on how the public can do so.<sup>17</sup>

9) Crucially, the Law does not explicitly require the tracking of detentions of migrants.<sup>18</sup> Indeed, immigration violations do not amount to a crime under Mexico’s Migration Law. However, the Law on the Registry of National Detentions does include a transitory article that mandates Congress to create within 180 days a “registry of detained migrants with the same procedural, protection and security guarantees as those provided for in the [RND]”.<sup>19</sup> Moreover, in December 2024, the Mexican Supreme Court found that Congress had failed to comply with the Law on the Registry of National Detentions and ordered Congress to reform its Migration Law to create this registry.<sup>20</sup>

10) To date, despite the Law being clear on the point and the Supreme Court having ruled on the matter, Mexico has failed to implement these measures. The government appears to take the position that the Migration Law and the INM do not fall within the parameters of the RND.

## **WHY MEXICO IS FALLING SHORT OF ITS OBLIGATIONS UNDER THE COVENANT**

11) Arguably, Mexico’s failure to include apprehended migrants in the RND, or creating a dedicated registry for them, is a violation of Articles 2, 7, 9, 10, and 12 of the Covenant.

### Article 2

12) Under the Covenant, States party have a duty to “respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the [Covenant], without discrimination of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>21</sup> Moreover, States have a duty to take steps to adopt laws or other measures necessary to give effect to the rights under the Covenant.<sup>22</sup>

13) In General Comment 35, the Human Rights Committee stated that a centralized official registry should be kept of the names and places of detentions, times of arrival and departure, names of people responsible for the detention, and shall be readily available and accessible to those concerned, including relatives.<sup>23</sup> The Committee did not exclude migrants from these obligations. Arguably, the Committee intended to include migrants consistently with the prohibition of discrimination. General Comment 35 also calls for mechanisms for visiting and inspecting all places of detention.<sup>24</sup> Lawyers must be able to enter places of detention at any time.

14) Article 2 requires that States adopt educative and other appropriate measures to fulfil their legal obligations.<sup>25</sup> It also requires them “[t]o ensure that any person whose rights or freedoms ... recognized [under the Covenant] are violated shall have an effective remedy.”<sup>26</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> *Working Group on Arbitrary Detention*, *supra* note 1, at section 1.2; Ley Nacional del Registro, *supra* note 13.

<sup>19</sup> Ley Nacional del Registro, *supra* note 13, art. 8; Beatriz Guillén, *Ruling forces Mexico to create a registry of migrant detentions*, *El País*, (2 Dec. 2024) <https://english.elpais.com/international/2024-12-02/ruling-forces-mexico-to-create-a-registry-of-migrant-detentions.html>.

<sup>20</sup> Guillén, *supra* note 19.

<sup>21</sup> International Covenant on Civil and Political Rights art. 2.1, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>22</sup> *Id.* at art. 2.2

<sup>23</sup> Human Rights Committee, General Comment No. 35, Article 9: Liberty and Security of Person, para. 58, CCPR/C/GC (2014).

<sup>24</sup> *Id.*

<sup>25</sup> Human Rights Committee, General Comment No. 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, para. 7, CCPR/C/21/Rev.1/Add.13 (2004).

<sup>26</sup> International Covenant on Civil and Political Rights, *supra* note 21, at art. 2.3.

15) We recognize that Mexico has taken meaningful legislative and judicial steps towards ensuring it complies with its obligations under international human rights law towards migrants. However, unless Mexico starts including migrants who have been detained in the RND or creates a dedicated registry, it still falls short of its obligations under the Covenant. Registration of detained migrants not only protects the interests of the individual, but the aggregate data provides a more accurate reporting of immigration enforcement for NGOs, treaty bodies, and government bodies in monitoring state practices.

16) Although lawyers must be able to enter places of detention at any time, in Mexico, because migration stations are classified as separate facilities to temporarily house foreigners under the jurisdiction of the INM, lawyers have limited access.<sup>27</sup> Lawyers are vital for the advocacy of rights and the protection of justice. Without measures that allow lawyers to access detention facilities and communicate with clients, Mexico fails to substantiate its duty to ensure that Covenant rights reach all individuals within its territory, including detained migrants.

17) In sum, to fulfill its duties under Article 2, Mexico must include detained migrants in the RND or create a dedicated migrant registry.

### Article 7

18) Article 7 of the Covenant protects the dignity and physical and mental integrity of the person.<sup>28</sup> During a visit to Mexico in 2016, the Subcommittee on Prevention of Torture received numerous allegations of persons deprived of their liberty being subject to acts of torture and ill-treatment at the time of arrest, during transfer, and at places of detention.<sup>29</sup> The victims claimed that police officers, army officers, and migration authorities were the culprits.<sup>30</sup> They reported to having been slapped, punched, kneed, kicked, struck with firearms, twisted of upper limbs, and deprived of food and water.<sup>31</sup> “International bodies and experts have agreed that torture is a widespread phenomenon in Mexico.”<sup>32</sup> Migrants are at heightened risk of violation of their Article 7 rights.

19) Article 7 should be read in conjunction with Article 2, which affirms that the right to lodge complaints against maltreatment prohibited in Article 7 must be recognized in domestic law.<sup>33</sup> Therefore, the Human Rights Committee has requested State Parties to inform the Committee of legislative, administrative, judicial, and other measures being taken to prevent and punish acts of torture, cruel, inhuman, and degrading treatment.<sup>34</sup> States should inform the Committee on how the State enforcement personnel, and any other person involved in the custody or treatment of any individual subject to a form of arrest or detention, receive appropriate instruction and training

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<sup>27</sup> See Matthew B. Flynn & Chris Ortiz-Gonzalez, *Mexico's Immigration Policies and Human Rights Commitments: New Strategies or New Euphemisms?*, Global Detention Project, Working Paper No. 26, at page 21, (31 July 2025) <https://www.globaldetentionproject.org/mexicos-immigration-policies-and-human-rights-global-detention-project-working-paper-no-26>.

<sup>28</sup> Human Rights Committee, General Comment No. 20, Art. 7: Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment, para. 2-3, CCPR/C/CG (1992).

<sup>29</sup> See Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Visit to Mexico undertaken from 12 to 21 December 2016: observations and recommendations addressed to the State party, para. 20, CAT/OP/MEX/2 (2018).

<sup>30</sup> *Id.* at para. 21.

<sup>31</sup> *Id.* at para. 24.

<sup>32</sup> *Id.* at para. 39.

<sup>33</sup> General Comment No. 20, *supra* note 28, at para. 14.

<sup>34</sup> *Id.* at para. 8-9.

concerning Article 7.<sup>35</sup> In 2018, the Subcommittee recommended that Mexico ensure that all allegations of torture and ill-treatment are investigated promptly, thoroughly, and impartially by independent bodies.<sup>36</sup>

20) The creation of a registry of migrant detention, or at least the inclusion of migrants in the RND, would fulfill the recommendations set forth by this Committee and the Sub-Committee. Allegedly, the objective of the Law on the Registry of National Detentions should be the same as Article 7 of the Covenant: the prevention of “violations of the human rights of detainees, acts of torture, cruel, inhuman and degrading treatment, or enforced disappearance.”<sup>37</sup> Accounting for migrants is a step towards that goal. Tracking data of each detained migrant is necessary to secure their rights and prevent torture and cruel, inhuman, and degrading treatment.

### Article 9

21) According to Article 9 of the Covenant, “[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention except on such grounds and in accordance with such procedure as are established by law.” Crucially, Article 9 extends the right to liberty and security of persons to everyone, including aliens, refugees and asylum seekers, stateless persons, migrant workers, and persons convicted of crimes.<sup>38</sup> The Committee’s general comments have further specified the deprivation of liberty to include police custody, *arraigo*,<sup>39</sup> remand detentions, administrative detentions, and involuntary transportations.<sup>40</sup> Liberty of a person concerns the freedom from confinement, while security of a person concerns the freedom from injury to the body and mind, regardless of the detention status.<sup>41</sup> Individuals may be detained on criminal charges. However, the grounds and procedures prescribed by law must not be destructive to the liberty of a person.<sup>42</sup> As this Committee stressed in General Comment 35, “regimes involving the deprivation of liberty must ... be established by law and must be accompanied by procedures that prevent arbitrary detention.”<sup>43</sup>

22) Regrettably, in 2019, the Committee against Torture found that Mexican migrant holding centers are overcrowded and received multiple reports of violence and abuse by immigration officials.<sup>44</sup> The Subcommittee reported similar findings of people being subjected to torture or ill-

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<sup>35</sup> *Id.* at para. 10.

<sup>36</sup> Subcommittee on Prevention of Torture, *supra* note 29, at para. 58a.

<sup>37</sup> Guidelines for the functioning, operation and maintenance of the National Registry of Detentions, Executive Secretariat of the National Public Security System - National Information Center, Diario Oficial de la Federación (DOF) 22 Nov. 2019, Objective 1 (Mex.) [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5579606&fecha=22/11/2019&print=true](https://www.dof.gob.mx/nota_detalle.php?codigo=5579606&fecha=22/11/2019&print=true)

<sup>38</sup> See General Comment No. 35, *supra* note 23, at para. 3.

<sup>39</sup> *Arraigo* is a system of preventative custody that authorizes the detention of a person for up to 80 days without charges being brought against them. *Arraigo* is widely considered a form of arbitrary detention that is contrary to human rights norms, and has been criticized by various human rights organizations and civil society groups. See UN Human Rights Office of the High Commissioner, *Mexico: Further reforms and effective implementation are essential to prevent widespread arbitrary detention, say UN experts* [Press Release], (2023, Oct. 2), <https://www.ohchr.org/en/press-releases/2023/10/mexico-further-reforms-and-effective-implementation-are-essential-prevent>; Mexico: Abolish “Arraigo” Detention from Constitution: Proposals to Curtail the Practice Inadequate; Detainees at Risk of Torture, Human Rights Watch, (2013, April 25) <https://www.hrw.org/news/2013/04/25/mexico-abolish-arraigo-detention-constitution>.

<sup>40</sup> General Comment No. 35, *supra* note 23, at para. 5.

<sup>41</sup> *Id.* at para. 9.

<sup>42</sup> *Id.* at para. 14.

<sup>43</sup> *Id.*

<sup>44</sup> Committee against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the seventh periodic report of Mexico, para. 48, CAT/C/MEX/CO/7 (2019).

treatment, mostly by law enforcement officers, including migration authorities, regardless of the basis of the detention being criminal or administrative.<sup>45</sup> It also reported cases of Mexican officials and security forces subjecting migrants to extortion and bribery.<sup>46</sup> Conditioning a person's freedom on their ability to pay shows an arbitrary enforcement of the law, as it hinges on the personal interests of an officer rather than an equal application of the law. This places people with less disposable resources, as migrants typically are, at higher risk of being subject to arrest.

23) As we said earlier, since 2019, the National Guard has been deployed to aid the INM in immigration enforcement. However, the National Guard does not have the legal authority "to review migrant documents or determine their status and rights."<sup>47</sup> Moreover, the rise in checkpoints around the country has contributed to the increased number of arrests. These checkpoints serve as more than just an administrative check, such as for immigration, because they are often intertwined with criminal enforcement to prevent organized crime.<sup>48</sup> The effect is an increase in profiling practices and confusion among immigration enforcement procedures.<sup>49</sup> The Working Group on Arbitrary Detention has found that militarization of public security has been closely linked to human rights violations and recommended that Mexico adopt measures that prevent, investigate, and eliminate all forms of excessive force during arrest.<sup>50</sup>

24) Detentions for the control of immigration must be justified as reasonable, necessary, and proportionate considering the circumstances and reassessed as it extends in time.<sup>51</sup> Asylum seekers who unlawfully enter may be detained for a brief initial period to document their entry, record their claims, and determine their identity. However, detaining them longer without reasons specific to the individual, such as a risk of national security or danger of crimes against others, is arbitrary.<sup>52</sup> In its visit to Mexico, the Subcommittee on the Prevention of Torture observed that individuals have been detained for as long as three weeks when they should have been detained for a much shorter period.<sup>53</sup>

25) Mexico uses terminological ambiguity to circumvent legal processes that protect the liberty of a person.<sup>54</sup> Mexican authorities use terms such as secured (*asegurado*) or housed (*alojado*) when placing foreigners in migratory stations (*estaciones migratorias*) because being detained (*detenido*) requires legal processes like bringing the seized individual before a judge or competent authority.<sup>55</sup> The UN Committee on Migrant Workers noted that the "continued use of terms such as 'securing' or 'presentation' to describe custodial measures that deprive migrants of their liberty bars the exercise of due process guarantees."<sup>56</sup> By rewording immigration arrests in softer language, despite being a de facto deprivation of liberty, authorities effectively strip individuals of their due process guarantees under existing law.

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<sup>45</sup> Subcommittee on Prevention of Torture, *supra* note 29, para. 21-22.

<sup>46</sup> Human Rights Council, Visit to Mexico Report of the Working Group on Arbitrary Detention, para. 68, A/HRC/57/44/Add.1 (2024).

<sup>47</sup> Flynn *supra* note 27, at 15.

<sup>48</sup> Alethia Fernández de la Reguera, *Encroaching Borders and Defenselessness of Migrants at Checkpoints in Southern Mexico*, 11 Catalyst: Feminism, Theory, Technoscience 1, 16 (2025).

<sup>49</sup> *Id.* at 16-17.

<sup>50</sup> See Human Rights Council, *supra* note 46, at para. 79(b), 84(d).

<sup>51</sup> General Comment No. 35, *supra* note 23, at para. 18.

<sup>52</sup> *Id.*

<sup>53</sup> See Subcommittee on Prevention of Torture, *supra* note 29, para. 88; Human Rights Council, *supra* note 46, at para. 63.

<sup>54</sup> Flynn, *supra* note 27, at 20-21.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the fourth periodic report of Mexico, para. 35(c), CMW/C/MEX/CO/4 (2025).



26) Making the RND cover all forms of government-imposed deprivation of liberty would eliminate the semantic loopholes currently used by the INM and make clear the basis of detention in the first place.

### Article 10

27) According to Article 10 of the Covenant, “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”<sup>57</sup> General Comment 20 calls for the same safeguards under General Comment 21: State reports should provide detailed information on national legislative and administrative provisions that have a bearing on this right.<sup>58</sup> These reports require specificity regarding the measures taken by competent authorities to monitor the effective application of rules governing the treatment of persons deprived of their liberty.<sup>59</sup> They also request information on oversight systems for penitentiary establishments, specific measures to prevent torture and other cruel, inhuman, or degrading treatment, and the mechanisms used to ensure impartial supervision.<sup>60</sup>

28) For years, NGOs have reported conditions of systematic ill-treatment in migration detentions in Mexico.<sup>61</sup> The Global Detention Project reported inhumane conditions at these detention centers, corruption and impunity amongst the country’s officials, extortion by security forces, and overall abuse and torture inflicted by officers in detention facilities.<sup>62</sup> These reports clearly illustrate Mexico’s failure to respect the Article 10 rights of detained migrants.

29) During their 2023 visit, the Working Group on Arbitrary Detentions observed migrant families and minors found sleeping in yards outside the facility or locked in metal gates, unable to freely move within the facility or have access to outdoor areas.<sup>63</sup> The Subcommittee on the Prevention of Torture also noted major disparities between migrant holding facilities, particularly in the material conditions of the centers and treatment by officials.<sup>64</sup> Some facilities were overcrowded with unhygienic cells, no access to clothing, exposure to cold rooms, food scarcity, no access to natural light or outdoor space, among others.<sup>65</sup> Migrants were held in centers for weeks and were given limited information regarding information for their arrests.<sup>66</sup> These conditions are far from what is considered to be humane and dignified under international human rights norms. Migrant detainees present with higher levels of post-traumatic stress disorder, anxiety, and depression compared to a non-detained population, with children being particularly at risk.<sup>67</sup> Even people who have never been detained but personally know a detained migrant face are also affected.<sup>68</sup>

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<sup>57</sup> CCPR Art. 10.

<sup>58</sup> Human Rights Committee, General Comment No. 21, Art. 10: Humane treatment of persons deprived of their liberty, para. 6, CCPR/C/Rev.1/Add.3 (1992).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Julia Manek, Andrea Galán-Santamarina & Pau Pérez-Sales, *Torturing environments and multiple injuries in Mexican migration*, Humanities and Social Sciences Communications, (August 8, 2022) at page 3, <https://pmc.ncbi.nlm.nih.gov/articles/PMC9360737/#Sec2>.

<sup>62</sup> Flynn, *supra* note 27, at 17-18.

<sup>63</sup> Human Rights Council, *supra* note 46, para. 66-67

<sup>64</sup> Subcommittee on Prevention of Torture, *supra* note 29, para. 86.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at para. 89-90.

<sup>67</sup> Manek, *supra* note 61, at 3.

<sup>68</sup> *Id.* at 13.



30) Children are particularly sensitive to detention. In 2022, the Working Group on Arbitrary Detentions found that more than 126,000 minors were held in shared migrant holding centers under the authority of the INM, or shelters for unaccompanied minors administered by the National System for the Comprehensive Development of the Family.<sup>69</sup> Unaccompanied children who are sent to these shelters have been locked in cells for up to 14 hours a day, have limited access to other children, schooling, and stimulating activities.<sup>70</sup> Children who apply for asylum can be held in these facilities for longer than four months while their applications are being processed.<sup>71</sup>

31) Including migrant detention information in the RND, or creating a dedicated one, is required to fulfil Mexico's obligations under Article 10 of the Covenant, as it will shorten migrants' exposure to inhumane and undignified conditions and alleviate some of the secondary harms. A public registry will allow family members and the legal advocates of detained migrants to gauge their detention status more efficiently, thereby lessening the period of arbitrary detention.

### Article 12

31) According to Article 12 of the Covenant, everyone lawfully within the territory of a State enjoys, within that territory, the right to move freely and choose his or her place of residence.<sup>72</sup> Whether someone is lawfully in the territory of the State is a matter of domestic law, provided they comply with the State's international obligations.<sup>73</sup> Migrants are often detained and then moved involuntarily around Mexico.

32) A 2023 Mexican Supreme Court ruling affirmed the constitutional protections afforded to immigrants, which limited their detention to a maximum of 36 hours upon arrest for immigration violations.<sup>74</sup> However, this led the INM to start practicing "short-term forced disappearances" by transferring migrants between detention centers around the country within those 36 hours to circumvent the law: holding durations reset once transferred to another facility, and the ride itself can last longer than 36 hours.<sup>75</sup> This practice frustrates the purpose of the Supreme Court's ruling and places detained individuals in particularly vulnerable situations, as their constantly shifting locations prevent them from being located, accessing legal counsel or civil society support, obtaining review of their asylum claims, or maintaining contact with their families.<sup>76</sup>

33) If migrants were included in the RND or there was a dedicated registry, it would be possible to monitor the INM's transportation of migrants. A public registry would enable tracking of migrants' locations, especially if they are being transported across the country, and make clear when individuals are being held longer than the prescribed 36-hour period.

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<sup>69</sup> Human Rights Council, *supra* note 46, para. 64.

<sup>70</sup> Flynn, *supra* note 27, at 20; *Country Report: Immigration Detention in Mexico: Between the United States and Central America*, Global Detention Project, at 17 (February 2021) <https://www.globaldetentionproject.org/wp-content/uploads/2021/02/Immigration-Detention-in-Mexico-2021-GDP.pdf>.

<sup>71</sup> *Country Report: Immigration Detention in Mexico*, *supra* note 70, at 17.

<sup>72</sup> Human Rights Committee, General Comment No. 27, Art. 12: Freedom of Movement, para. 4, CCPR/C/21/Rev.1/Add.9 (1999).

<sup>73</sup> *Id.*

<sup>74</sup> Flynn, *supra* note 27, at 16.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 16, 21.

## **QUESTIONS FOR THE COMMITTEE TO ASK THE STATE PARTY TO REPORT ON**

34) For the above reasons, we ask the Committee to include at least one of the following questions as part of Mexico's review:

- 1. What steps does Mexico intend to take to either include detained migrants in the RND or create a dedicated registry?**
- 2. What legal and administrative provisions allow migrants who are detained and their legal advocates to bring complaints regarding violations of the prohibition of torture and cruel, inhuman, and degrading treatment suffered while being held in detention? What mechanisms exist for the State to investigate and redress similar violations?**
- 3. What measures have the Mexican government and relevant agencies adopted to ensure that law enforcement and detention facility officials are trained to prevent torture and other cruel, inhuman, or degrading treatment of detained migrants?**
- 4. Please explain how Mexico ensures that migrant detention is non-arbitrary and necessary under Article 9 of the Covenant.**
- 5. What does Mexico do to make it possible for migrants to bring complaints for alleged violations of Article 9 of the Covenant while being held in detention? What mechanisms exist for the State to investigate and redress alleged violations of Article 9 of the Covenant?**
- 6. What does Mexico do to ensure migrants are treated with humanity and with respect for human dignity under Article 10 of the Covenant and related human rights norms? What provisions are in place for migrants to bring complaints for alleged violations of Article 10 while being held in detention? What mechanisms exist for the State to investigate and redress alleged violations of Article 10?**
- 7. What does Mexico do to ensure detained migrants can bring complaints for alleged violations of the right to liberty of movement, under Article 12, while being held in detention? What mechanisms exist for the state to investigate and redress alleged violations of Article 12?**
- 8. Has the State investigated alleged violations of Article 12 regarding the legal status of "short-term forced disappearances"? If so, what updates are there on what the Mexican government is doing to ensure these practices do not arbitrarily burden migrants' right to liberty of freedom of movement, as secured under Article 12? Please explain how restrictions on migrants' freedom of movement are necessary, proportionate, and non-discriminatory.**