



**COUNTRY REPORT**  
**IMMIGRATION DETENTION IN**  
**MEXICO:** BETWEEN THE UNITED  
STATES AND CENTRAL AMERICA

*FEBRUARY 2021*



**GLOBALDETENTIONPROJECT**

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# THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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**Front cover images:** A member of the Mexican National Guard stands on the bank of the Suchiate River (near Ciudad Hidalgo), as Central American migrants cross from Guatemala, 20 January 2020 © NBCDFW

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## GLOSSARY

<b>CDHFMC</b>	Centro de Derechos Humanos Fray Matías de Córdoba
<b>CDHUNL</b>	Centro de Derechos Humanos de la Universidad Nacional de Lanús
<b>CNDH</b>	National Commission on Human Rights
<b>COMAR</b>	Mexican Commission for Refugees
<b>DIF</b>	National Agency for Family Development
<b>INM</b>	National Migration Institute
<b>KIND</b>	Kids in Need of Defence
<b>ML</b>	Migration Law
<b>NPM</b>	National Preventive Mechanism
<b>RL</b>	Refugee Law
<b>RML</b>	Regulations of the Migration Law



## KEY FINDINGS

- Mexico detained more than 180,000 people for migration-related reasons in 2019, one of the highest totals in the world that year and among the highest on record for Mexico.
- As of 2020, the country was operating nearly 60 long- and short-term immigration detention centres.
- In contrast to many other important migrant detaining countries, Mexico does not impose criminal sanctions for unauthorised entry or stay, nor does it use prisons or other criminal justice-related facilities for migration enforcement purposes.
- Mexican law and policy employ euphemisms to denote migration-related detention practices: detention centres are called *estaciones migratorias* (“migration stations”); placing a person in a detention centre is called *presentación* (or “presenting” a migrant at a facility); and taking a migrant into custody is sometimes described as an *operativo de rescate de migrantes* (“migrants rescue operation”).
- In late 2020, the country adopted reforms to its migration law prohibiting the detention of children, which some observers greeted with scepticism because of the prominence of this practice in Mexico—which detained more than 50,000 children in 2019—and its failure to adhere to previously existing child detention prohibitions.
- After the onset of the COVID-19 pandemic, detainees staged protests across the country over the poor sanitary conditions in detention centres. By the end of April 2020, most migrant detainees had been released as the total population of detainees dropped from 3,759 in March 2020 to 106 by 26 April 2020.



## 1. INTRODUCTION<sup>1</sup>

Mexico has a complex migratory situation. It is a major source country, with tens of millions of nationals living in the United States and elsewhere; an important transit state for migrants, refugees, and asylum seekers from across Latin America and other parts of the world seeking to cross Mexico en route to the United States; and a destination country for labour migrants and refugees.

Although Mexican officials sometimes espouse a humanitarian view of migrants crossing their country, including the populist government of President Lopez Obrador that took power in 2018,<sup>2</sup> the country has nevertheless developed one of the world's largest immigration detention infrastructures. As of 2020, the country counted on nearly 60 long- and short-term detention centres, which are concentrated in the south (see “3. Detention Infrastructure” below). Between 2014 and 2019, the country detained on average more than 150,000 people annually. Observers contend that since 2010, the country has shifted from being a transit country to an intercepting state.<sup>3</sup>

In contrast to its wealthier neighbours to the north—[Canada](#) and the [United States](#)—Mexico does not use criminal prisons for the purposes of immigration-related detention, relying instead on a large network of specially designated detention facilities called *estaciones migratorias* and *estancias provisionales*. The 2011 Migration Law, although regarded as an important step towards improving the protection of migrants, emphasises the use of administrative detention for processing undocumented migrants and provides for indefinite detention in certain cases. Importantly, the legislation includes provisions concerning discrimination<sup>4</sup>; access to education and health services<sup>5</sup>; and the right to legal representation as well as interpreters and translators during immigration processes.<sup>6</sup>

Various organisations, including non-governmental groups and Mexico's National Commission on Human Rights (CNDH), have repeatedly reported violations in detention centres, including extremely poor conditions, overcrowding, and inadequate health care,

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<sup>1</sup> The Global Detention Project would like to thank Salva Lacruz, a consultant with the Chiapas-based non-profit El Rebozo, for his comments and suggestions on an early draft of this report.

<sup>2</sup> K. Semple, “Overflowing Toilets, Bedbugs and High Heat: Inside Mexico's Migrant Detention Centres,” *The New York Times*, 3 August 2019, [www.nytimes.com/2019/08/03/world/americas/mexico-migration-conditions.html](http://www.nytimes.com/2019/08/03/world/americas/mexico-migration-conditions.html)

<sup>3</sup> A. Aguilar et. al. “*La Detención Migratoria: Un Análisis desde un Modelo Penitenciario y el Gasto Público*,” *Así Legal, Sin Fronteras, Fundar*, January 2019, <https://sinfronteras.org.mx/wp-content/uploads/2019/02/informe-estaciones-migratorias-2019-final.pdf>

<sup>4</sup> Migration Law, Article 67 & 109(XI).

<sup>5</sup> Migration Law, Article 8.

<sup>6</sup> Migration Law, Article 14.



among other problems.<sup>7</sup> In January 2020 the Lopez Obrador administration suspended the access of civil society groups to immigration detention centres for an indefinite period of time (see subsection “2.13 Domestic monitoring” below).<sup>8</sup> Relatedly, Lopez Obrador also proposed dissolving the country’s transparency agency, the *Consejo Consultativo del Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales*, a proposal that the agency said put it “in danger” even though it has “constitutionally guaranteed autonomy from political power.”<sup>9</sup>

Observers have long expressed concerns about the treatment of child migrants in Mexico. Although Mexican officials often tout apparently progressive projects like a 2015 “alternative to detention” pilot project for children,<sup>10</sup> the country has detained record numbers of children in the last five years, including 53,507 in 2019.<sup>11</sup> According to the 2020 UN Global Study on Children Deprived of Liberty, during the period 2008-2019, “the Mexican Government carried out more than 232,000 detentions of children for migration-related purposes with the share of unaccompanied children varying between 47 percent (2014-2017) and 22 percent (2019).”<sup>12</sup>

In late 2020, Mexico adopted several reforms to its 2011 Migration Law, which included a prohibition on placing all children in detention and shifting custody of migrant children from the migration authority—the National Migration Institute—to a family development agency.<sup>13</sup> Although the move was widely applauded, including by the UN, many advocates in Mexico remained ambivalent about its practical impact, arguing that officials would continue to find ways to lock up children.

The impact of the United States on Mexico’s migration policies cannot be overstated. Most recently, the Trump administration’s hardline on migration helped spur the Mexican government to ramp up its detention efforts: 182,940 migrants were detained from January

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<sup>7</sup> A. Aguilar et. al. “*La Detención Migratoria: Un Análisis desde un Modelo Penitenciario y el Gasto Público*,” *Así Legal, Sin Fronteras, Fundar*, January 2019, <https://sinfronteras.org.mx/wp-content/uploads/2019/02/informe-estaciones-migratorias-2019-final.pdf>; Comisión Nacional de los Derechos Humanos, “*Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención*,” 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

<sup>8</sup> E. Reina, “*México suspende el acceso de las ONG a las estaciones migratorias*,” *El País*, 29 January 2020, [https://elpais.com/internacional/2020/01/29/mexico/1580253633\\_895010.html](https://elpais.com/internacional/2020/01/29/mexico/1580253633_895010.html)

<sup>9</sup> C. A. Garcia, “*Propuesta Presidencial Amenaza la Transparencia: Inai*,” *La Jornada*, 11 January 2021, <https://www.jornada.com.mx/notas/2021/01/11/politica/propuesta-presidencial-amenaza-la-transparencia-inai/>

<sup>10</sup> For more about this pilot ATD project, see: UNHCR, “*Beyond Detention: A Global Strategy to Support Governments to End the Detention of Asylum-Seekers and Refugees – 2014-2019*,” August 2016, <https://www.refworld.org/pdfid/57b850dba.pdf>

<sup>11</sup> Unidad de Política Migratoria, Registro e Identidad de Personas, “*Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2019, Cuadro 3.1.4 - Eventos de menores presentados ante la autoridad migratoria, según continente, país de nacionalidad, grupos de edad, condición de viaje y entidad federativa, enero-diciembre de 2019*,” <http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/CuadrosBOLETIN?Anual=2019&Secc=3>

<sup>12</sup> M. Nowak, “*Global Study on Children Deprived of Liberty*,” 11 November 2019, <https://www.globaldetentionproject.org/global-study-on-children-deprived-of-liberty-states-must-end-immigration-detention-of-children-and-families>

<sup>13</sup> NBC News, “*Mexico Will Stop Holding Migrant Children in Detention, Wins Praise from UN*,” 12 November 2020, <https://www.nbcnews.com/news/latino/mexico-will-stop-holding-migrant-children-detention-wins-praise-un-1247557>



to December 2019,<sup>14</sup> which was accompanied by sharp increases in deportations ( with a deportation rate of 99.8 percent that year).<sup>15</sup> A bilateral agreement was signed between Mexico and the United States in June 2019 whereby Mexico vowed to reduce migration flows in exchange for the United States not imposing tariffs on Mexican products.<sup>16</sup> From May to November 2019, the number of migrants detained by the United States border patrol fell by 70 percent.<sup>17</sup>

Since 2018, impoverished and threatened people in Central America have developed new strategies to respond to forced displacement, including banding together in large “migrant caravans” headed to the United States.<sup>18</sup> Between October 2018 and April 2019, there were a total of six “caravans,” the first of which departed from Honduras with more than 7,000 people.<sup>19</sup> The most recent “caravan” departed in early January 2021, but it quickly faced fierce resistance at the Guatemalan border, where security forces violently repelled the migrants using tear gas, riot shields, and truncheons.<sup>20</sup> For its part, Mexico sought to seal off its border with Guatemala in preparation for the caravan, despite repeated claims by Mexican authorities that the rights of migrants would be respected when passing through Mexican territory.<sup>21</sup> Mexican NGOs have reported that the response of the Mexican security forces during previous caravans involved serious human rights violations.<sup>22</sup>

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<sup>14</sup> Unidad de Política Migratoria, Registro e Identidad de Personas, “*Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2019, Cuadro 3.1 – Eventos de Extranjeros Presentados ante la Autoridad Migratoria, según entidad Federativa*,” 6 July 2020, <http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/CuadrosBOLETIN?Anual=2019&Secc=3>

<sup>15</sup> Instituto Nacional de Migración, “*Tema Migratorio 301219: Información INM Nacional*,” 29 December 2019, [www.inm.gob.mx/gobmx/word/index.php/tema-migratorio-301219/](http://www.inm.gob.mx/gobmx/word/index.php/tema-migratorio-301219/)

<sup>16</sup> D.M Shear, A. Swanson, and A. Ahmed, “Trump Calls Off Plan to Impose Tariffs on Mexico,” *The New York Times*, 7 June 2019, [www.nytimes.com/2019/06/07/us/politics/trump-tariffs-mexico.html](http://www.nytimes.com/2019/06/07/us/politics/trump-tariffs-mexico.html)

<sup>17</sup> L. Arista, “*El ‘muro mexicano’ disminuye la migración a Estados Unidos*,” *Expansión Política*, 23 January 2020, <https://politica.expansion.mx/mexico/2020/01/23/el-muro-mexicano-disminuye-la-migracion-a-estados-unidos>

<sup>18</sup> Colectivo de Monitoreo de Derechos Humanos en el Sureste Mexicano, et al., “*Impactos de la Política Migratoria de México en la Frontera Sur: Hallazgos de la misión de observación de derechos humanos en Tapachula, Chiapas*,” November 2019, [https://vocesmesoamericanas.org/wp-content/uploads/2019/11/INFORME-MODH-MIGRACION%CC%81N\\_SuresteMe%CC%81xico-WEB.pdf](https://vocesmesoamericanas.org/wp-content/uploads/2019/11/INFORME-MODH-MIGRACION%CC%81N_SuresteMe%CC%81xico-WEB.pdf)

<sup>19</sup> L. Arista, “*Caravanas de migrantes en México*,” *El Economista*, 27 April 2019, [www.eleconomista.com.mx/politica/Caravanas-de-migrantes-en-Mexico-20190427-0001.html](http://www.eleconomista.com.mx/politica/Caravanas-de-migrantes-en-Mexico-20190427-0001.html)

<sup>20</sup> Global Detention Project, “COVID-19 Global Immigration Detention Platform, Guatemala Update,” 18 January 2021, <https://www.globaldetentionproject.org/countries/americas/guatemala/#covid-19-updates>

<sup>21</sup> L. Arista, “*Caravanas de migrantes en México*,” *El Economista*, 27 April 2019, [www.eleconomista.com.mx/politica/Caravanas-de-migrantes-en-Mexico-20190427-0001.html](http://www.eleconomista.com.mx/politica/Caravanas-de-migrantes-en-Mexico-20190427-0001.html)

<sup>22</sup> Colectivo de Monitoreo de Derechos Humanos en el Sureste Mexicano, et al., “*Impactos de la Política Migratoria de México en la Frontera Sur: Hallazgos de la misión de observación de derechos humanos en Tapachula, Chiapas*,” November 2019, [https://vocesmesoamericanas.org/wp-content/uploads/2019/11/INFORME-MODH-MIGRACION%CC%81N\\_SuresteMe%CC%81xico-WEB.pdf](https://vocesmesoamericanas.org/wp-content/uploads/2019/11/INFORME-MODH-MIGRACION%CC%81N_SuresteMe%CC%81xico-WEB.pdf)



## 2. LAWS, POLICIES, PRACTICES

### 2.1 Key norms

Core pieces of national legislation providing a framework for immigration detention	<ul style="list-style-type: none"> <li>• The Mexican Constitution</li> <li>• 2011 Migration Law (<i>Ley de Migración</i>)</li> <li>• 2012 Regulations of the Migration Law (<i>Reglamento de la Ley de Migración</i>)</li> </ul>
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Mexico’s legal norms relating to immigration detention and expulsion are contained in several pieces of legislation: the Mexican Constitution; the 2011 Migration Law (ML) (*Ley de Migración*) last amended in January 2021; and the 2012 Regulations of the Migration Law (RML) (*Reglamento de la Ley de Migración*), last amended in May 2014. On 29 November 2020, Mexico’s Congress approved several reforms to the 2011 Migration Law through a Decree, including the prohibition to detain children as a result of their migration status, which entered into force in January 2021.<sup>23</sup>

The Mexican Constitution contains rights relevant to immigration-related detention. Article 1 provides that all individuals in Mexico are entitled to the rights provided therein; Article 11 provides the right to claim asylum and allows any person to enter, exit, and travel through the country without a passport, security card, or similar document and Article 33 provides that the Federal Executive “shall have the exclusive power to compel any foreigner whose remaining he may deem inexpedient to abandon the national territory immediately and without the necessity of previous legal action.”

### 2.2 COVID-19 response

Did authorities issue a moratorium on new detention orders?	No
Were any immigration detainees released during the pandemic?	Yes
Were deportations ceased?	No

<sup>23</sup> International Detention Coalition, “Law Reform Opens the Door to Effective Implementation of the National Protocol for the Protection of Migrant Children,” 13 October 2020, <https://bit.ly/2NhQ2MW>

When the COVID-19 pandemic struck in early 2020, Mexico had some 4,000 people in immigration detention, the vast majority of whom were from Honduras and El Salvador.<sup>24</sup> On 17 March 2020, Mexico's National Commission on Human Rights (*Comisión Nacional de los Derechos Humanos*) (CNDH) issued a press release requesting that urgent actions be taken to avoid overcrowding in detention centres and to prevent the spread of the virus.<sup>25</sup> The country's immigration authority, the National Migration Institute (*Instituto Nacional de Migración*) (INM), reportedly applied some measures, including provision of hygiene supplies and installation of air filters.<sup>26</sup>

On 2 April 2020, a group of civil society actors issued an open letter demanding the urgent release of all immigration detainees in the country, citing the threat of COVID-19, deaths in detention centres, and the "negligent" behaviour of the INM and security forces.<sup>27</sup> Amnesty International also urged Mexican authorities to release immigration detainees, but warned that given the fact that migrants and refugees are prime targets for exploitation and violence in Mexico, authorities must ensure that those released have access to key services, as well as care and safety.<sup>28</sup>

On 17 April, following a legal action supported by more than 40 civil society organisations, a court ordered the immediate release of vulnerable detainees held in immigration detention centres and that they be provided with a temporary status which would allow them to access health care. The court also ordered the INM to develop a report detailing the number of persons detained as well as a strategy for migrants and asylum seekers to be able to benefit from economic support.<sup>29</sup> Mexico's *Secretaría de Gobernación* (Interior Ministry) subsequently ordered the immediate release of detained migrants to avoid the spread of the virus.<sup>30</sup> The INM then temporarily reduced the population of its facilities, from nearly 4,000 in March to approximately 100 by the end of April 2020.<sup>31</sup>

The Interior Ministry's decision to release detainees came almost a week after the UN Human Rights Commissioner (OHCHR) had urged Mexico to also temporarily suspend deportations and to establish mechanisms to protect migrants and ensure they are provided

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<sup>24</sup> Human Rights Watch, "Mexico: Free Detained Migrants Amid Pandemic," 14 April 2020, <https://www.hrw.org/news/2020/04/14/mexico-free-detained-migrants-amid-pandemic>

<sup>25</sup> CNDH, "*Exige CNDH Acciones Urgentes para Evitar Hacinamiento y Contagio Masivo de Coronavirus en Personas Migrantes Alojadas en Estaciones del Instituto Nacional de Migración (INM)*," 17 March 2020, [https://www.cndh.org.mx/sites/default/files/documentos/2020-03/COM\\_2020\\_081.pdf](https://www.cndh.org.mx/sites/default/files/documentos/2020-03/COM_2020_081.pdf)

<sup>26</sup> La Razón, "*INM Acepta Medidas Emitidas por la CNDH para Evitar Contagios*," 18 March 2020, <https://www.razon.com.mx/mexico/acepta-inm-medidas-cautelares-emitidas-por-la-cndh/>; El Heraldo de Chiapas, "*INM Fortalece Medidas en Estaciones Migratorias por Coronavirus*," 14 March 2020, <https://bit.ly/3d5yluB>

<sup>27</sup> Asylum Access, "*Ante los Riesgos por el Covid-19: Exigimos la Libertad Inmediata de Todas las Personas Migrantes, Refugiadas y Solicitantes de Asilo en Detención Migratoria*," 2 April 2020, <https://bit.ly/3tTuU0j>

<sup>28</sup> Amnesty International, "Americas: Governments Must Halt Dangerous Discriminatory Detention of Migrants and Asylum Seekers," 2 April 2020, <https://bit.ly/3jld0J2>

<sup>29</sup> P. Torres, "*Resolucion Historica en pro de las Personas Migrantes*," *Sin Fronteras*, 18 April 2020, <https://sinfronteras.org.mx/index.php/2020/04/18/resolucion-historica-en-pro-de-las-personas-migrantes/>

<sup>30</sup> Secretaría de Gobernación, "*Actua INM con Responsabilidad Ante la Contingencia por Covid-19*," 26 April 2020, <https://bit.ly/3tOKASh>

<sup>31</sup> Secretaría de Gobernación, "*Actua INM con Responsabilidad Ante la Contingencia por Covid-19*," 26 April 2020, <https://bit.ly/2OImTRh>

with support.<sup>32</sup> Nevertheless, Mexico continued deporting people to Central America by land and air.<sup>33</sup>

Responding to the Global Detention Project's COVID-19 survey, the [Centro de Derechos Humanos Fray Matías de Córdoba](#) (CDHFMC) reported that certain groups of people remained in detention, including those who: had on-going court cases; were tagged with some type of immigration alert; were detained while their immigration status was being verified or while their asylum application was being processed; or were third-country nationals deported to Mexico by the United States.<sup>34</sup> Responding to the same survey, the OHCHR country office in Mexico said that authorities had failed to adhere to human rights standards. Following their release, many migrants, asylum seekers, and refugees were abandoned or deported to their countries of origin, which could violate the principle of non-refoulement. The OHCHR Mexico office also indicated that migrants were not being tested for COVID-19 and they were unable to confirm whether any measures had been taken to prevent the spread of COVID-19 amongst released migrants.<sup>35</sup>

In May 2020, a report drafted by a consortium of academic and civil society organisations found that more than 60,000 asylum seekers were awaiting the resolution of their cases in Mexico. More than 20,000 of them were waiting in the southern border town of Tapachula. The report explained that with asylum procedures suspended and growing difficulties in undertaking deportations, the length of detention in immigration detention centres would be greatly extended in certain cases. This situation further worsened the situation asylum seekers faced in the country, with many also encountering overcrowding in some detention centres, riots in various facilities, and ongoing reports of abuses by immigration agents, federal police, and agents of the national guard.<sup>36</sup> The report made numerous recommendations regarding the treatment of migrants and asylum seekers in the context of the pandemic including, *inter alia*, “integrating migrants and refugees within national action plans to combat COVID-19” and “urgently establishing alternatives to detention to avoid overcrowding in detention centres.”<sup>37</sup>

## 2.3 Grounds for administrative migration-related detention

Are grounds for administrative migration-related detention provided in law?

Yes

Grounds for migration-related detention are provided in the 2011 Migration Law and in the Regulations of the Migration Law. (For provisions concerning the detention of asylum seekers, see “2.5 Asylum seekers” below.)

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<sup>32</sup> R. Gonzalez, “*Pide ONU-DH a México Suspender Deportaciones de Migrantes*,” *El Sol de Tlaxcala*, 23 April 2020, <https://bit.ly/2LI6rJW>

<sup>33</sup> Sudimer et al., “*Propuesta de Rutas Alternativas a la Detención Para la Población Migrante y Solicitante de Asilo en México Durante la Pandemia del COVID-19*,” May 2020, <https://bit.ly/376PTme>

<sup>34</sup> Centro de Derechos Humanos Fray Matias de Cordova AC (Ciria Villatoro Gonzalez), Global Detention Project COVID-19 Survey, 4 June 2020.

<sup>35</sup> OHCHR Mexico Country Office (Andrea Nomdedeu), Global Detention Project COVID-19 survey, 2 June 2020.

<sup>36</sup> Sudimer et al., “*Propuesta de Rutas Alternativas a la Detención Para la Población Migrante y Solicitante de Asilo en México Durante la Pandemia del COVID-19*,” May 2020, <https://bit.ly/376PTme>

<sup>37</sup> Sudimer et al., “*Propuesta de Rutas Alternativas a la Detención Para la Población Migrante y Solicitante de Asilo en México Durante la Pandemia del COVID-19*,” May 2020, <https://bit.ly/376PTme>

The Migration Law's extensive use of euphemisms makes it challenging to properly interpret.<sup>38</sup> Article 99 stipulates an overriding ground that may lead to migration-related detention yet it fails to mention any word or concept unambiguously relating to detention, confinement, or deprivation of liberty. The article provides that foreigners are to be "presented" (*presentación*) at migratory stations while their "immigration situation" is being determined ("*Es de orden publicó la presentación de los extranjeros en estaciones migratorias o en lugares habilitados para ello, en tanto se determina su situación migratoria en territorio nacional*"). Article 99 refers to deprivation of liberty obliquely, using the term *alojamiento*, or "accommodation." The article states that foreigners are to be temporarily accommodated in order to assist the process of regularising their stay in the country or to assist in their return. (In addition, according to a 2015 civil society report, officials frequently refer to detention operations as "rescue operations," or "*operativos de rescate de migrantes*."<sup>39</sup>)

According to Article 111 of the Migration Law, the National Migration Institute must resolve the immigration situation of foreigners detained within 15 working days. This may nonetheless be extended to a period not exceeding 60 working days in four of five listed situations, including: I) where no reliable information on a person's identity or nationality exists or where there are difficulties obtaining relevant documents; II) where the consulate or consular sections of the country of origin of the person require more time for the issuance of travel and identity documents; III) where there is an impediment for the person's travel through third countries or an obstacle to establishing the travel itinerary to the final destination; and IV) where a person suffers from a recognised medical condition or is physically or mentally disabled, making it impossible for them to travel. The fifth situation, where a person has lodged an administrative or judicial appeal regarding their immigration status, is not covered by the 60 working day limit of detention thus enabling indefinite detention.

The Migration Law also fails to unambiguously stipulate whether it is intended to provide for mandatory detention, though observers have repeatedly affirmed that the law is applied in this way. Article 99 appears to indicate that anyone whose status is unclear or who is subject to deportation must be detained at a detention centre operated by the National Migration Institute (INM). A 2016 UNHCR report states that "Mexican legislation foresees mandatory detention in migratory stations as a measure applicable to every adult person found to be in an irregular migratory situation in the country."<sup>40</sup>

Article 144 provides numerous grounds for removal from the country for people who are in immigration detention, including: 1) entering the country without proper documents or through an unauthorised entry point; 2) re-entering the country after being deported and not having received authorisation for readmission; 3) falsely presenting oneself as being a Mexican national; 4) being subject to ongoing criminal proceedings, having been convicted of a serious crime or being considered as a threat to national or public security; 5) providing

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<sup>38</sup> For a commentary on this language, see: Centro de Derechos Humanos de la Universidad Nacional de Lanús (CDHUNL) and Centro de Derechos Humanos Fray Matías de Córdova (CDHFMC), "*Los Derechos Humanos de Niños, Niñas y Adolescentes Migrantes en la Frontera México-Guatemala*," 20 September 2012, [www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf)

<sup>39</sup> C.J. Barja, "*Derechos Cautivos: La situación de las personas migrantes y sujetas a protección internacional en los centros de detención migratoria: siete experiencias de monitoreo desde la sociedad civil*," 15 April 2015, <https://sinfronteras.org.mx/docs/inf/inf-derechos-cautivos.pdf>

<sup>40</sup> UNHCR, "Beyond Detention: A Global Strategy to Support Governments to End the Detention of Asylum-Seekers and Refugees – 2014-2019," August 2016, <https://www.refworld.org/pdfid/57b850dba.pdf>



false documentation; and having failed to comply with an order to leave the national territory issued by the INM.

## 2.4 Criminalisation

Does the country provide specific criminal penalties for immigration-related violations?
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No
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Mexico does not impose criminal sanctions for unauthorised entry or stay in the country. According to one expert, such sanctions were eliminated in 2008.<sup>41</sup> Article 2 of the Migration Law specifically provides that being in an irregular situation does not amount to a crime (“*En ningún caso una situación migratoria irregular preconfigurará por si misma la comisión de un delito ni se prejuzgara la comisión de ilícitos por parte de un migrante por el hecho de encontrarse en condición no documentada*”).

## 2.5 Asylum seekers

Is the detention of asylum seekers provided in law?
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Yes
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Maximum length of detention for asylum seekers
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Indefinite
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The 2011 Refugee Law provides specific rights and guarantees for people seeking asylum in Mexico. Article 5 guarantees non-discrimination, the best interests of the child, protection of the family unit, confidentiality, and the non-criminalisation of irregular entry; Article 6 enshrines the principle of *non-refoulement*. However, asylum seekers in Mexico can be placed in immigration detention according to the Regulations of the Migration Law (RML) and can potentially be detained indefinitely under provisions of the Migration Law (ML).

Under Articles 62 and 63 RML, persons applying for asylum can be transferred to detention centres and remain there during the entire administrative procedure. Article 62 states that the migration authority, within a period not exceeding four hours, must: a) interview the person; b) draw up a report containing the reasons and documentation that is taken into account in authorising the person’s entry into Mexico; c) bring anyone who finds themselves in one of the situations described under Article 63(I) to an immigration detention centre to conduct the relevant procedure; and d) in situations where a person is entering Mexico due to an emergency such as a natural disaster, is in a vulnerable situation, or cannot continue their travel towards to another destination, may authorise the foreigner’s temporary entry for a maximum of 180 days. Article 63(I) refers to “applicants for refugee status, political asylum or anyone who requires the start of a statelessness determination procedure.”

Furthermore, under Article 109(II) ML, all detainees have the right to be informed of their right to request recognition of their refugee status or statelessness. However, this may result in longer—potentially indefinite—detention if an asylum seeker appeals a ruling on his or her case (Article 111(V) ML).

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<sup>41</sup> Elba Coria Marquez (Immigration lawyer), Interview with Karen Elena Marín Hernández (Global Detention Project), 21 November 2012.

Detention of asylum seekers can be prolonged indefinitely as the measure is based on the duration of a person's particular administrative procedure. According to the NGO Sin Fronteras: "There are two ways to apply for asylum: applying directly to the Mexican Commission for Assistance to Refugees or filing a request directly with immigration authorities. In the second case, the asylum seekers are detained during the entire procedure. Here, the problem is that detention can be prolonged indefinitely, for as long as it takes to complete the administrative process."<sup>42</sup> For instance, in the [Iztapalapa Immigration Detention Centre](#) in Mexico City there have been cases of asylum seekers being detained for up to six months, two of whom were women with children.<sup>43</sup>

Article 52 ML lists scenarios in which foreigners in an irregular situation may remain in the country. Article 52V ML concerns "humanitarian reasons" including people applying for "political asylum, recognition of refugee status or complementary protection of the Mexican State, until their immigration status is resolved. If the request is positive, they will be granted permanent resident status, in terms of Article 54 of this law." The same article provides that "the Interior Ministry may also authorise the condition of visitor stay for humanitarian reasons to foreigners who do not find themselves in the situations described above, when there is a humanitarian cause or public interest that necessitates its admission of regularisation in the country, and they will have permission to work in exchange for remuneration."<sup>44</sup>

Observers have pointed to a number of weaknesses in Mexican asylum procedures. For instance, according to the 2012 study concerning migrant children in southern Mexico published by the [Centro de Derechos Humanos de la Universidad Nacional de Lanús](#) (CDHUNL) and the [Centro de Derechos Humanos Fray Matías de Córdoba](#) (CDHFMC), "the application for asylum and the eventual appeal of a negative decision are presented without possible recourse to basic guarantees such as legal assistance, a legal guardian (in cases of unaccompanied children), very little information, and very limited participation in the process."<sup>45</sup> Despite fears of abuse or violence in their home countries, several children interviewed by these organisations said they would accept "voluntary" repatriation because they remained in detention during the entire process and faced endless delays in processing their request or appeals.<sup>46</sup>

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<sup>42</sup> Elba Coria Marquez (Immigration lawyer), Interview with Karen Elena Marín Hernández (Global Detention Project), 21 November 2012.

<sup>43</sup> A. Aguilar et. al. "La Detención Migratoria: Un Análisis desde un Modelo Penitenciario y el Gasto Público," *Así Legal, Sin Fronteras, Fundar*, January 2019, <https://bit.ly/3rN9q3b>

<sup>44</sup> C.E Marquez et al, "Que esperamos del futuro? Detención migratoria y alternativas a la detención en las Américas," *International Detention Coalition*, 2017, <https://www.refworld.org/docid/590c4c9b4.html>

<sup>45</sup> Centro de Derechos Humanos de la Universidad Nacional de Lanús (CDHUNL) and Centro de Derechos Humanos Fray Matías de Córdoba (CDHFMC), "Los Derechos Humanos de Niños, Niñas y Adolescentes Migrantes en la Frontera México-Guatemala," 20 September 2012, [www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf)

<sup>46</sup> Centro de Derechos Humanos de la Universidad Nacional de Lanús (CDHUNL) and Centro de Derechos Humanos Fray Matías de Córdoba (CDHFMC), "Los Derechos Humanos de Niños, Niñas y Adolescentes Migrantes en la Frontera México-Guatemala," 20 September 2012, [www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf)



## 2.6 Children

Is the detention of children provided in law?	No
Have children been detained in practice?	Yes
Number of detained children	53,507 (2019)

Mexico has for many years been one of the world's more aggressive detainers of migrant children. According to the 2020 UN Global Study on Children Deprived of Liberty, during the period 2008-2019, "the Mexican Government carried out more than 232,000 detentions of children for migration-related purposes with the share of unaccompanied children varying between 47percent (2014-2017) and 22 percent (2019)."<sup>47</sup> In 2019 alone, 53,507 children were detained (13,242 unaccompanied and 40,265 accompanied),<sup>48</sup> representing an increase of more than 80 percent from 2018.<sup>49</sup> The vast majority of child detainees come from Honduras, Guatemala, and El Salvador.<sup>50</sup> The country continued detaining children even after the COVID-19 pandemic struck, recording 10,972 detentions during the period January-November 2020.<sup>51</sup>

In November 2020, the country adopted reforms to the Migration Law prohibiting the detention of all migrant children, which received widespread praise nationally and internationally.<sup>52</sup> Previously existing non-detention provisions in migration law only covered unaccompanied children.

However, even before the 2020 migration legal reforms, Mexican laws concerning children prohibited the detention of both accompanied and unaccompanied children. Article 111 of the Regulation of the General Law on the Rights of Children and Adolescents (*Reglamento de la Ley General de los Derechos de Niñas, Niños y Adolescentes*) provides that "children, regardless of whether they are accompanied or not, should never be detained in migratory stations or in any other immigration detention centres." The law also establishes that the National Agency for Family Development (DIF) is responsible for identifying children in need of international protection. It created a Child Protection Authority tasked, among other

<sup>47</sup> M. Nowak, "Global Study on Children Deprived of Liberty," 11 November 2019, <https://bit.ly/3b4rRtE>

<sup>48</sup> Unidad de Política Migratoria, Registro e Identidad de Personas, "Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2019, Cuadro 3.1 – Eventos de Extranjeros Presentados ante la Autoridad Migratoria, según entidad Federativa," 6 July 2020, <http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/CuadrosBOLETIN?Anual=2019&Secc=3>

<sup>49</sup> International Detention Coalition, "Law Reform Opens the Door to Effective Implementation of the National Protocol for the Protection of Migrant Children," 13 October 2020, <https://bit.ly/3b1219x>

<sup>50</sup> Secretaría de la Gobernación, Unidad de Política Migratoria, Registro e Identidad de Personas, "Niñas, niños y adolescentes migrantes en situación migratoria irregular, desde y en tránsito por México," August 2019, [http://portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadistica/NNA/NNA\\_Sintesis\\_2019.pdf](http://portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadistica/NNA/NNA_Sintesis_2019.pdf)

<sup>51</sup> Unidad de Política Migratoria, Registro e Identidad de Personas, "Boletines Estadísticos: III. Extranjeros Presentados y Devueltos, 2020, Cuadro 3.1.4 Eventos de Menores Presentados ante la Autoridad Migratoria, según Continente, País de Nacionalidad, Grupos de Edad, Condición de Viaje y Entidad Federativa, Enero-Noviembre de 2020," December 2020, <https://portales.segob.gob.mx/es/PoliticaMigratoria/CuadrosBOLETIN?Anual=2020&Secc=3>

<sup>52</sup> UNHCR, "UNHCR Welcomes Mexico's Reforms to Protect Rights of Child Refugees and Asylum-Seekers," 15 January 2021, <https://bit.ly/2ZbduY>; International Detention Coalition, "Law Reform Opens the Door to Effective Implementation of the National Protocol for the Protection of Migrant Children," 13 October 2020, <https://bit.ly/2Nfg9nz>

responsibilities, with conducting best interest determination procedures and to protect children's rights.<sup>53</sup>

Despite these provisions, both accompanied and unaccompanied children continued to be detained in large numbers. Thus, while the UN refugee agency applauded the 2020 reforms and some NGOs called them "historic," other observers expressed scepticism about whether they would have any practical impact.

These concerns are longstanding. In 2015, shortly after Mexico's 2014 adoption of the General Act on the Rights of Children and Adolescents, the UN Committee on the Rights of the Child (CRC) expressed concern regarding its implementation, including in particular with respect to child migrants: "The Committee is concerned about the effective implementation of those provisions and that extensive impunity prevails for violence against children. It is particularly concerned about: a) The prevalence of torture and other cruel or degrading treatment or punishment of children, particularly migrant children, children in street situations and children in police custody and other forms of detention."<sup>54</sup> The CRC also expressed concern about "migrant children being kept in detention centres for migrants and reports of violence and abuse against children in those centres (and about) reports that many migrant are deported without a preliminary process to determine their best interests, in spite of the legal recognition of the principle in law on migration and the General Act on the Rights of Children and Adolescents."<sup>55</sup>

One of the challenges in implementing these prohibitions may be the failure to adequately finance social welfare institutions, like DIF, to provide necessary care for children. Additionally, Article 176 of the Regulations of the Migration Law allows the migration authority, the National Migration Institute (INM), to retain responsibility for unaccompanied migrant children in other public or private institutions in exceptional circumstances: where there is no availability in DIF facilities or when the care required cannot be provided in the DIF's facilities.

Even when children remain with DIF, there have been accusations that their treatment of children amounts to *de facto* detention. A 2019 study by Kids in Need of Defense (KIND) and the *Centro de Derechos Humanos Fray Matias de Cordova* (CDHFMC) reported that in some cases, children are transferred from INM facilities to shelters run by DIF and that "while DIF shelters are an improvement over INM facilities, they are still closed-door facilities where children are not allowed to leave and do not have adequate education and recreational opportunities. Children who apply for asylum in Mexico can be held in these facilities for periods as long as four months or more while their applications are processed by the Mexican Commission for Refugees (*Comisión Mexicana de Ayuda a Refugiados*) (COMAR), and then for months longer after they are recognised as refugees in the case their applications are approved by COMAR."<sup>56</sup>

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<sup>53</sup> UNHCR, "Beyond Detention: A Global Strategy to Support Governments to End the Detention of Asylum-Seekers and Refugees – 2014-2019," August 2016, <https://www.refworld.org/pdfid/57b850dba.pdf>

<sup>54</sup> UN Committee on the Rights of the Child, "Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Mexico, CRC/C/MEX/CO/4-5," 3 July 2015, <https://www.refworld.org/docid/566fc4d14.html>

<sup>55</sup> UN Committee on the Rights of the Child, "Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Mexico, CRC/C/MEX/CO/4-5," 3 July 2015, <https://www.refworld.org/docid/566fc4d14.html>

<sup>56</sup> KIND and CDHFMC, "The Invisible Wall: Obstacles to Protection for Unaccompanied Migrant Children along Mexico's Southern Border," July 2019, <https://supportkind.org/wp-content/uploads/2019/07/Tapachula-report-FINAL-7-26-19-002.pdf>

An early study from 2012 found that “despite the fact that the immigration law ... requires the National Migration Institute to immediately transfer (*canalizar de manera inmediata*) migrant children and adolescents, the immigration authorities systematically fail to comply with this order. The transfer presumes an alternative to detention, but to date, it is only a legal prescription that has not permeated actual practice. Children older than 12 years of age, and as we verified, in many cases even younger ones, are held in detention centres.”<sup>57</sup> The study also claimed widespread abuses of migrant children in custody, including: arbitrary detention and deportation; lack of due process guarantees for detained children; restrictions on access to detained unaccompanied children by researchers because of the claim by authorities that the children’s consular representatives are their legal guardian and thus must give permission for the children to be interviewed; the failure of the 2011 Migration Law to provide clarity on the treatment of children in DIF custody and how DIF shelters should operate; the use of euphemisms in official Mexican discourse on migration policy—such as referring to detention as “assurance” (*aseguramiento*) and deportations as “sending back” (*devolución*)—which the study argued “camouflage the true legal nature of state practices ... and impede analysis, evaluation, and monitoring of migration policy”; and a lack of reliable data on the situation of undocumented children due to problems in the INM methodology.<sup>58</sup>

Given this track record, numerous actors expressed scepticism when the Mexican Congress unanimously approved reforms to the ML and RML aimed at ending the detention of children, which entered into force in January 2021. The legislative changes are meant to establish that national immigration authorities (INM) will no longer be responsible for decisions regarding migrant children. Instead, such decisions are to be made by the National System for the Protection of Children, regarded as the best institution for ensuring children’s welfare in accordance with their best interests.<sup>59</sup> In addition, the Commission for the Protection of Migrant Children and Asylum Seekers was created within the framework of the National System for the Protection of Children, which is made up of organisations such as the INM; COMAR; National Commission for Human Rights (CNDH); International Organisation for Migration (IOM), and the Interior Ministry.<sup>60</sup>

The reforms also include amendments to various existing provisions, including Article 112(I) of the ML, which now stipulates that the custody of all migrant children is to be immediately transferred from the INM to DIF. Following the reform’s entry into force on 11 January 2021, the INM released a statement in which it stated that from then on, none of its facilities would house children.<sup>61</sup> Article 29 of the ML, which lists DIF’s duties, now stipulates that its duties extends to all children and states that the agency must accommodate, provide assistance, and ensure adequate measures are taken.

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<sup>57</sup> Centro de Derechos Humanos de la Universidad Nacional de Lanús (CDHUNL) and Centro de Derechos Humanos Fray Matías de Córdova (CDHFMC), “*Los Derechos Humanos de Niños, Niñas y Adolescentes Migrantes en la Frontera México-Guatemala*,” 20 September 2012, [www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf)

<sup>58</sup> Centro de Derechos Humanos de la Universidad Nacional de Lanús (CDHUNL) and Centro de Derechos Humanos Fray Matías de Córdova (CDHFMC), “*Los Derechos Humanos de Niños, Niñas y Adolescentes Migrantes en la Frontera México-Guatemala*,” 20 September 2012, [www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf)

<sup>59</sup> International Detention Coalition, “Mexican Congress Affirms the Rights of the Child,” 8 October 2020, <https://idcoalition.org/news/mexican-congress-affirms-the-rights-of-the-child/>

<sup>60</sup> International Detention Coalition, “Law Reform Opens the Door to Effective Implementation of the National Protocol for the Protection of Migrant Children,” 13 October 2020, <https://bit.ly/3aVJqfj>

<sup>61</sup> Instituto Nacional de Migración, “*Encabeza INM Tareas de Coordinación con Instancias Federales y Locales Para Garantizar Protección de Niñez Migrante*,” 22 January 2021, <https://bit.ly/3qrJoCx>

According to CDHFMC, it is too early to estimate the impact of the reform. Nonetheless, the NGO told the Global Detention Project that the INM is trying to avoid detaining families with children as they are unclear on the implementation of the reform.<sup>62</sup> On 22 January, *Conexión Migrante* reported that the INM had informed that it would provide shelters (*albergues*) throughout the country so that migrant children can be provided with care and protection.<sup>63</sup> However, CDHFMC highlighted that the DIF does not have the sufficient infrastructure to accommodate all arriving families and children. According to them, a few unaccompanied children have been transferred to civil society shelters, but it is unclear whether this will be the practice in the future.<sup>64</sup>

## 2.7 Other vulnerable groups

What specific categories of vulnerable persons are protected from immigration detention?

- Victims of trafficking
- Non-citizen victims of crime

Mexican law provides specific protections for other vulnerable groups of non-citizens. Under Article 180(V) of the Regulations of the Migration Law, the detention of victims of trafficking is prohibited and they should be accommodated in shelters or specialised institutions where they can be provided with adequate care. Non-citizens in an irregular situation who have been victims of crime are also provided with certain protections under the law, including, *inter alia*, being provided with information regarding the possibility to claim asylum, consular protection, and assisted return (Article 180(I)(a)-(f) RML). Article 133 of the Migration Law provides the right of victims or witnesses to a serious crime to regularise their migratory status. Yet, there have been cases in which migrants who have alleged being victims of crime have been forced to stay in detention centres during the duration of investigations into their claims.<sup>65</sup>

## 2.8 Length of detention

Maximum length for administrative immigration detention in law

Indefinite

Maximum length of time in custody prior to issuance of a detention order

15 days

A person can only be kept in custody prior to being charged for a maximum of 72 hours (Article 19 Mexican Constitution). Article 111 of the Migration Law provides that the National Migration Institute must resolve the immigration situation of foreigners detained within 15 working days. In effect, this establishes that the initial period of administrative confinement of foreigners cannot exceed 15 working days. This may nonetheless be extended to a period not exceeding 60 working days in four of five listed situations, including: I) where no reliable

<sup>62</sup> Centro de Derechos Humanos Fray Matías de Córdova (Yuriria Salvador), Email to Michael Flynn (Global Detention Project), 25 January 2021.

<sup>63</sup> Conexión Migrante, “*INM Adaptará Espacios en Albergues para los Niños Migrantes*,” 22 January 2021, <https://conexionmigrante.com/2021-01-22/inm-adaptara-espacios-en-albergues-para-los-ninos-migrantes/>

<sup>64</sup> Centro de Derechos Humanos Fray Matías de Córdova (Yuriria Salvador), Email to Michael Flynn (Global Detention Project), 25 January 2021.

<sup>65</sup> Elba Coria Marquez (Immigration lawyer), Interview with Karen Elena Marín Hernández (Global Detention Project), 21 November 2012.

information on a person’s identity or nationality exists or where there are difficulties obtaining relevant documents; II) where the consulate or consular sections of the country of origin of the person require more time for the issuance of travel and identity documents; III) where there is an impediment for the person’s travel through third countries or an obstacle to establishing the travel itinerary to the final destination; and IV) where a person suffers from a recognised medical condition or is physically or mentally disabled, making it impossible for them to travel.

The fifth situation, where a person has lodged an administrative or judicial appeal regarding their immigration status, is not covered by the 60 working day limit of detention thus enabling indefinite detention. According to the National Commission on Human Rights (CNDH), in cases where a detainee has made an appeal, the time in detention “can be extended until the case is resolved by judicial power.”<sup>66</sup>

In July 2019, the UN Committee against Torture noted with “concern that the State party continues to rely on the automatic or mandatory detention of undocumented migrants and asylum seekers. Pursuant to section 111 of the Migration Act, National Migration Institute has a period of 15 working days to decide on the cases of persons staying in so-called migrant holding centres, extendable to 60 days in certain circumstances. However, in the event of an administrative or judicial appeal, including in relation to asylum applications, the law does not stipulate the maximum duration of administrative detention.”<sup>67</sup>

## 2.9 Procedural standards

<p>What basic procedural standards are required by law?</p>	<ul style="list-style-type: none"> <li>● Information to detainees</li> <li>● Right to request voluntary repatriation</li> <li>● Access to consular protection</li> <li>● Right to receive visits from family members and legal representatives</li> <li>● Right to receive medical and psychological attention</li> <li>● Right to an interpreter or translator</li> <li>● Right to communicate with a legal advisor via telephone</li> </ul>
<p>Are there reports of detainees being denied any of these standards?</p>	<p>Yes</p>

Article 16 of the Mexican Constitution protects individuals from arbitrary detention. In addition, Article 14 of the Constitution provides that no one may be deprived of liberty unless decided by a court through a judicial process.

Article 11 of the Migration Law (ML) provides access to justice and due process rights for migrants, irrespective of their immigration status. According to Article 106 ML, detention centres must never exceed their capacity. Article 109 ML guarantees the rights of detainees

<sup>66</sup> Fernando Batista (National Commission for Human Rights), Email correspondence with Karen Marín (Global Detention Project), 20 December 2012.

<sup>67</sup> UN Committee against Torture, “Concluding Observations on the Seventh Periodic Report of Mexico, CAT/C/MEX/CO/7,” 24 July 2019, <https://www.ecoi.net/en/file/local/2019639/G1922498.pdf>



to: know where they are being detained; be informed of the reasons for their detention and their right to claim asylum; request voluntary repatriation; receive consular protection from their country of origin if they request it; receive visits from family members and legal representatives; and to have an interpreter or a translator if they do not speak Spanish.

Article 226(I-XXI) of the Regulations of the Migration Law provides that non-citizens detained in immigration detention centres have the right to be provided with their rights and obligations in writing, receive medical and psychological attention as well as legal advice, and be able to communicate via telephone with the person they are requesting.

However, observers have criticised the implementation of these norms. According to a 2015 report compiled by several civil society organisations, most migrants were not informed adequately of the reasons for their detention.<sup>68</sup> Additionally, it was found that detainees were not appropriately informed about their rights and obligations, neither in written or verbal form, and that little or nothing is explained regarding immigration proceedings or any existing alternatives.<sup>69</sup>

The UN Committee on Migrant Workers said in 2017: “The Committee notes with concern that detention as applied by the National Institute for Migration is an automatic measure and is not properly justified in individual cases based on necessity and reasonableness. It notes that detention without due process guarantees, such as immediate presentation before an independent and impartial judge, or the right to free legal assistance, is considered arbitrary under the Convention and other treaties. It is also concerned at reports that insufficient information is provided to migrants regarding the grounds for their detention or their rights and the available remedies, including the right to seek asylum, complementary protection or leave to remain on humanitarian grounds. It is also concerned at the fact that the exercise of available remedies may result in indefinite detention and at the restrictions on access by lawyers from social organisations to offer assistance and representation.”<sup>70</sup>

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<sup>68</sup> C. J. Barja, “*Derechos Cautivos: La situación de las personas migrantes y sujetas a protección internacional en los centros de detención migratoria: siete experiencias de monitoreo desde la sociedad civil*,” 15 April 2015, <https://sinfronteras.org.mx/docs/inf/inf-derechos-cautivos.pdf>

<sup>69</sup> C. J. Barja, “*Derechos Cautivos: La situación de las personas migrantes y sujetas a protección internacional en los centros de detención migratoria: siete experiencias de monitoreo desde la sociedad civil*,” 15 April 2015, <https://sinfronteras.org.mx/docs/inf/inf-derechos-cautivos.pdf>

<sup>70</sup> UN Committee on the Rights of Migrant Workers, “Concluding Observations on the Third Periodic Report of Mexico, CMW/C/MEX/CO/3,” 27 September 2017, [https://www.ecoi.net/en/file/local/1416035/1930\\_1508406174\\_g1728468.pdf](https://www.ecoi.net/en/file/local/1416035/1930_1508406174_g1728468.pdf)

## 2.10 Non-custodial measures (“alternatives to detention”)

Does the law require consideration of non-custodial measures as part of detention procedures?	No
Non-custodial measures in use	<ul style="list-style-type: none"> <li>Periodic reporting, while remaining at an address within the same territorial district as the immigration station</li> </ul>
Number of persons granted alternatives to detention	Not available

Mexico’s immigration legislation does not specifically mention a requirement to assess “alternatives to detention” or non-custodial measures before issuing a detention order.<sup>71</sup> However, there are provisions in the law that appear to function as an “alternative to detention” insofar as they provide a non-custodial option for certain people who have been ordered detained.

According to Article 101 of the Migration Law (ML), “once the detention agreement has been issued, and until no decision has been made regarding the immigration status of the foreigner ... the foreigner may be transferred to the custody of the diplomatic representation of which he or she is a national or to a legal entity or institution ... whose purpose is linked to the protection of human rights, with the obligation of the foreigner to remain at an address located in the territorial district where the immigration station is located, in order to pursue the administrative immigration procedure.”

Articles 214-221 of the Regulations of the Migration Law (RML) detail the requirements and procedures in such cases. For instance, under Article 216 RML, the person under such custody must present themselves periodically to the relevant authority as determined by the immigration authority. However, as highlighted by Mexico’s National Commission on Human Rights (CNDH), although this alternative to detention exists, there is no publicly available information from the National Migration Institute (INM) regarding migrants placed under such arrangements.<sup>72</sup>

Article 112 of the ML, amended in 2020, requires the INM to transfer all children in their custody to the National Agency for Family Development (*Sistema Nacional para el Desarrollo Integral de la Familia*) (DIF). However, as this provision represents a prohibition against child detention and it intends to remove children from immigration custody, it does not properly operate as an ATD. Also important to note, there is no indication that any of the above-mentioned measures serve as the basis for assessing the necessity and/or proportionality of individual detention measures, as ATDs are defined in the European Union.

There have been efforts in recent years to boost Mexico’s use of some forms of ATDs, in particular with respect to unaccompanied children, although it is unclear why ATDs would be applied in cases where there is an existing detention prohibition. The INM and the Mexican Commission for Refugees (COMAR), in conjunction with civil society organisations,

<sup>71</sup> Comisión Nacional de los Derechos Humanos, et al., “Niñas, niños y adolescentes víctimas del crimen organizado en México,” CNDH, November 2019, <https://bit.ly/3qrJslL>

<sup>72</sup> Comisión Nacional de los Derechos Humanos, “Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención,” 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>



developed and implemented an eight month ATD pilot project between August 2015 and April 2016.<sup>73</sup> The project sought to improve the mechanisms of identification, channelling, reception, and care of unaccompanied migrant children and adolescents.<sup>74</sup> The project led to the release of 20 children from a detention centre to alternative open-door programmes, which guarantee freedom of movement, communication with family and access to education and health care.<sup>75</sup> However, while the pilot was widely lauded, during the years the pilot operated, Mexico detained tens of thousands of children each year, and went on to detain a record number of children just a few years later, in 2019.<sup>76</sup>

In June 2019, the Foreign Ministry (*Secretaría de Relaciones Exteriores*, or SRE), the DIF, the UN Children’s Fund (UNICEF), and the UN High Commissioner for Refugees (UNHCR), developed a model for caring for unaccompanied migrant children and adolescents upon their arrival in migrant centres. The protocol seeks to provide protection and ensure the rights of unaccompanied migrant children while they wait for a ruling on their cases.<sup>77</sup> DIF and UNICEF have also produced a document that sets forth alternatives for caring for asylum-seeking and migrant children that gives priority to the right to live as a family.<sup>78</sup>

## 2.11 Detaining authorities and institutions

What authorities are responsible for detention and other migration-control measures?

- National Migration Institute (*Instituto Nacional de Migración*)
- Federal Police

The *Secretaría de Gobernación* (Interior Ministry) is responsible for overall implementation of the Migration Law (Article 18 ML). In 1993, the Mexican government created the National Migration Institute (*Instituto Nacional de Migración*) (INM), which is part of the Interior Ministry. The INM was created in part to “strengthen and expand the activities of regulation, control, surveillance, and monitoring of migration flows.”<sup>79</sup> Article 3 of the Migration Law (ML) authorises the INM to establish detention centres (*estaciones migratorias*) to temporarily accommodate non-citizens detained because of their irregular status. The INM is 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 centres (Article 20 ML).

<sup>73</sup> For further information on the project, see:

[https://www.gob.mx/cms/uploads/attachment/file/115687/Descripcion\\_del\\_Programa\\_Piloto.pdf](https://www.gob.mx/cms/uploads/attachment/file/115687/Descripcion_del_Programa_Piloto.pdf)

<sup>74</sup> Instituto Nacional de Migración, “*Descripción del Programa Piloto de cuidado y acogida alternativa de NNA migrantes no acompañados en México*,” 30 June 2016,

[https://www.gob.mx/cms/uploads/attachment/file/115687/Descripcion\\_del\\_Programa\\_Piloto.pdf](https://www.gob.mx/cms/uploads/attachment/file/115687/Descripcion_del_Programa_Piloto.pdf)

<sup>75</sup> C. E. Marquez et al, “*Que esperamos del futuro? Detención migratoria y alternativas a la detención en las Américas*,” International Detention Coalition, 2017, <https://www.refworld.org/docid/590c4c9b4.html>

<sup>76</sup> More than 38,000 detained children in 2015; 40,000 in 2016; and 53,000 in 2019. See Global Detention Project, *Immigration Detention in Mexico: Statistics & Data*,

<https://www.globaldetentionproject.org/countries/americas/mexico#statistics-data>

<sup>77</sup> Secretaría de Relaciones Exteriores, “Mexico and UN Agencies Agree on Care for Unaccompanied Migrant Children,” 21 June 2019, <https://bit.ly/2LImXcT>

<sup>78</sup> V. Negro et al, “*Modelo de ciudadanos alternativos para niñas, niños, y adolescentes migrantes, solicitantes de asilo y refugiados en México: guía para su implementación*,” 2019,

<https://www.unicef.org/mexico/media/1866/file/Cuidados%20alternativos%20ninez%20migrante.pdf>

<sup>79</sup> Auditoría Superior de la Federación, “*Instituto Nacional de Migración*,” *Informe de resultados sobre la revisión de la cuenta de la hacienda Pública Federal de 2000*, Tomo II,

[http://www.asf.gob.mx/Trans/Informes/IR2000i/ir2000/Tomos/Tomo2/INM.htm#\\_Toc17886387](http://www.asf.gob.mx/Trans/Informes/IR2000i/ir2000/Tomos/Tomo2/INM.htm#_Toc17886387)

Article 81 ML states that in undertaking “actions of migration control” such as reviewing the documentation of persons who intend to enter or leave the country as well as the inspection of the means of transport used for such purposes, the Federal Police will act in coordination with the INM. The Regulations of the Migration Law (RML) clarifies, under Article 70, that in accordance with Article 81 ML, the Federal Police will only act at express request of the INM, without prejudice to the Institute’s ability to independently perform functions of immigration control, verification, and review. Nonetheless, as highlighted by a 2019 report, 32 percent of migrants interviewed during the research were detained by other security forces such as the Federal Police, State Police, Municipal Police, and military and navy personnel, without the INM being present.<sup>80</sup>

In 2011, the Committee on Migrant Workers had already expressed concerns in this regard: “The Committee also remains concerned by the alleged participation in the operations to verify migration status of officials who are not authorised to do so under the Population Act and its accompanying regulations.”

## 2.12 Regulation of detention conditions and regimes

Does the country’s law provide for the use of prisons for immigration detention?	No
Does the country’s law regulate conditions and treatment in detention?	Yes

According to Article 18 of the Mexican Constitution, non-criminal detainees must be separated from convicted criminals and kept in separate facilities.

Article 107 of the Migration Law describes the basic minimum conditions and services that must be provided at detention centres. For instance, medical, psychological, and legal assistance must be provided as well as adequate nutrition. In addition, detainees must be segregated by sex and children must preferably remain with their care-providers, except in situations where it is not in the best interest of the child to do so. The Regulations of the Migration Law also provides certain protections for detainees. For instance, Article 225 of the Regulations stipulates that the National Migration Institute must “respect the human rights of non-nationals” and observe the principle of non-discrimination at all times. Article 226 of the Regulations provides several rights for non-nationals detained in immigration detention centres, including, *inter alia*: the right (I) to know their migration status and the reason for their detention; (II) to be informed of their rights; (III) to receive medical and psychological assistance as well as legal advice at the start of and during their detention; (IV) to be informed of the immigration process and their right to submit an asylum claim; and (V) for their consular representation be notified of their detention.

<sup>80</sup> A. Aguilar et. Al, “La Detención Migratoria: Un Análisis desde un Modelo Penitenciario y el Gasto Publico,” *Así Legal, Sin Fronteras, Fundar*, January 2019, <https://sinfronteras.org.mx/wp-content/uploads/2019/02/informe-estaciones-migratorias-2019-final.pdf>

## 2.13 Domestic monitoring

Does the National Preventive Mechanism (NPM) carry out visits?	Yes
Is the NPM recognised as independent?	No
Do NGOs carry out visits?	No (access was suspended in January 2020)

Mexico has both a human rights commission and a large base of civil society organisations that have actively monitored immigration detention for many years, though in recent years the government has blocked NGOs from accessing detention centres.

In April 2005, Mexico ratified the Optional Protocol to the Convention against Torture and designated the National Commission on Human Rights (CNDH) as the National Preventive Mechanism (NPM). This is established in Articles 72-82 of the 2017 General Law to Prevent and Sanction Torture and Other Cruel, Inhuman, and Degrading Treatment (*Ley General para Prevenir, Investigar y Sancionar la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes*). The CNDH issues recommendations to the INM regarding its compliance with international standards and also publishes reports regarding the situation in Mexico's migratory stations. However, the independence and impartiality of CNDH has repeatedly come under scrutiny from both national and international observers. In 2016, for example, the UN Convention against Torture, after its visit to Mexico, pointed to disparities in reports of alleged violations between civil society and CNDH, and recommended reforms (for more on this visit, see the section below on "International monitoring").<sup>81</sup>

Article 226(XV) of the Regulations of the Migration Law (RML) establishes that non-citizens detained in immigration detention centres have the right to be visited by representatives of non-governmental organisations. For many years, numerous NGOs—including [Centro de Derechos Humanos Fray Matías de Córdova A.C.](#), [Sin Fronteras](#), [Asi Legal](#), and [Fundar](#)—have visited detention centres, monitored detainee populations, and produced reports regarding conditions in these centres. A consortium of Mexican NGOs established the Citizen Observatory for the Human Rights of Migrants (*Observatorio Ciudadano de los Derechos Humanos del Migrante*), an initiative aimed at producing proposals that contribute to guaranteeing the respect of the human rights of migrants by the INM and security forces involved in immigration matters. The Observatory is made up of civil society organisations including: [Casa del Migrante de Saltillo](#); [Centro Comunitario de Atención al Migrante y al Necesitado](#); [Centro de Derechos Humanos Fray Matías de Córdova A.C.](#); [Colectivo Ustedes Somos Nosotros](#); [Iniciativa Kino para la Frontera](#); and [Instituto para la Seguridad y Democracia A.C.](#)

However, in January 2020, the National Migration Institute (INM) released a statement suspending NGO access to immigration detention centres for an undetermined period of time. The agency pointed to growing migration challenges and what they claimed was a large increase in requests for access to immigration detention centres as the reasons for this suspension. The INM also claimed that the decision to suspend access had been taken in

<sup>81</sup> Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Visita a México del 12 al 21 de Diciembre de 2016 observaciones y recomendaciones dirigidas al Estado parte, CAT/OP/MEX/2," <https://undocs.org/es/CAT/OP/MEX/2>

order not to hinder the operations of facilities or provision of care to migrants.<sup>82</sup> The Interior Ministry (*Secretaría de Gobernación*), to which the INM reports to directly, distanced itself from the INM statement. Through a Tweet, the Interior Ministry stated that they were “not aware” of the document, which had been prepared by Antonio Molina Diaz, general director of the INM, and that it had been drawn up “without the authorisation of higher authorities.”<sup>83</sup>

## 2.14 International monitoring

Have international monitoring bodies reviewed immigration detention practices?	Yes
Is the country party to the Optional Protocol to the UN Convention against Torture	Yes
Has the country received visits from the UN Subcommittee on the Prevention of Torture?	Yes

Mexico’s migration-related detention policies and practices have been reviewed by several international human rights monitoring bodies.

As a state party to the Optional Protocol to the UN Convention against Torture, Mexico receives visits from the UN Subcommittee on the Prevention of Torture (SPT). In December 2016, the SPT visited Mexico and noted that there was a large disparity regarding the conditions and treatment of migrants in different immigration detention centres.<sup>84</sup> In addition, the SPT stated that there was a lack of information provided to detainees regarding the reasons for their detention, deportation procedures, and their right to claim international protection.<sup>85</sup> The SPT also criticised Mexico’s NPM, stating that there was a significant gap in the allegations made by civil society in terms of torture and ill-treatment and those reported by the National Commission on Human Rights (CNDH). The SPT recommended that more unannounced visits be conducted and that a separate team within CNDH be set up to exclusively function as NPM.<sup>86</sup>

Several UN treaty bodies have issued immigration-detention specific recommendations to Mexico, notably the Committee against Torture (CAT), Committee on the Rights of the Child (CRC), Committee on the Elimination of Racial Discrimination (CERD), and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). In its concluding observations of 2019, the CAT recommended, *inter alia*, that Mexico review its legislation to prevent the mandatory detention of undocumented migrants and asylum seekers and ensure minors are not detained because of their status as

<sup>82</sup> E. Reina, “México suspende el acceso de las ONG a las estaciones migratorias,” *El País*, 29 January 2020, [https://elpais.com/internacional/2020/01/29/mexico/1580253633\\_895010.html](https://elpais.com/internacional/2020/01/29/mexico/1580253633_895010.html)

<sup>83</sup> A. Pradilla, “El Caos Entre INM y Segob Por el Oficio Que Impide a ONG Visitar Centros de Detencion de Migrantes,” *Animal Político*, 29 January 2019, <https://bit.ly/3tT7PdW>

<sup>84</sup> UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “Visita a México del 12 al 21 de Diciembre de 2016 observaciones y recomendaciones dirigidas al Estado parte, CAT/OP/MEX/2,” <https://undocs.org/es/CAT/OP/MEX/2>

<sup>85</sup> UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “Visita a México del 12 al 21 de Diciembre de 2016 observaciones y recomendaciones dirigidas al Estado parte, CAT/OP/MEX/2,” <https://undocs.org/es/CAT/OP/MEX/2>

<sup>86</sup> UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “Visita a México del 12 al 21 de Diciembre de 2016 observaciones y recomendaciones dirigidas al Estado parte, CAT/OP/MEX/2,” <https://undocs.org/es/CAT/OP/MEX/2>

undocumented migrants.<sup>87</sup> The CRC recommended that Mexico take the necessary measures to end the administrative detention of asylum-seeking children and place unaccompanied children in shelters and accompanied children in appropriate facilities ensuring family unity.<sup>88</sup> The CERD urged Mexico to develop alternatives to the detention of asylum seekers and migrants in an irregular situation.<sup>89</sup>

In 2017, Mexico was subject to comments by the CMW regarding the “high number of custodial measures applied to migrants in the 58 migrant holding centres around the country. It is concerned at the delegation’s claims that such detention (called securing” or “presentation) does not amount to deprivation of liberty, or that it may be described as a protective measure of a benefit.”<sup>90</sup> The Committee urged Mexico to ensure that individuals’ rights to an interpreter, free legal assistance, and representation be respected and ensure that detention is an exceptional measure of last resort applied for the shortest possible time.<sup>91</sup>

## 2.15 Trends and statistics

Number of refugees	28,517 (2019)
Number of new asylum applications	70,366 (2019)
Number of immigration detainees	182,940 (2019)
Number of detained children	53,507 (2019)

According to statistics published by the INM, in 2019, 182,940 people were detained in immigration detention centres<sup>92</sup> in Mexico, compared with 131,445 in 2018.<sup>93</sup> In addition, there were 43.4 percent more people detained from January to November 2019 than in the same period in 2018.<sup>94</sup> The INM also reported that 99.8 percent of those detained in 2019 were deported to their countries of origin.<sup>95</sup> Furthermore, of the 53,507 children detained in

<sup>87</sup> UN Committee against Torture, “Concluding Observations on the Seventh Periodic Report of Mexico, CAT/C/MEX/CO/7,” 24 July 2019, <https://www.ecoi.net/en/file/local/2019639/G1922498.pdf>

<sup>88</sup> UN Committee on the Rights of the Child, “Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Mexico, CRC/C/MEX/CO/4-5,” 3 July 2015, <https://www.refworld.org/docid/566fc4d14.html>

<sup>89</sup> UN Committee on the Elimination of Racial Discrimination, “Concluding Observations on the Combined Eighteenth to Twenty-First Periodic Reports of Mexico, CERD/C/MEX/CO/18-21,” 19 September 2019, <https://bit.ly/3aitxR7>

<sup>90</sup> UN Committee on the Rights of Migrant Workers, “Concluding Observations on the Third Periodic Report of Mexico, CMW/C/MEX/CO/3,” 27 September 2017, <https://undocs.org/en/CMW/C/MEX/CO/3>

<sup>91</sup> UN Committee on the Rights of Migrant Workers, “Concluding Observations on the Third Periodic Report of Mexico, CMW/C/MEX/CO/3,” 27 September 2017, <https://undocs.org/en/CMW/C/MEX/CO/3>

<sup>92</sup> Secretaría de la Gobernación, Unidad de Política Migratoria, “Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2019, Cuadro 3.1: Eventos de Extranjeros Presentados Ante la Autoridad Migratoria, Según Entidad Federativa, 2019,” 6 July 2020, <https://bit.ly/2Zd48lc>

<sup>93</sup> Secretaría de la Gobernación, Unidad de Política Migratoria, “Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2018, Cuadro 3.1: Eventos de Extranjeros Presentados Ante la Autoridad Migratoria, Según Entidad Federativa, 2018,” 10 October 2019, <https://bit.ly/3dj2BCH>

<sup>94</sup> Secretaría de la Gobernación, Unidad de Política Migratoria, Registro e Identidad de Personas, “Eventos de Personas Extranjeras Presentadas por el INM: Enero – Noviembre de 2019,” <https://bit.ly/3dckcw1>

<sup>95</sup> Instituto Nacional de Migración, “Tema Migratorio 301219: Información INM Nacional,” 29 December 2019, [www.inm.gob.mx/gobmx/word/index.php/tema-migratorio-301219/](http://www.inm.gob.mx/gobmx/word/index.php/tema-migratorio-301219/)

2019, there were 13,242 unaccompanied and 40,265 accompanied children.<sup>96</sup> This total number of children detained represents a large increase compared to the two previous years (29,358<sup>97</sup> in 2018 and 18,066<sup>98</sup> in 2017), though child detention numbers have been trending upwards for several years (more than 30,000 in 2015 and more than 40,00 in 2016).<sup>99</sup>

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<sup>96</sup> Unidad de Política Migratoria, Registro e Identidad de Personas, “*Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2019, Cuadro 3.1 – Eventos de Extranjeros Presentados ante la Autoridad Migratoria, según entidad Federativa*,” 6 July 2020, <https://bit.ly/3qgyOOn>

<sup>97</sup> Unidad de Política Migratoria, Registro e Identidad de Personas, “*Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2017, Cuadro 3.1.4 – Eventos de Menores Presentados ante la Autoridad Migratoria, Según Continente, País de Nacionalidad, Grupos de Edad, Condición de Viaje y Entidad Federativa, enero-diciembre de 2018*,” 10 October 2019, <https://bit.ly/3aW8ldb>

<sup>98</sup> Unidad de Política Migratoria, Registro e Identidad de Personas, “*Boletines Estadísticos: III Extranjeros Presentados y Devueltos, 2017, Cuadro 3.1.4 – Eventos de Menores Presentados ante la Autoridad Migratoria, Según Continente, País de Nacionalidad, Grupos de Edad, Condición de Viaje y Entidad Federativa, enero-diciembre de 2017*,” 13 September 2018, <https://bit.ly/3plbnT2>

<sup>99</sup> See: Global Detention Project, “Immigration Detention in Mexico: Statistics & Data,” <https://www.globaldetentionproject.org/countries/americas/mexico#statistics-data>





## 3. DETENTION INFRASTRUCTURE

### 3.1 Summary

Mexico exclusively employs specially designated administrative detention facilities for confining undocumented non-citizens. According to Article 106 of the Migration Law, prisons are not be used to detain undocumented non-citizens. This situation contrasts with that of the [United States](#) and [Canada](#), both of which make extensive use of their prison systems for immigration-related detention. Instead, Article 106 establishes two main types of administrative detention centres: (1) “Provisional” detention centres (“*estancias provisionales*”), which are meant for short- or medium-term detention of undocumented migrants; and (2) long-term detention facilities, which are euphemistically called “migratory stations” (“*estaciones migratorias*”). Both types of facilities are operated by the National Migration Institute (INM).

According to a document published by the INM in 2017, Mexico operated at that time 35 migratory stations and 23 provisional detention centres.<sup>100</sup> The Committee on Migrant Workers, in their concluding observations of 2017, also cited a total number of 58 migrant holding centres in Mexico.<sup>101</sup> However, a more recent 2019 report by the country’s National Commission on Human Rights (CNDH) lists 30 operating migratory stations and 23 operating provisional detention centres.<sup>102</sup>

Provisional detention centres are defined under Article 3 Regulations of the Migration Law (ML) as “facilities, which the INM establishes to provisionally accommodate foreigners whose immigration status is unclear until they are transferred to a migratory station or their immigration status is resolved.” Migratory stations are defined under Article 3 ML as a “facility established by the INM to temporarily accommodate foreigners whose immigration status is unclear, until their immigration status is resolved.”

In addition, according to Article 5 of the Rules for the Operation of Migration Stations and Provisional Stays of the National Migration Institute 2012 (“*Normas para el Funcionamiento de las Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*”), there are two types of provisional detention centres: “1) Provisional detention

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<sup>100</sup> Consejo Ciudadano del Instituto Nacional de Migración, “*Personas en detención migratoria en México: Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*,” July 2017, <https://bit.ly/3d6JD1R>

<sup>101</sup> UN Committee on the Rights of Migrant Workers, “Concluding Observations on the Third Periodic Report of Mexico, CMW/C/MEX/CO/3,” 27 September 2017, <https://undocs.org/en/CMW/C/MEX/CO/3>

<sup>102</sup> Comisión Nacional de los Derechos Humanos, “*Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención*,” 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>



centres A, which permit a maximum detention period of forty-eight hours and; II) Provisional detention centres B, which permit a maximum detention period of seven days.”

The largest detention centre is in Tapachula—the Estación Migratoria Siglo XXI, which can confine up to 960 people. Other major facilities include the detention centres in Acayucan, which has a capacity of 836, Mexico City (Iztapalapa) with a capacity of 430, Tijuana (100), and Comitán (120).<sup>103</sup>

In addition, transit facilities “located within spaces of international transit” are also used in Mexico (For more information on these facilities, see “3.3bi Transit facilities”). Mexico also operates a network of public and privately-operated shelters for unaccompanied children that are mainly situated in the north of the country, with a few also in the south.<sup>104</sup> The DIF is charged with overseeing operations at these facilities and has custody of the children accommodated within them. A 2017 report indicated that “DIF shelters often resemble detention and provide only limited education and psychological services.”<sup>105</sup> (For more information on these facilities, see “3.3d National Agency for Family Development (DIF facilities”).

### 3.2 List of immigration detention facilities

<b>Migratory Stations (“estaciones migratorias”)<sup>106</sup></b>	Aguascalientes
	Mexicali
	Tijuana
	Los Cabos
	Palenque
	Tapachula
	Tuxtla Gutiérrez
	Chihuahua
	Ciudad Juárez
	Janos
	Iztapalapa
	Pachuca
	Oaxaca
	Puebla
	Cancún
Chetumal	

<sup>103</sup> Comisión Nacional de los Derechos Humanos, “Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención,” 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

<sup>104</sup> B. Cavendish and M. Cortazar, “Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors,” *Appleseed*, 2011, [https://www.appleseednetwork.org/uploads/1/2/4/6/124678621/children\\_at\\_the\\_border\\_report\\_2011.pdf](https://www.appleseednetwork.org/uploads/1/2/4/6/124678621/children_at_the_border_report_2011.pdf)

<sup>105</sup> R. Dominguez-Villegas, “Strengthening Mexico’s Protection of Central American Unaccompanied Minors in Transit,” July 2017, <https://bit.ly/3tReOEI>

<sup>106</sup> Comisión Nacional de los Derechos Humanos, “Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención,” 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

	San Luis Potosí
	Mazatlán
	Hermosillo
	El Ceibo
	Tenosique
	Villahermosa
	Nuevo Laredo
	Tampico
	Tlaxcala
	Acayucan
	Veracruz
	Mérida
Zacatecas	
<b>Provisional Detention Centres ("estancias provisionales") - Type A<sup>107</sup></b>	Campeche
	Ciudad del Carmen
	Colima
	Piedras Negras
	Ciudad Cuauhtémoc
	Huixtla
	Huehuetan
	Playas de Catazaja
	San Gregorio Chamic
	Zihuatanejo
	Agua Prieta
	Miguel Alemán
<b>Provisional Detention Centres ("estancias provisionales") - Type B<sup>108</sup></b>	Escárcega
	Comitán
	Echegaray
	San Cristóbal de las Casas
	Torreón
	Acapulco
	Guadalajara
	Monterrey
	La Ventosa
	Salina Cruz
	San Pedro Tapanatepec
	Matamoros

<sup>107</sup> Comisión Nacional de los Derechos Humanos, "Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención," 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

<sup>108</sup> Comisión Nacional de los Derechos Humanos, "Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención," 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

## 3.3 Conditions in detention centres

### 3.3a Overview

A July 2017 study detailing conditions of detention in immigration detention centres in Mexico, published by the *Consejo Ciudadano del Instituto Nacional de Migración* (CCINM), noted several issues concerning conditions in detention centres.<sup>109</sup> The CCINM report revealed, *inter alia*, instances of violence and excessive force used by personnel of the National Migration Institute and security forces in apprehending migrants and transferring them to detention centres<sup>110</sup>; very few cases of real and effective legal assistance for migrants subjected to the administrative immigration procedure<sup>111</sup>; a lack of access to information; and a lack of access to due process rights<sup>112</sup>. As regards material conditions, the CCINM report revealed that in most centres, overcrowding was an issue; there was a lack of mattresses to sleep on; and sanitary facilities had problems such as broken toilets and lack of water for both flushing and drinking, which led to poor hygiene and the proliferation of insects.<sup>113</sup>

Other observers, including international human rights bodies, have also criticised the operations and conditions at Mexican detention facilities.<sup>114</sup> The Committee on the Protection of the Rights of All Migrant Workers (CMW) indicated that it was “concerned that the conditions of detention of the migrant population in the State party. It notes with great concern that in some cases conditions amount to cruel, inhuman and degrading treatment.”<sup>115</sup> The committee also reiterated its previous recommendation<sup>116</sup> and urged

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<sup>109</sup> Consejo Ciudadano del Instituto Nacional de Migración, “*Personas en Detención Migratoria en México: Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*,” July 2017, <https://cdhfraymatias.org/wp-content/uploads/2017/08/CCINM-Resumen-Ejecutivo.pdf>

<sup>110</sup> Consejo Ciudadano del Instituto Nacional de Migración, “*Personas en Detención Migratoria en México: Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*,” July 2017, <https://cdhfraymatias.org/wp-content/uploads/2017/08/CCINM-Resumen-Ejecutivo.pdf>

<sup>111</sup> Consejo Ciudadano del Instituto Nacional de Migración, “*Personas en Detención Migratoria en México: Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*,” July 2017, <https://cdhfraymatias.org/wp-content/uploads/2017/08/CCINM-Resumen-Ejecutivo.pdf>

<sup>112</sup> Consejo Ciudadano del Instituto Nacional de Migración, “*Personas en Detención Migratoria en México: Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*,” July 2017, <https://cdhfraymatias.org/wp-content/uploads/2017/08/CCINM-Resumen-Ejecutivo.pdf>

<sup>113</sup> Consejo Ciudadano del Instituto Nacional de Migración, “*Personas en Detención Migratoria en México: Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*,” July 2017, <https://cdhfraymatias.org/wp-content/uploads/2017/08/CCINM-Resumen-Ejecutivo.pdf>

<sup>114</sup> A. Aguilar et. al. “*La Detención Migratoria: Un Análisis desde un Modelo Penitenciario y el Gasto Público*,” *Así Legal, Sin Fronteras, Fundar*, January 2019, <https://sinfronteras.org.mx/wp-content/uploads/2019/02/informe-estaciones-migratorias-2019-final.pdf>; Comisión Nacional de los Derechos Humanos, “*Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención*,” 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

<sup>115</sup> UN Committee on the Rights of Migrant Workers, “Concluding Observations on the Third Periodic Report of Mexico, CMW/C/MEX/CO/3,” 27 September 2017, <https://undocs.org/en/CMW/C/MEX/CO/3>

<sup>116</sup> UN Committee on the Rights of Migrant Workers, “Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/MEX/CO/2,” 3 May 2011, <https://undocs.org/en/CMW/C/MEX/CO/2>

Mexico to “guarantee adequate, decent conditions in migrant detention centres; the centres should not resemble a prison facility either in appearance or purpose.”<sup>117</sup>

### 3.3b Short-term facilities

Transit facilities and provisional detention centres appear to be used for short-term detention in Mexico.

#### i. Transit facilities

According to Article 89 of the Migration Law (ML), transit facilities are “spaces destined for the international transit of people by land, sea and air,” and must have “adequate spaces for their temporary stay” while their cases are under investigation. Further, Article 38 of the Regulations of the Migration Law (RML) lists general characteristics that “[National Migration Institute] INM facilities located within spaces of international transit must have.” Article 38(III) RML requires that they are equipped with, *inter alia*, areas for immigration control, temporary stay, and sanitary services.

According to some sources, the INM operates offices in international airports, where migrants in an irregular situation are interviewed. These offices are not officially considered detention centres because interrogations tend to be completed quickly. In the past, observers have told that Global Detention Project that there is very little public information about how these facilities operate.<sup>118</sup> It is also unclear if these INM interview offices correspond with the transit facilities described by the Migration Law.

Media reports have highlighted cases of individuals being detained in these INM border offices. In 2015, a series of cases—including that of a French national who was detained by INM officials at Mexico City International Airport for 20 hours (during which time she was not permitted to contact anyone) and who was ultimately prohibited from entering the country—prompted a response by the National Commission on Human Rights (CNDH).<sup>119</sup> The CNDH issued a recommendation in November 2015 to the INM to ensure that detainees be provided with water, food, and interpreters or translators, and that they be allowed to make phone calls and be given access to a phone directory with the numbers for foreign consulates in Mexico.<sup>120</sup> More recently in November 2019, it was reported that a Venezuelan national had been detained for five days by the INM at Mexico City International Airport and was left without food for 24 hours before being transferred to an immigration detention centre.<sup>121</sup> The Legal Clinic for Refugees Alaide Foppa of the Ibero-American University of Mexico City (*Clínica Jurídica para Refugiados Alaide Foppa de la Universidad*

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<sup>117</sup> UN Committee on the Rights of Migrant Workers, “Concluding Observations on the Third Periodic Report of Mexico, CMW/C/MEX/CO/3,” 27 September 2017, <https://undocs.org/en/CMW/C/MEX/CO/3>

<sup>118</sup> Elba Coria Marquez (Immigration lawyer), Interview with Karen Elena Marín Hernández (Global Detention Project), 21 November 2012.

<sup>119</sup> M. Ureste, “*Insultos, revisiones de hasta 4 horas: CNDH documenta que el INM rechaza extranjeros ilegalmente*,” *Animal Político*, 8 December 2015, <https://bit.ly/3qaTLdA>

<sup>120</sup> Comisión Nacional de los Derechos Humanos, “*Recomendación No. 42/2015: sobre el caso de violaciones a diversos derechos humanos cometidas por personal del Instituto Nacional de Migración Adscrito al Aeropuerto Internacional de la Ciudad de México en agravio de los usuarios*,” 30 November 2015.

<sup>121</sup> A. Garcia, “*Venezolano denuncia que lo retuvieron sin comida en el Aeropuerto de CDMX*,” *El Universal*, 9 November 2019, <https://bit.ly/3aX13vg>

*Iberoamericana Ciudad de México*) has also reported that in 2019, asylum seekers originating from Venezuela were being detained at Mexico City Airport without the possibility of contacting lawyers or family members and that they were being forced to sign documents retracting their asylum requests, thus allowing authorities to return them to their country of origin.<sup>122</sup>

## ii. Provisional detention centres

Numerous reports have highlighted issues of concern within Mexico's provisional detention centres. In April 2019, it was reported that 62 people were detained at the [Huixtla detention centre](#), exceeding the centre's capacity of 50. The National Commission on Human Rights (CNDH) observed that the water for bathing was yellow and caused hives amongst those who used it. People who required medical attention were brought to the hospital in Tapachula, but they had to pay for the consultation as well as the medication for their treatment.<sup>123</sup> Moreover, the food provided to detainees is poorly cooked or spoiled and is limited to beans, rice, and eggs. Given the shortage of drinking water, many detainees have consumed tap water—which is not suitable for human consumption—causing them to suffer gastrointestinal disorders. The cells are small, with extreme temperatures and unhygienic conditions.<sup>124</sup>

In 2019, the [San Cristóbal de las Casas detention centre](#) was also reported to be overcrowded, with people sleeping in the facility's four cells as well as other areas such as the dining room. The cells were found to be dirty, infested with cockroaches, and have unsanitary drainage. Visits from doctors were found to be few, and many detainees were reported to be suffering from hives on their skin, lice, and flu.<sup>125</sup>

Reports have also indicated that food provision for children in [Comitán immigration detention centre](#) is inadequate, and that detainees frequently get sick. Although bathrooms are clean, they do not have doors and the water in the showers is dirty, causing many women to suffer infections. Men and women are held in the same small cells, where there is not sufficient lighting and sleeping mats are ripped.<sup>126</sup>

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<sup>122</sup> Clínica Jurídica Para Refugiados Alaide Foppa, "Solicitantes de asilo, detenidos e incomunicados por el INM en el AICM," *Desinformemonos*, 25 October 2019, <https://bit.ly/2ZgCXWB>

<sup>123</sup> Comisión Nacional de los Derechos Humanos, "Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención," 2019, <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

<sup>124</sup> Colectivo de Monitoreo de Derechos Humanos en el Sureste Mexicano, Red Nacional, et al., "Impactos de la Política Migratoria de México en la Frontera Sur: Hallazgos de la misión de observación de derechos humanos en Tapachula, Chiapas," November 2019, <https://bit.ly/3rShPm9>

<sup>125</sup> Colectivo de Monitoreo de Derechos Humanos en el Sureste Mexicano, Red Nacional, et al., "Impactos de la Política Migratoria de México en la Frontera Sur: Hallazgos de la misión de observación de derechos humanos en Tapachula, Chiapas," November 2019, <https://bit.ly/37oX6i3>

<sup>126</sup> Colectivo de Monitoreo de Derechos Humanos en el Sureste Mexicano, Red Nacional, et al., "Impactos de la Política Migratoria de México en la Frontera Sur: Hallazgos de la misión de observación de derechos humanos en Tapachula, Chiapas," November 2019, <https://bit.ly/3jGmWCS>

### 3.3c Long-term facilities

Like provisional detention centres, conditions concerns have also been noted in Mexico's long-term detention facilities, and numerous detainee protest events have been reported in recent years.

Reports have indicated overcrowding<sup>127</sup> at the [Tapachula detention centre](#) with people "sleeping on the dirty floor in any possible space, because there is no space left in the dining room."<sup>128</sup> Food provision has been described as insufficient, of poor quality, and inadequate for children. According to report published by a group of Mexican NGOs in 2019, the bathrooms were found to be in a poor state—dirty and without running water. Only one doctor was found to be available for the entire detention centre; there was no provision of mental health services; no medication was available for pregnant women; and no specialised care was available for children.<sup>129</sup>

In 2020, several detainee protest events were reported.

On 23 March 2020, at least 50 migrants detained in the [Siglo XXI detention centre](#) protested against the conditions of detention and the lack of protective measures to prevent the spread of COVID-19. The National Guard and the Federal Police made use of water cannons, tear gas, and force to suppress the protest. A coalition of several NGOs denounced the alleged violence used by the police.<sup>130</sup>

On 1 April 2020, one detainee died and 14 others were hospitalised following a fire sparked during a protest at the [Tenosique detention centre](#) in the state of Tabasco. The detainees had been requesting their return to their countries of origin out of fear of contracting COVID-19 while in detention. Twenty-seven detainees escaped from the centre and following the protest, the facility was emptied, with migrants transferred to other locations.<sup>131</sup>

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<sup>127</sup> Comisión Nacional de los Derechos Humanos, "Informe Especial: Situación de las Estaciones Migratorias en México, Hacia un Nuevo Modelo Alternativo a la Detención," 2019, <https://bit.ly/2NitwTZ>

<sup>128</sup> Colectivo de Monitoreo de Derechos Humanos en el Sureste Mexicano, et al., "Impactos de la Política Migratoria de México en la Frontera Sur: Hallazgos de la misión de observación de derechos humanos en Tapachula, Chiapas," November 2019, <https://bit.ly/2Z9lj67>

<sup>129</sup> Colectivo de Monitoreo de Derechos Humanos en el Sureste Mexicano, et al., "Impactos de la Política Migratoria de México en la Frontera Sur: Hallazgos de la misión de observación de derechos humanos en Tapachula, Chiapas," November 2019, <https://bit.ly/2NiFQDV>

<sup>130</sup> Asylum Access, "Ante los Riesgos por el Covid-19: Exigimos la Libertad Inmediata de Todas las Personas Migrantes, Refugiadas y Solicitantes de Asilo en Detención Migratoria," 2 April 2020, <https://bit.ly/2LlcK04>

<sup>131</sup> Infobae, "México: Muere Guatemalteco en Protesta en Centro Migratorio," 1 April 2020, <https://bit.ly/2MR8A6U>



### 3.3d National Agency for Family Development (DIF) facilities

There are three main types of DIF facilities: (a) public processing centres (“*módulos de atención*”); (b) public shelters (“*albergues*”); and (c) private shelters.<sup>132</sup> As of 2015, the DIF network encompassed 14 processing centres and 36 shelters.<sup>133</sup>

While shelters are facilities that serve as alternatives to INM detention centres, processing centres are designated spaces within detention centres.<sup>134</sup> The processing centres are meant to be used only to undertake administrative procedures and not to house children for any length of time. The main difference between these types of facilities is the scope of services provided to children in terms of legal counsel, recreational activities, and medical and psychological care.<sup>135</sup>

Although not officially recognised as sites of deprivation of liberty (detention centres), some observers have characterised shelters as operating like detention centres<sup>136</sup> or resembling detention.<sup>137</sup> In their 2012 study on migrant children in southern Mexico, CDHUNL and CDHFMC reported: “In the few cases of children and adolescents that are transferred to the DIF because they are younger than 12 years of age, they are also deprived of their liberty in such shelters, even though these are not run by the INM.”<sup>138</sup>

However, in a 2011 assessment of the DIF system, Appleseed found that the facilities it visited generally lacked the ability to keep children from leaving, and that private shelters refuse to prevent children from leaving because they do not consider themselves to have the legal authority to hold them: “The problem of minors walking out of shelter facilities without authorisation is not limited to non-governmental shelters. Although governmental shelters have legal authority to hold children until they are retrieved by family members or returned to their home localities, DIF has limited ability to guard its facilities against children escaping, and many are allowed to leave ‘voluntarily’ or with ‘friends’.”<sup>139</sup>

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<sup>132</sup> B. Cavendish and M. Cortazar, “Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors,” *Appleseed*, 2011, <https://bit.ly/2MWtNfq>

<sup>133</sup> Consejo Nacional de Población (CONAPO), “*Migración de niñas, niños y adolescentes: Antecedentes y análisis de información de la red de módulos y albergues de los Sistemas DIF, 2007-2016*,” 2017, [https://www.gob.mx/cms/uploads/attachment/file/186696/Migracion\\_NNyA\\_pag\\_114-199.pdf](https://www.gob.mx/cms/uploads/attachment/file/186696/Migracion_NNyA_pag_114-199.pdf)

<sup>134</sup> R. Dominguez-Villegas, “Strengthening Mexico’s Protection of Central American Unaccompanied Minors in Transit,” July 2017, <https://bit.ly/3afBXIA>

<sup>135</sup> R. Dominguez-Villegas, “Strengthening Mexico’s Protection of Central American Unaccompanied Minors in Transit,” July 2017, <https://bit.ly/3a9Z5IB>

<sup>136</sup> Centro de Derechos Humanos de la Universidad Nacional de Lanús (CDHUNL) and Centro de Derechos Humanos Fray Matías de Córdoba (CDHFMC), “*Los Derechos Humanos de Niños, Niñas y Adolescentes Migrantes en la Frontera México-Guatemala*,” 20 September 2012, [www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf)

<sup>137</sup> R. Dominguez-Villegas, “Strengthening Mexico’s Protection of Central American Unaccompanied Minors in Transit,” July 2017, <https://bit.ly/3a9Z5IB>

<sup>138</sup> Centro de Derechos Humanos de la Universidad Nacional de Lanús (CDHUNL) and Centro de Derechos Humanos Fray Matías de Córdoba (CDHFMC), “*Los Derechos Humanos de Niños, Niñas y Adolescentes Migrantes en la Frontera México-Guatemala*,” 20 September 2012, [www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9361.pdf)

<sup>139</sup> B. Cavendish, and M. Cortazar, “Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors,” *Appleseed*, 2011, [https://www.appleseednetwork.org/uploads/1/2/4/6/124678621/children\\_at\\_the\\_border\\_report\\_2011.pdf](https://www.appleseednetwork.org/uploads/1/2/4/6/124678621/children_at_the_border_report_2011.pdf)





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