

CONTEXT SUMMARY AND ADVANCES IN ENSURING THE RIGHT TO PERSONAL LIBERTY FOR MIGRANT AND REFUGEE CHILDREN IN MEXICO

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CONTEXT

Each year, thousands of children leave their countries and enter Mexican territory. Whether in their country of origin or while traveling through Mexico, they are particularly vulnerable and have special protection needs. Many are fleeing violence and persecution and are at risk of numerous rights abuses or becoming victims of crime, including kidnapping, trafficking, sexual violence, labor exploitation, among others.

Article 112 of Mexico's Migration Law (2011) establishes that all children who are traveling without their parents or guardians should be referred to the national, state and local Family Welfare Systems (Desarrollo Integral de la Familia, DIF), in order to facilitate appropriate placement where their needs can be met while their migration situation is resolved. However, most children who are found in the country without the proper migration documents are presented before the National Migration Institute (Instituto Nacional de Migración, INM), and in practice are held in immigration detention centers known as 'migration stations' (*estaciones migratorias*).

Since 2011, the number of children presented before immigration authorities has increased annually; and in 2015, more than 38,000 children were deprived of their liberty in migration stations. The majority of these children were from Guatemala (19,437), Honduras (10,165) and El Salvador (7,838)¹. A large number of these cases present international protection concerns, highlighting the urgent need to carryout the appropriate measures in order to

ensure compliance with new regulations and government commitments.

ADVANCES IN PUBLIC POLICY

In December 2014, the **General Child Rights Law** was enacted, which established the National Child Rights Protection System (Sistema Nacional de Protección Integral de los Derechos de Niñas, Niños y Adolescentes, SIPINNA) and the Federal Child Rights Protection Office (Procuraduría Federal de Protección de los Derechos de Niñas, Niños y Adolescentes, PFPNNA) in order to **protect child rights, prevent rights abuses and reinstate any rights that have been violated, regardless of the child's nationality or migration situation**. The law also included a chapter on special protection measures.

In December 2015, significant progress was made with publication of the **Official Regulations for the General Child Rights Law**, which **prohibited children from being deprived of their liberty in migration stations** or in any other immigration detention center, **regardless of whether or not they were traveling alone** or with a parent or guardian (Article 111). Thus, the Regulations go a step further than the current Migration Law and mandate the adoption and implementation of mechanisms to prevent children who are traveling with their parents from being deprived of their freedom for migration purposes.

As mandated by the Child Rights Law and Regulations, in August 2016, the Mexican government issued a **Protocol to ensure respect for the principles and rights protection of children in administrative immigration procedures**. The protocol assigns responsibility to the Federal Child Rights Protection Office (PFPNNA) to carry out procedures to reinstate rights and issue protection measures for unaccompanied migrant children.

¹ Secretaría de Gobernación. Unidad de Política Migratoria. Mexico (2016). *Boletín Estadístico 2015, III. Extranjeros Presentados y Devueltos*, Cuadro 3.1.4. Available at: http://www.gobernacion.gob.mx/es_mx/SEGOB/Estadistica (Consulted 4 November 2016).

The Mexican Commission for Refugees (Comisión Mexicana de Ayuda a Refugiados, COMAR), immigration authorities, the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Children's Fund (UNICEF) published an **Early Assessment Protocol for the Identification of National Protection Needs for Unaccompanied and Separated Children** as a tool to help strengthen government action in providing holistic protection for this population.

ADVANCES IN PRACTICE

The **Refugee Commission (COMAR)** is **strengthening its capacity** to improve access to information about the right to request asylum, and also to receive and process asylum requests.

The Federal Child Rights Protection Office (PFPNNA), in collaboration with State Child Protection Offices, has undertaken a **process to identify existing Social Assistance Centers** (known as CAS), both public and private, **that can receive a greater number of migrant children**. They have also begun significant collaborations with a few civil society organizations with experience in providing case management services to migrants, in order to strengthen the capacity of the Social Assistance Centers identified.

In addition to increasing the number of cases referred to the Family Welfare Systems (DIF), since 2015, a **Pilot program to explore community-based alternatives to detention for unaccompanied children** was developed under the auspices of the INM Citizens' Council. The Pilot was developed and successfully implemented between August 2015 and April 2016, through a working group comprised of immigration authorities, the Refugee Commission, and two civil society organizations that specialize in alternative care programs for children, with technical support from the International Detention Coalition (IDC).

In recognition of the right to personal liberty of individuals and families seeking asylum in Mexico, similar **pilot projects were implemented by immigration and refugee authorities** (INM and COMAR), in 2016. Pilot implementation took place **in collaboration with UNHCR, and shelters and organizations that**

work with migrant and refugee populations, with the goal of providing alternatives to detention for these groups.

Important efforts and **collaborations among federal and local authorities, international bodies and civil society organizations** have also been undertaken recently in order to **improve reception capacity and infrastructure** for migrant and asylum seeker children in different states throughout the country. Additionally, some **civil society organizations offer legal support programs** for children who are still being held in immigration detention.

The Federal Child Rights Protection Office (PFPNNA) is currently developing an **alternative care program through foster families**, which will expand alternatives for migrant and asylum seeker children.

Civil society and government actors have continued to **share their experiences** and learnings, discussing attention and reception models in national, regional and international forum, in order to inform and strengthen efforts for migrant children in Mexico.

In September 2016, during the Leader's Summit on Refugees, Enrique Peña Nieto, **Mexico's President, made a commitment to 'promote alternatives** in order to avoid administrative detention of asylum seekers, and particularly children.²

CONCLUSION

Migratory movements of children present important challenges for the Mexican State. However, the standards for institutional development and coordination responsibilities established in the General Child Rights Law (LGDNNA) provide a solid foundation from which to continue to develop and strengthen protections for migrant children.

² Presidencia de la República. (20 septiembre 2016, México). "Palabras del Presidente Enrique Peña Nieto, durante la Cumbre de Líderes sobre Refugiados, en el marco de la 71^o Asamblea General de la ONU." Available at: <https://www.gob.mx/presidencia> (Consulted 10 November 2016).