



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

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**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**

**Information received from Mexico on follow-up to
the concluding observations on its third periodic
report* ****

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* The present document is being issued without formal editing.
** The annexes to the present document are available on the Committee's website.



I. Introduction

1. The Committee considered the third periodic report of Mexico on 6 and 7 September 2017 and adopted its concluding observations on the report on 13 September. In paragraph 63 of the concluding observations, the Committee requested that Mexico submit written information on its implementation of the recommendations under paragraphs 10, 34, 38, 40, 42 and 56 (CMW/C/MEX/CO/3). The information contained in the present document highlights the actions taken between September 2017 and September 2019 to implement those recommendations.

II. Follow-up information

A. Follow-up information relating to paragraph 10 of the concluding observations (CMW/C/MEX/CO/3)

2. Amendments to the Migration Act were published in the Official Gazette in 2017 and 2018, ensuring the consistency of the Act with respect for the human rights of migrants. In November 2017, the national, state and Mexico City systems for the comprehensive development of the family were authorized under article 29 of the Act to provide care to migrant children. In addition, to promote the best interests of unaccompanied children and adolescents, the National Institute of Migration was required under article 112 to immediately refer them to these systems.

3. Article 30 (I) of the Act was amended in 2018 to require the National Institute for Women to work jointly with the National Institute of Migration and undertake inter-institutional actions to address the issue, prevent violence against migrant women and move forward in complying with international treaties and conventions. Articles 3 and 111 were amended to explain the concept of immigration status and to require the National Institute of Migration to determine the immigration status of foreign nationals placed in holding centres no later than 15 working days from the date of their placement.

4. In 2018, a draft decree amending various articles of the Migration Act and the Refugees, Complementary Protection and Political Asylum Act that relate to migrant children was approved by a legislative committee. The draft seeks to strengthen and expand the protection of accompanied and separated migrant children and it harmonizes the Migration Act with texts such as the General Act on the Rights of Children and Adolescents and Advisory Opinion OC-21 of the Inter-American Commission on Human Rights.

5. To take the proposed decree forward, a working group on the harmonization of legislation applicable to children and adolescents in contexts of mobility was created in 2019. It has amended and updated the committee document setting out the draft decree to reflect the current situation, and the proposal will be submitted to the other house of Congress for adoption.

6. The General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System, published on 17 November 2017, mandated the creation of the National Missing Persons Commission and required that the federative entities create local commissions and allocate budgets to them. The Act represents a step forward in terms of making the offence uniform under the law, defines the offence in accordance with international standards and includes the offence of disappearance perpetrated by individuals.

7. The National Missing Persons Commission, as the executive secretariat of the National Missing Persons System, encourages and guides the creation and strengthening of the commissions mentioned above. There are currently 28 local commissions. They have yet to be established in four states.

8. The National Missing Persons Commission undertakes and follows up on searches for missing or disappeared persons and encourages efforts to combine, carry out, evaluate, oversee and follow up on actions taken by different authorities to trace, locate and identify

these persons. It has a digital platform¹ where information on missing or disappeared persons is collected, without the need for an official report to have been filed. The information entered becomes part of the National Register of Missing and Disappeared Persons and is used to support the relevant investigations.

9. Seven states had laws on enforced disappearance prior to the publication of this General Act. Proposals for bills on the matter are currently before state congressional committees in Baja California Sur, Chihuahua, Mexico City, Guanajuato, Jalisco, the State of Mexico, Michoacán, Nayarit, Nuevo León and Sinaloa. Veracruz and Tabasco published their laws in August 2018 and June 2019, respectively.

10. The Implementation Plan for the General Act on Enforced Disappearance of Persons was presented in February 2019. It comprises 11 points and arose out of consultations held with relatives of victims, with assistance from international organizations. As part of the Plan, the National Missing Persons System was reinstated on 24 March 2019, with the participation of victims, collectives, civil society organizations and authorities of the three levels of government.

B. Follow-up information relating to paragraph 34 of the concluding observations

11. In the San Fernando I (72 migrants) and Cadereyta (49 torsos) cases, there is no substantiated evidence linking State officials to criminal organizations or corruption offences. The cases are under investigation and are being treated as serious human rights violations.

12. In the San Fernando I case, there were violations of the principles of legality and legal certainty; of the right of access to the administration of justice; of the right to the truth, dignified treatment and honour; and of the privacy and protection of the personal details and identity of one victim. In the Cadereyta case, there were violations of public safety and of access to justice in terms of its administration.

13. There are no plans to broaden the mandate of the Forensic Commission established under the Cooperation Agreement on the Identification of Remains Found in San Fernando, Tamaulipas, and Cadereyta, Nuevo León. The Commission's work is limited to three specific cases: San Fernando, Tamaulipas I and II; and Cadereyta, Nuevo León.

14. The remains of a total of 316 individuals have been found in the three cases, 123 before the establishment of the Commission and 193 by the Commission, as follows:

- Cadereyta: 47
- San Fernando I: 12
- San Fernando II (47 secret graves): 134

15. Of the 193 individuals whose remains were found, 82 have been identified, as follows:

- Cadereyta: 14
- San Fernando I: 3
- San Fernando II: 65

16. In 2018, the Executive Commission for Victim Support paid the funeral expenses for victims in the San Fernando I, Cadereyta and Güémez, Tamaulipas (2015) cases, as follows:

- San Fernando I: funeral expenses for 1 victim
- Cadereyta: funeral expenses for 2 victims
- Güémez, Tamaulipas: funeral expenses for 10 victims

¹ <https://cnbreportadesaparecidos.segob.gob.mx/>.

17. The Executive Commission met with representatives of the Honduran, Guatemalan and Salvadoran embassies to find suitable mechanisms to deliver the forms of support and reparation provided for under the General Victims Act to families residing in those countries. Two families affected by the Cadereyta case are receiving support. The travel expenses of 24 individuals were paid between September 2017 and September 2019 and measures of support are being arranged for 9 indirect victims in the Güémez, Tamaulipas case.

18. With respect to the San Fernando I case, the bodies of two Honduran victims were repatriated in 2017 and 2018. In May and July 2019, in New York and Peru, samples were taken from relatives of missing persons who may be victims in the case.

19. The Executive Commission issued six decisions awarding full reparation for harm suffered, including measures of restitution, rehabilitation, satisfaction, non-repetition and compensation, to 6 direct victims (including 1 survivor) and 43 indirect victims.

20. In late 2018, the Executive Commission resumed its meetings with the Honduran embassy. The Honduran Government is in the process of forming a special commission, with representatives of the Ministries of Health, Social Development and Foreign Affairs, to facilitate the procedures required under the General Victims Act for Honduran victims to receive reparation for the harm suffered.

21. To ensure that the victims' rights are protected and can be effectively exercised throughout the criminal proceedings, the Executive Commission is providing legal representation for 267 victims in the San Fernando II case. They include nationals of Mexico (153), Guatemala (102), Honduras (7) and El Salvador (7). In the Cadereyta case, the Executive Commission is representing two victims and providing legal assistance for the comprehensive defence of their rights.

22. The Executive Commission's multidisciplinary team participates in some Forensic Commission proceedings. In August 2019, the Executive Commission extended 19 measures of support to allow indirect victims in the San Fernando I case to be present at all the proceedings.

23. As a result of several inquiries, the Federal Criminal Investigation Police were requested to reapprehend a suspect in the San Fernando I case. Fifteen suspects have been charged and are awaiting the ruling of the court.

24. The General Act on Enforced Disappearance defines the Mexican External Support Mechanism for Search and Investigation as the set of actions and measures intended to facilitate access to justice, and the initiation of actions for reparation, by migrants and families of migrants who are in another country and require direct access to Mexican institutions and to support the tracing and locating of missing migrants and the investigation and prosecution of offences.

25. New guidelines for the Mechanism are currently being prepared. The Act provides for the participation of the Unit for the Investigation of Crimes against Migrants, the Ministry of Foreign Affairs (through its embassies and consulates), the National Missing Persons Commission and other entities.

26. Between 2016 and 14 October 2019, the Unit for the Investigation of Crimes against Migrants opened 96 investigation files on cases involving 83 direct victims with the following nationalities: Honduran (39), Colombian (2), Ecuadorian (1), Guatemalan (24), Salvadoran (16) and American (1).

27. Under the framework of the Mechanism, the Executive Commission for Victim Support visited Central American countries in 2018 to assist victims. As at 30 September 2019, it had assisted 74 direct and indirect victims of disappearance.

28. Under the General Victims Act, the authorities are required to ensure that bodies and skeletons are correctly located, recovered and later identified in accordance with international scientific standards and that they are handled with the utmost respect for the dignity of the victims and their relatives.

29. The Executive Commission, in coordination with other competent institutions and in accordance with the Comprehensive Model of Victim Support, provides measures of

immediate support and assistance to migrants who are victims of federal offences or human rights violations committed by federal public servants.

30. Between September 2018 and May 2019, the Executive Commission took part in the process of providing notification of the positive identification of remains, offered support and psychosocial and medical assistance, and extended measures of support to indirect victims who attended the notification proceedings.

31. In accordance with articles 16 (9) and 83 of the Convention, the General Victims Act provides that victims have the right to receive timely, full, differentiated, transformative, comprehensive and effective reparation for the harm suffered as a result of the commission of an offence or the violation of their human rights.

32. In 2018, the Executive Commission created a special directorate for migrants in order to provide comprehensive assistance to migrants who are victims of crime or human rights violations in Mexico.

33. The Federal Legal Aid Office of the Executive Commission works towards regularizing the immigration status of individuals recognized as victims by the competent authority. Their stay is regularized through the issuance of a humanitarian visitor's card, which facilitates their access to services and the effective exercise of their rights.

C. Follow-up information relating to paragraph 38 of the concluding observations

34. In December 2017, the National Conference of State Governors made the following commitment: "The federative entities will design and implement a state model for the reception and alternative care of unaccompanied migrant children and adolescents and establish appropriate protection mechanisms for accompanied children and adolescents in accordance with the General Act on the Rights of Children and Adolescents and its Regulations". It also undertook to strengthen the Offices for the Protection of Children and Adolescents. A model for the reception of migrant children and adolescents in Tapachula, Chiapas, was reviewed in January 2018.

35. In May 2019, the Commission for the Comprehensive Protection of Migrant and Asylum-seeking Children and Adolescents was established. The Commission adopted a government policy on the protection of migrant and asylum-seeking children and adolescents, which gives priority to the best interests of the child in its four areas of focus. The focus area on the promotion of shelters and alternative care calls for an increase in the capacity of shelters, the development of temporary residence programmes and the use of foster families.

36. The Pathway for the Comprehensive Protection of the Rights of Children and Adolescents in Situations of Migration relies on intersectoral coordination to ensure alternative housing for migrant children and adolescents and the restoration of their rights on the basis of four principles: no detention, non-refoulement, the best interests of the child and the participation of children and adolescents in the determination of those interests.

37. The third stage of the Pathway addresses the restoration of rights and the arrangement of community-based family or residential care alternatives. These alternatives are for the initial reception of unaccompanied children and adolescents, who are housed in Social Welfare Centres until their best interests are determined, and for the second phase of accommodation for children and adolescents who will remain in the country longer. The General Act on the Rights of Children and Adolescents provides for three forms of alternative care: placement with extended family members, placement in another family, and placement in second-phase Social Welfare Centres.

38. When a child or adolescent is brought to a migrant holding centre, the National Institute of Migration notifies the relevant Office for the Protection of Children and Adolescents for referral to a Social Welfare Centre. If no space is available in the Social Welfare Centre, the child or adolescent will remain in the migrant holding centre, in a designated area separate from the area for adults, while the Office identifies alternative accommodation. This is notified by the National Institute of Migration to the National Human Rights Commission and the State Human Rights Commission.

39. The Office carries out an initial multidisciplinary intervention to identify rights that have been violated or restricted and issues a Plan for the Restoration of Rights and Comprehensive Protection Measures. The Offices for the Protection of Children and Adolescents provide legal advice and representation in administrative immigration proceedings.

40. The National Institute of Migration carries out daily checks to keep children and adolescents from being housed in migrant holding centres and shares the information gathered with the National System for the Comprehensive Development of the Family and the Federal Office for the Protection of Children and Adolescents so that the children or adolescents can be moved to a Social Welfare Centre.

41. Child protection officers provide assistance and support for unaccompanied children and adolescents during immigration proceedings. In the event of an assisted return, they accompany the child or adolescent to his or her country of origin or residence.

42. To keep families together, migrant holding centres have designated areas for them.

43. Individuals brought to migrant holding centres are given a medical examination to ascertain their health status. Those found to have a debilitating condition or one requiring attention are sent to a health centre for care.

44. Individuals who are victims of or have witnessed a crime are referred to the relevant prosecutors' offices for assistance.

45. The Migration Act provides that migrants with a medical condition or physical disability and asylum seekers may be housed in locations other than migrant holding centres while their immigration status is being decided on.

46. Asylum seekers housed in migrant holding centres in Mexico City, Acayucan, Tenosique and Tapachula receive assistance directly from the Mexican Commission on Assistance for Refugees, with priority for alternative housing being given to asylum-seeking accompanied and unaccompanied children and adolescents and individuals in situations of vulnerability.

47. The National Institute of Migration and the Mexican Commission on Assistance for Refugees, together with the Office of the United Nations High Commissioner for Refugees and civil society organizations, are implementing a programme to provide asylum seekers with alternatives to housing in migrant holding centres. The asylum seekers are sent to civil society shelters and, while the Commission decides on their asylum application, the Institute authorizes their temporary stay (45 working days) as a "visitor authorized to engage in paid work". Thus far in 2019, 8,277 asylum seekers have benefited from this programme, of whom 27 per cent (2,243) are accompanied children. Between July 2016 and 30 September 2019, 13,655 individuals benefited from alternative accommodations.

48. In accordance with the Migration Act, individuals who cannot demonstrate that they are in the country lawfully are taken to and housed in a migrant holding centre. The human rights recognized under the Constitution and the Migration Act are observed during administrative immigration proceedings.

D. Follow-up information relating to paragraph 40 of the concluding observations

49. Asylum seekers have the right to have an interpreter provided free of charge by the Mexican Commission on Assistance for Refugees.

50. Placement in a migrant holding centre is a last resort that allows foreigners who have not demonstrated the lawfulness of their presence in the country to have the relevant evidence examined. The National Institute of Migration must decide on their status within 15 working days, except under the circumstances set out in article 111 of the Migration Act, in which case the period may be extended for various reasons.

51. The Migration Act provides that all migrants housed in a migrant holding centre must have their rights explained to them and be given information about those rights in writing. They sign a receipt for the written information, and this receipt is attached to their file. The Migration Act recognizes the right of persons housed in migrant holding centres to

enjoy due process, to contact an attorney to represent them, and to file the actions they deem necessary for the consideration of their cases. If they cannot afford the costs, they are given access to civil society organizations that provide free legal advice.

52. The National Institute of Migration works with the Federal Public Defender Service, allowing staff of the Service to enter migrant holding centres and provide legal advice to individuals housed there. If they are children or adolescents, the Offices for the Protection of Children and Adolescents represent them in the administrative immigration proceedings, either with primary responsibility for the representation or in a supporting role.

53. The terms of article 111 of the Migration Act, and more specifically its point V, outstrip the powers of National Institute of Migration. If an individual housed in a migrant holding centre brings proceedings and a judge grants the measures sought, the Institute must act in compliance. Otherwise, it would be violating a court order and due process.

54. The Mexican Commission on Assistance for Refugees and the National Institute of Migration have a process to provide asylum seekers with alternative accommodation. It takes approximately two weeks to review an application, from the time it is filed until the date of the individual's early departure from the migrant holding centre.

E. Follow-up information relating to paragraph 42 of the concluding observations

55. Article 107 of the Migration Act sets out the services that migrant holding centres must provide to the individuals housed there: health services (a medical certificate is attached to the immigration file), schedules for personal hygiene, personal hygiene supplies, three meals a day, and special diets for children under 3 years of age and for individuals who require a special diet for medical or religious reasons. Migrant holding centres offer sports and cultural activities for those housed there, especially accompanied children and adolescents.

56. The migrant and temporary holding centres do not have punishment cells; there are individual bedrooms in the men's, women's and youth sections, equipped for people with a contagious medical condition. Currently, the Mexican Agency for International Development Cooperation is working with cooperation programmes to provide suitable facilities and equipment in the migrant and temporary holding centres.

57. The National Institute of Migration has a protocol for the prevention of overcrowding in migrant holding centres. As the capacity of the migrant holding centres has occasionally been exceeded, owing in particular to the situation prevailing since 2018, efforts are being made to streamline procedures and launch the process in each case in order to avoid overcrowding.

58. With respect to the recommendations regarding human rights violations in migrant holding centres, the Internal Oversight Body of the National Institute of Migration is notified of such violations so that it can establish the culpability of the public servants involved or decide on their punishment.

59. In the first half of 2019, 28 new child protection officers were assigned to the states with the largest flows of child and adolescent migrants.² They will receive training in November 2019 on topics such as human rights; emotional literacy; international protection; crisis care; best interests of the child determinations; violence, ill-treatment and abuse; trafficking in persons and smuggling of migrants; and gender equity.

F. Follow-up information relating to paragraph 56 of the concluding observations

60. In 2019, the Commission for the Comprehensive Protection of Migrant and Asylum-seeking Children and Adolescents agreed to adopt a proposed government policy on the protection of this population, to publicize the Pathway for Protection, and to form two

² Aguascalientes, Baja California, Chiapas, Coahuila, Mexico City, Michoacán, Nayarit, Nuevo León, Oaxaca, Puebla, San Luis Potosí and Tabasco.

working groups, one to set up temporary shelters for unaccompanied children and adolescents along the migration route and the other to develop a model for working with multidisciplinary university groups to support the Offices for the Protection of Children and Adolescents in identifying cases where rights have been violated and putting together plans to restore those rights.

61. The Pathway for Protection was developed to guarantee, through inter-institutional coordination and the identification of areas of competence, the rights of children and adolescents in situations of migration. It reflects the principles of non-refoulement and family unity in all of its four stages. In stage 1, children and adolescents are assisted from the time of their entry into the country and emergency measures are applied to safeguard their rights. In stage 2, the best interests of the child are determined and a plan is prepared to restore his or her rights. In stage 3, the rights are restored, services are provided and, if applicable, a process to determine whether international protection is appropriate is initiated. Stage 4 focuses on preparing the child or adolescent for adult life and his or her social development and inclusion.

62. In order to build the capacity of institutions serving children and adolescents in migration contexts, a 2020 budget proposal has been prepared that would allow for the operation of the Pathway, the technical and budgetary autonomy of the Offices for the Protection of Children and Adolescents, the certification of their procedures and staff, and the legislative harmonization of the Migration Act with the General Act on the Rights of Children and Adolescents.

63. In accordance with the Pathway, the National Institute of Migration seeks the views of the Offices for the Protection of Children and Adolescents on the best interests of the child, thereby preventing children from being returned to their countries of origin without the Offices' prior assessment.

64. Stage 1 of the Pathway calls for the involvement of the Federal Office for the Protection of Children and Adolescents and the Executive Commission for Victim Support when a child or adolescent in a situation of migration is the victim of a crime or potential human rights violation. The Executive Commission will assist the child or adolescent and include him or her in the National Register of Victims. The relevant Office for the Protection of Children and Adolescents will be notified and will help bring together and coordinate institutions specialized in the comprehensive care of child and adolescent victims.

65. The National Institute of Migration must inform children and adolescents of their rights, including their options for regularization.

66. In collaboration with the International Organization for Migration, training on international protection and access to the asylum procedure was provided in 2019 to front-line staff at migrant assistance centres in Puebla and Nuevo Laredo. National Institute of Migration personnel at airports and immigration offices have been trained in international protection.

67. The Mexican Commission on Assistance for Refugees has extended its presence to the cities of Tijuana, Monterrey and Palenque to facilitate the process of accepting applications for international protection and routing them through the appropriate channels. Commission staff travel to cities with large or growing numbers of asylum seekers to monitor, detect and assist in potential asylum cases.

68. Article 99 of the General Act on the Rights of Children and Adolescents provides that it is the responsibility of the National System for the Comprehensive Development of the Family, in cooperation with the National Institute of Migration and the Mexican Commission on Assistance for Refugees, to design and administer databases with information on migrant children and adolescents and to share them with the Federal Office for the Protection of Children and Adolescents. On 11 July 2017, the cooperation agreement between the System and the Institute to design and exchange information for the databases on foreign migrant children and adolescents was published in the Official Gazette.

69. The Migration Policy Unit on Registration and Identity of Persons and the Mexican Commission on Assistance for Refugees put out a monthly statistical bulletin on asylum seekers in Mexico. These bulletins cover the period from 2013 to 2018.

70. In stage 3 of the Pathway, after an Office for the Protection of Children and Adolescents discovers that a child or adolescent requires access to education, the Ministry of Education facilitates his or her access to education and the corresponding certificate. In stage 4, it extends an offer of formal education, validates and certifies competencies, provides career education and grants scholarships.

71. In stage 1 of the Pathway, any authority, institution, organization or person who detects a risk to the health of a child or adolescent must notify the Ministry of Health so that the latter can provide immediate care. It provides preventive health and treatment services and emergency care and addresses mental health risks, including for children or adolescents with disabilities or addiction issues and for pregnant adolescents.

72. The National Institute of Migration, through the child protection officers, refers children and adolescents to the health services for medical assessment and certification.

73. A strategy to benefit children and adolescents, called “Shortcuts”, was implemented from 2017 to 2018, with 18 entities having adopted it under consensus agreements. In Michoacán, a state coordinating group was formed to assist migrant farm day labourers. Its activities were aimed at providing comprehensive support specifically to migrant children and adolescents who worked as day labourers or were part of migrant families who did such work. To achieve this, it visited shelters to identify needs, held civil status regularization events, identified and referred cases involving potential violations of children’s and adolescents’ rights, provided education and arrival support grants and carried out other activities.

74. The Mexican Commission on Assistance for Refugees is working to implement the recommendations of the National Human Rights Commission (35/2017 and 37/2019).
