Issue 03: Backgrounder on Safety and Legal Protection of Irregular Migrants and Volunteer Workers in Mexico

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Introduction:
Every year tens of thousands of irregular migrants from Central America cross Mexico’s southern border and attempt to make the 1,000-mile northbound trek to the United States. These migrants make the journey despite increasing threats of violence from organized criminal gangs, corrupt police and security forces members, and private citizens. An investigation by Mexico’s National Commission for Human Rights in 2010 found that more than 11,000 irregular migrants were kidnapped nation-wide, with an unknown number violently assaulted and raped. In an urgent action report issued on July 27, 2012, Amnesty International stated that irregular migrants, and the volunteers who assist them, are at grave risk of extortion, sexual assault, kidnapping, torture and murder.

This backgrounder summarizes the risks faced by irregular migrants and humanitarian workers in Mexico based on various reports. Utilizing the documentation provided by, Casa del Migrante a migrant shelter in Saltillo, Mexico, this backgrounder explains the security threats to migrants, migrant shelters and shelter workers. Recommendations are proposed on pages 3 and 4, aimed at Federal, State, Municipal and International levels of government.

Figure 1: Central America (source: http://www.fas.org/sgp/crs/row/R41731.pdf)

Terminology:
- amparo trial – a legal action by Mexican citizens to constitutionally challenge alleged human rights violations, in accordance with rights enshrined in the Constitution, or by the terms international treaties ratified by the Mexican government.
- appaigo – a form of arbitrary detention issued under court order used for investigation of alleged criminal suspects. In practice, often acts as a type of public surveillance or to pressure a detainee for a confession.

Saltillo – the capital of the northeastern Mexican state of Coahuila, (population approx. 730,000).

Irregular Migrants in Mexico:
The number of non-Mexican (Central American) migrants caught trying to enter the United States illegally has doubled from 27,561 in 2011 to 56,637 to date in 2012.
Mexico’s National Immigration Institute, from January to April of this year Mexican authorities also detained 29,619 illegal non-Mexican (Central American) migrants before they even got to the U.S. border – a 42 percent increase from 2011.12

Figure 2 – Detainment of Deportable Migrants in Mexico, 1999 to 2008 [source: Instituto Nacional de Migración]

The United Nations Human Rights Council and Human Rights Watch have been highly critical of the situation, however the Mexican government continues in its failure to protect irregular migrants1,6,7,8,9,10,11,12 or to adequately investigate crimes against irregular migrants and humanitarian workers.8 Mexico more than doubled its detention facilities from 22 in 2000 to 48, and the number of irregular migrants detained or deported from Mexico in 2012 is almost triple the number of legally documented Central American refugees.5 (see Figure 2)

Migrant Countries of Origin
Recently collected statistical data demonstrates that of the foreigners in Mexico during the first 6 months of 2012, approximately 45.9 percent were Guatemalan, 33.3 percent were from Honduras, and 15.4 percent were from El Salvador.5 The remaining 5.4 percent was divided among a number of countries, including 1.7 percent from Nicaragua.5 Many Central American risk crossing through Mexico in a desperate attempt to escape the extreme poverty and violence of their respective countries. In 2010, Honduras led world homicide rates with 82.1 murders per 100,000 inhabitants. That same year, El Salvador had 66 murders per 100,000 inhabitants. By comparison, the United States recorded 5 homicides per 100,000 inhabitants in 2010.17 The political and judicial systems in El Salvador, Guatemala, Honduras and Nicaragua have become increasingly strained as criminal actions from well-financed drug trafficking organizations continue to rise.12 Corruption, bribery, extortion, rape, and human sex trafficking levels are surging, fuelled by a persistent demand for illegal narcotics in the United States. Young people are particularly vulnerable due to the wide-spread lack of educational and employment opportunities.13

Figure 3 – Central American Migrants (by country) in Mexico by immigration status (refugee, detained deported) [source: SEGOB/National Institute for the Study of Migration]
a) Irregular migrant vulnerability in Mexico:

- A 2008 reform of the General Population Law (LGP) classifies undocumented entry into Mexico as an administrative offense thus, de facto criminalizing migrants who arrive in Mexico by unofficial channels; and migrants who lack official identity documents due to illegal entry, theft of identity documents or kidnapping.\(^9\)
- Kidnappings for ransom by criminal organizations – particularly by drug cartels. Municipal police have been identified in many cases of kidnapping as being accomplices, working in collusion with criminal gangs and drug cartels.\(^5,7,10\)
- Extortion, serious acts of torture, inhumane and degrading treatment, disappearances, sexual abuse, and rape of women and girls\(^*\) by human trafficking rings, criminal gangs, federal police and officers of the National Migration Institute.\(^5,7,9,10\)
- The wide-spread use of arraigo.\(^9,10\)
- Impunity for government officials, members of the military and police officers who perpetrate crimes or fail to report or investigate reports of crimes against irregular migrants.\(^5,7,9\)
- Migrant detention centres with squalid conditions, lack of medical care, restriction of movement and communication, or cruel, inhumane and violent treatment (including sexual assault and rape) by detention centre staff and security officers.\(^8\)
- Immigration case workers who lack preparation, judicial training, are insensitive or ignorant of the risks faced by irregular migrants; which results in the lack of judicial due process, or exacerbates trauma and victimization.\(^2,3,4,7,9\)
- The redaction of an agreement with municipal and state governments to create and maintain security logs to record the presence and hours of security service provided at migrant shelters by municipal and state.\(^1,2,3\)
- The lack of dedicated personnel such as medical, security, and fire officials, who understand the work of migrant shelters and the people protected by the shelters, and who are familiar with emergency response protocol.\(^3\)
- Negotiations with municipal and state governments to get financial support for needs of the shelter were recommended by the District Attorneys’ office (State of Coahuila) in December 2010. To date, neither municipal nor state officials have agreed to a start date for such negotiations.\(^2,3\)
- Civil society prejudices, public ignorance of human rights laws and judicial impunity for citizens who threaten or assault human rights and humanitarian workers.\(^9\)

*(An estimated six out of ten migrant women and girls in Mexico experience sexual violence.)\(^5\)

b) Human rights and humanitarian worker vulnerability in Mexico:

- Extortion, threats of violence, violent attacks, death threats, and vandalism of homes and personal property by members of civil society, military and police officers.\(^2,3,7,9\)
- The use of illegal detention, excessive use of force and degrading treatment by municipal and state police.
- The wide-spread use of arraigo.\(^9,10\)
- Insufficient or complete denial of judicial representation or support when human rights and humanitarian workers wish to press charges or call for an investigation of alleged threats of violence or violent attacks.\(^2,3,7,9\)
- A lack of working security cameras and alarm installed in volunteers’ houses.\(^3\)
- The redaction of an agreement with municipal and state government to provide cell phones or walkie-talkies for emergency use for all volunteers.\(^8\)
- Civil society prejudices, public ignorance of human rights laws and judicial impunity for citizens who threaten or assault human rights and humanitarian workers.\(^9\)

Appendix – Recommendations

The following recommendations may be implemented at various jurisdictional levels: Suggestions as to where each recommendation may best be directed are indicated as Federal (F), State (S), or Municipal (M).
c) Resolve immediate security irregular migrant and humanitarian worker security issues

- Take measures to include the crime of human trafficking in the laws of all states in the Mexican federation and strengthen the resource base for the protection of victims, and measures to provide assistance to victims.\(^{(F)}\)
- Investigate seriously and diligently and punish those responsible for crimes against human rights workers and volunteers with penalties appropriate to the seriousness of offense.\(^{(F),(S),(M)}\)
- Publicize the prosecution and punishment of civil servants – including police and military officers – responsible for acts of ill-treatment and offences against migrants.\(^{(F),(S),(M)}\)
- Migrants must be informed of their right to request legal representation, priest or religious official or shelter staff or volunteers to be present when questioned by police, military or judicial personnel.\(^{(F),(S),(M)}\)
- Re-evaluate the effectiveness and use of arraigo.\(^{(F),(S),(M)}\)
- Recognize and ensure that *amparo* trials can be initiated by Mexican humanitarian volunteers and human rights workers.\(^{(F)}\)
- Establish and maintain written records and logs of all security, police, judicial workers and labourers who request access to the shelter occupants, volunteers or premises.\(^{(S),(M)}\)
- All police and legal personnel who request contact with migrants or shelter volunteers must have and provide valid identification prior to initiating contact.\(^{(F),(S),(M)}\)
- Maintain basic standards for the operation of migrant checkpoints/detention centres.\(^{(F)}\)
- Ensure minors and children migrants are detained in secure areas, are housed with family members or are received by documented family members if deported.\(^{(F)}\)
- Provide free/affordable to forms of birth control, anti-pregnancy medications and STI protection for female migrants, and provide free/affordable health care to migrant victims of rape.\(^{(F),(S),(M)}\)
- Initiate a nation-wide public information campaign about human rights, the human rights laws of Mexico, and the international human rights treaties which have been ratified by the Mexican government.\(^{(F)}\)

e) Governmental reforms:

- Ensure the implementation of international human rights standards through the adoption of policies, laws and judicial measures, and engage in regular consultations with states, civil society organizations, and religious and charitable institutions about human rights practices.\(^{(F),(S),(M)}\)
- Amend the Organic Law of the National Commission on Human Rights and local legislatures to start the process of harmonization of local state and municipal constitutions with the content of national human rights reform.\(^{(F)}\)
- Expand the funding and mandate of the “Blue Heart Campaign” against human trafficking.\(^{(F)}\)
- Implement judicial reforms to ensure that cases of torture, arbitrary detention, violent assault, forced disappearances and rape are investigated in strict conformity with international human rights standards.\(^{(F)}\)
- Fully investigate all allegations of human rights violations committed by elements of the military, police and security forces.\(^{(F),(S)}\)
- Promptly and fully deal with allegations of systematic and excessive use of force and torture by law enforcement agencies.\(^{(F)}\)

f) International responsibilities:

- In the context of NAFTA and other multinational agreements regarding regional economic integration, a form of bilateral cooperation is needed to address the root causes of migration – including discrepancies in socioeconomic development and security.\(^{(F),(S)}\)
- Re-examine and address the failure of the U.S. ‘War on Drugs’ to decrease the demand for illegal narcotics in the United States and Canada.\(^{(F),(S)}\)
- In light of the sizable Mexican and Central American diaspora population in the United States and Canada, allow for the incorporation and participation of Mexican, El Salvadorian, Guatemalan, Honduran and Nicaraguan citizens in the
creation and application of migrant worker laws, and socioeconomic development models for the Central American region. 

- Initiate and maintain public information campaign about human rights violations of Central American migrants and human rights laws of Mexico, and the current socioeconomic reality of Central American nations.

**Sources Summarized**

1. "No More Blood: Struggles for Peace and Human Rights in Mexico", Alberto Xicotencatl Carrasco, [director of Casa del Migrante, Saltillo, Mexico], public address in Waterloo, Canada, 6 March 2012.
10. Peace Brigades International, “Meetings with HRDs and authorities in Coahuila; disappearances and violence against migrants are the most highlighted HRs violations,” June 30, 2012; available at http://www.pbi-mexico.org/field-projects/pbi-mexico/news/news/?no_cache=1&tx_ttnews%5Btt_news%5D=3536&cHash=960f96d5bd5426b64b2923c930eaac7