

# SIXTH REPORT ON THE SITUATION OF HUMAN RIGHTS OF MIGRANTS TRAVELING THROUGH MEXICO

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## INDEX

## INTRODUCTION

### CHAPTER 1. PREVENTION

- a) Operations to Verify Immigration Status
- b) Detention in Immigration Stations

### CHAPTER 2. ACTIONS DIRECTED TO THE ERADICATION OF ABDUCTION OF MIGRANTS TRAVELING THROUGH MEXICO

- a) Recommendations to the Mexican government in relation to human rights and immigration
- b) Response by the Mexican State on the abduction of migrants

### CHAPTER 3. VICTIOM ASSISTANCE

- a) Humanitarian FM3 to Victims of Crime
- b) Voluntary repatriation
- c) Guidelines for care of children and adolescents (Officials for the Protection of Children)

## CONCLUSIONS

### INTRODUCTION

Since early 2008, different Houses for Migrants and Human Rights as well as the National Commission for Human Rights (NCHR) have begun to record hundreds of cases of migrants becoming victims of kidnapping. As is already known, in just the period from September 2008 to February 2009, the National Human Rights Commission documented in its Special Report on Abduction of Migrants<sup>1</sup> almost ten thousand cases of kidnapping, demonstrating the severity of the frequency and violence with which this crime is committed during the passage of the undocumented migrant through Mexico. In fact, the Special Reporter on the Human Rights of Migrants mentioned this serious problem during a visit to Mexico in 2002: *"Migrants have also informed the Special Reporter of cases of fraud and even kidnapping at the northern and southern borders. When a migrant is kidnapped, the perpetrators make contact with relatives, making the migrant's freedom and continued travel to the north conditional on payment of money. The migrants who recruit the services of people who will help them cross the border pay large amounts of money, sometimes close to \$2,500 dollars per person, and run the risk of being abandoned and/or abused by their traffickers during the crossing. Women and unaccompanied minors find themselves in a particularly vulnerable position in relation to such abuse"*<sup>2</sup>.

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1 National Commission on Human Rights. *Special Report on Abduction Cases Migrant* June of 2009 Available for its discharge in: [www.cndh.org.mx/REPORTS/Specials/infEspSecMigra.pdf](http://www.cndh.org.mx/REPORTS/Specials/infEspSecMigra.pdf). c Please ask on May 4, 2010

2 Cfr Economic and Social Council, United Nations, *Report submitted by Ms. Gabriela Rodriguez Pizarro, Special Rapporteur on the Human Rights of Migrants, in Conformity with resolution 2002/62 of the Commission on Human Rights, Visit to Mexico*, October of 2002 in <http://www2.ohchr.org/english/issues/migration/rapporteur/visits.htm>, accessed 1 May 2010 accessed May 18, 2010

3 Bethlehem, Posada del Migrante, Border Justice and Humanity Without Borders *fifth annual report on Status of Transit Migrants in Mexico*, May 2009

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Since we began to accept victims of kidnapping in Belen, Posada del Migrante, we have taken on the task of recording their testimonies, in order to begin to understand the new problems that migrants were facing. We noted that kidnappings became more frequent, hurting more people and taking on a more violent color. That's why, given the seriousness of the facts and the inability of the authorities to respond to circumstances, in the Fifth Report on the Situation of Human Rights of Migrants Passing through Mexico,<sup>3</sup> prepared in May 2009, we decided to focus on analyzing, describing and reporting the problem. A year ago, we described the kidnapping as systematic and widespread, because it happens or may happen to all undocumented migrants passing through Mexico, regardless of age, sex or nationality. These men and women are especially drawn to the path along the railway, which starts in Tapachula, Chiapas or Tenosique, Tabasco, and crosses municipalities such as Ixtepec and Arriaga in the state of Oaxaca; Coatzacoalcos, the town of Medias Aguas in Sayula, Tierra Blanca and Orizaba in Veracruz state; the town of Tultitlan, belonging to the State of Mexico; Apizaco in Tlaxcala; and Escobedo Celaya, Guanajuato, San Luis Potosi, and the border towns of Nuevo Laredo, Reynosa and Matamoros, Tamaulipas, and Coahuila. Along this route, migrants are highly vulnerable to being kidnapped.

In the same report we denounced the crime of kidnapping committed by the organized crime group popularly known as Los Zetas, which currently is a cartel operating mainly in the region of Tabasco, Veracruz and Tamaulipas, places where it comes face to face with its opponents and with the Mexican Army. Also, we noted the clear collusion between agents of the Federal National Migration Institute (INAMI), the Federal Police, and the organized crime group, as the majority of the testimonies have attested. Most have found that these organizations have been fully aware that migrants are traveling in various trucks as hostages, and they have even seen safe houses in which persons were kept, deprived of their liberty, and did nothing to rescue them. Also, we point out the severity of the collusion between the various municipal police in the southern and northern borders of the country and the Zetas. On many occasions, migrants have reported being co-opted by these agents before being delivered to the kidnappers.

The Fifth Report reported the cruel and inhumane ways in which migrants are treated during their stay in "safe houses"<sup>4</sup>. The commission mentioned crimes such as murder; the ill use of persons (sexual exploitation, labor and trafficking of organs); sexual abuse against men women, children and adolescents; physical and psychological torture suffered both by those in captivity and their families; and the serious consequences that these crimes bring to the victims, their families and their communities. A year ago, we concluded that Mexico was returning to Central America a massacred population, fully exploited, without any support or repair of the damage caused. Likewise, we noted clear violations of the International Rights Treaty signed and ratified by Mexico, as well as the United Nations Convention; the Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking of Persons; the Convention on the Prohibition of Worst Forms of Child Labor and Immediate Action for its Elimination especially in regards to Women and Children; the Protocol against the Illicit Trafficking of Migrants by Land, Sea and Air; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment; the International Pact on Civil and Political Rights; and the American Convention on Human Rights. Both by action and by omission, the Mexican government violates these agreements by failing to exercise a strict adherence to protection of the Human Rights of migrants and, additionally, having no mechanisms for comprehensive protection of victims.

In this time of repeated denunciation by civil society in support of migrants, the situation of cruelty and dehumanization on the road has nevertheless continued to deteriorate. The municipalities through which migration flows have been completely co-opted by organized crime and by federal, state and municipal authorities involved in the crime of kidnapping. The violence with which this is committed every day harms the Central American population. In the same way, the silence of the government and the fear instilled in the majority of the Mexican population have been factors that lead to impunity and make the task of access to justice difficult. Indeed, there are very few migrant victims who choose to report the crime they suffered, and in no case is it known that the authorities have investigated and punished the crime, resulting in justice and reparation of the damage caused. Coupled with this situation is the increasingly vulnerable condition of places and people responsible for defending the Human Rights of migrants, who, from the loneliness caused by the authorities' lack of attention, face the task of denouncing these actions in public forums, assuming the resulting risks and threats to their life and their integrity<sup>5</sup>.

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<sup>4</sup> The safe houses are the places used by criminal groups to keep the kidnapped migrants.

<sup>5</sup> For this reason, in April this year, the Inter-American Commission on Human Rights decided to give precautionary measures to Solalinde Father Alejandro, director of Lodge Brothers on the Path of Ixtepec, Oaxaca (Cfr. MC 250-09), and Father Pedro Pantoja, general counsel for Bethlehem Inn Migrants, Border Justice and Humanity Without Borders (cf. MC 312-09)

Faced with the exhaustion of internal resources and with clear evidence that there does not exist, on the part of the Mexican government, any political will to eradicate the issue of systematic abduction of migrants, several organizations<sup>6</sup>, among them those of us who wrote the present Informe, went to a public audience before the Interamerican Commission of Human Rights on the 22 of March of this year, with the purpose of raising awareness of the scale and seriousness of the problem and the number of violations that the Mexican government has made, by act and omission, to the American Convention on Human Rights. In the Report submitted to the IACHR, it was stated that *"...the changes in the causes, compositions, routes and other conditions in which migrants pass through Mexico show that the immigration policy does not correspond to the current reality and in fact, the profile of flow leads to problems such as kidnapping and other crimes against migrants. A heavy responsibility thus lies on the Mexican government, because its objective to prevent the transit of migrants places these people in conditions of vulnerability and risk, leading to violation of their human rights by default"*<sup>7</sup>.

For these reasons, it was asked of the IACHR to recommend that the Mexican State undertake to establish an inter-institutional agency to address the issue of abduction, with full participation of civil society organizations; to carry out the legislative reforms necessary to bring a regulatory framework that provides full access to justice, respecting the right to nondiscrimination; to form a Special Prosecutor for the Care of Migrant Kidnap Victims in Transit through Mexico that will fully meet the needs of the people; to ensure their integrity, safety, and damage repair, as well as to ensure safety for advocates seeing to the human rights of migrants. For the urgency and gravity of the subject, we requested a site visit with the Reporter on Migrant Workers and Members of Their Families.

Felipe González, President of the Inter-American Commission on Human Rights and Reporter on Migrant Workers and Members of Their Families, expressed his concern about the "staggering number" of kidnap victims—9,758—that the CNDH submitted in its special report. He therefore ordered the State to redouble its efforts to end this serious problem, and also expressed interest in visiting the country this year. For his part, Commissioner Rodrigo Escobar Gil, Reporter for Mexico, said that the situation of massive and widespread kidnappings that the migrant population is suffering is "truly a humanitarian tragedy," noting that this offense is violating all human rights, not only those of the victims but of their families and their communities. For these reasons, he said the state must act not only through police measures, but must carry out a policy of real prevention and comprehensive care of victims. It should be noted that the State delegation, formed by INAMI, the Ministry of Foreign Affairs (SRE) and the Unit for the Promotion and Defense of Human Rights within the Department of the Interior, demonstrated its lack of knowledge and ability to address the issue, and even rejected the epithets expressed by the Commissioners. Since the delegation gave no argument to validate its actions, it pledged to deliver to the IACHR a subsequent report on the subject. From the date on which this report was completed, civil society has not been informed of any compliance to said commitment.

Against this background, we write the Sixth Report on the Situation of Human Rights of Migrants in Transit in Mexico, with the aim of building an analysis showing that the current immigration policy, focusing on the management and flow of migrants, does not result in full respect for the human rights of the undocumented. In fact, this policy of containment places men and women who are expelled from Central America in a most vulnerable situation, and promotes countless violations of their human rights<sup>8</sup>, most notably kidnapping.

We present this report to all caregivers and those who guard the path of migrants to the Migrant Houses and the Centers that defend the Human Rights of Migrants, to the various authorities involved in violations of human rights of this population, as well as agencies responsible for ensuring respect for human rights in Mexico, America and the world, with special attention to the National Commission on Human Rights, the Inter-American Commission on Human Rights and the UN Special Reporter on the Human Rights of Migrants. However, the main recipient of this report is the National Immigration Institute, because even though the dynamics of migration must be addressed holistically by various government and non-governmental organizations, it is this body that has the duty to promote and provide a comprehensive migration policy, one that is open to the needs of the transmigrating population and that helps to avoid, among many other human rights' violations, the systematic problem of abduction.

To achieve our objective we have divided this report into three chapters. The first focuses on the critique of the two lines of crime prevention INAMI has made in favor of migrants: the operations to check immigration status, and detention centers. Even though both areas are ostensibly meant to safeguard human rights, it is clear that they happen outside of any legal framework and without compliance with the international standards of human rights. The second chapter is an analysis of the actions and initiatives that INAMI has promoted in terms of inter-institutional coordination of agencies in order to address the abduction of migrants. We analyze these strategies in light of the recommendations of international

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<sup>6</sup> Bethlehem, Posada del Migrante, Border Justice, Humanity Without Borders Rights Center Miguel Agustín Pro Juárez Human, AC (Centre PRODH), Diocesan Human Rights Center Fray Juan de Larios, the lodge brothers in the Way of Ixtepec, Oaxaca; Dimension of Pastoral Human Mobility; Mexico Jesuit Service for Migrants, Human Rights Center Fray Matías de Cordova, Jesuit Service for Young Volunteers, Shelter Our Lady of Guadalupe, CA Reynosa, Tamaulipas, and the Guadalupe Shelter in Tierra Blanca, Veracruz.

<sup>7</sup> *Report on Abductions of Transit Migrants in Mexico*, presented at Public Hearing before the IACHR *Report on Abductions of Transit Migrants in Mexico*, presented at Public Hearing before the IACHR 22 of March of 2010 Available for its discharge in: [http://centroprodh.org.mx/2008/index.php?option=com\\_content&task=view&id=236&Itemid=104](http://centroprodh.org.mx/2008/index.php?option=com_content&task=view&id=236&Itemid=104), accessed May 18, 2010

<sup>8</sup> *Migrants in transit through Mexico are victims of systematic extortion, robberies, assaults, rape, indefinite and arbitrary detention, enforced mainly by train guards and private security, the multiple elements of local police, federal agents of the Institute of National Immigration, the Federal Police, and members of organized crime.*

and inter-American systems for human rights. We also reiterate the responsibility of the Mexican government, and specifically INAMI, in taking action to eradicate the crime of migrant kidnapping. Finally, the third chapter touches on the theme of caring for victims, following up on recommendations to INAMI from various human rights bodies. In this chapter, we question the actual functionality of the Humanitarian Migratory Form, Officials for Child Protection and the guidelines for care of children and adolescents, taking into account that most of this vulnerable population has been victim or witness to the crime of kidnapping. We also examine humanitarian repatriation and the meaning it has for the victims and their families.

Since our direct and daily work is with victims, we hope this report meets the objective of letting the Mexican government know the grave reality of the crime of systematic abduction of migrants and, thus, be a guiding tool for work and reflection. It is also our priority to ensure that the INAMI realize that none of its actions have contributed to a real defense and protection of undocumented migrants, and that the State, contrary to the basic elements of managing immigrants,<sup>9</sup> has not been able to define a clear framework to determine who enters its territory, for whom ingress is limited, under what terms, and how it regulates its borders. Thus, practices of verification, control and deportation are developed, implemented and evaluated at variance with the current characteristics of migration and in breach of international obligations of State.

In the absence of consistent, coherent, comprehensive immigration reform that addresses the needs of people in transit and provides for institutional reconstruction and reform of the legal framework on migration, INAMI only continues a policy that, in general, encourages massive violation of human rights and the vulnerability and invisibility of the migrant population, though in some cases INAMI half-heartedly amends some consequences of this phenomenon. Only by changing their rules and procedures from the base, toward a logic of immigration regulation based on respect for dignity of the person, can they truly respect and protect human rights.

## CHAPTER 1 - PREVENTION

According to the INAMI, its goal in working with Central American undocumented migrants is to meet their need for protection, since they lack documents and this makes them prone to human rights' violations. The head of this agency, Commissioner Cecilia Romero, said in an interview conducted on January 2 of this year: "(...) *About a year ago there was an event at Las Palmas, Ixtepec, Oaxaca, where there were allegations that the Navy of Mexico had made use of... There was a picture of a soldier... It was a picture of a soldier hitting a migrant ... Well, I will not go into details ... Due to that accusation, railroad workers were suspended for an important time during which, incidentally, harassment and abductions of migrants by organized crime have increased*"<sup>10</sup>. In analyzing the actions and inactions of the institution under the Ministry of the Interior, it is clear that this speech to protect the migrant population is only a display that tries to conceal a national security policy of leaving aside the fundamental right to human security.

In this regard it should be noted, as we delve into chapter two, that the INAMI joined the National Security Council in 2005 with the aim of providing an efficient flow of information between intelligence agencies, both national and international, to provide intelligence and counterintelligence, and to investigate what is regarded as a threat to national security. The National Security Council's main objective is to take care of national security; therefore, placing INAMI in this dynamic as a part of national security results in placing the priority of the Mexican government (that is, to take care of itself) over and above human needs. Thus poverty and violence are not considered valid reasons that force over one hundred and forty thousand people to cross annually from Central America through Mexico for the purpose of getting to the United States, since the central idea of the government is to protect a security that the impoverished trans-migrant population does not really threaten. This logic, which criminalizes migrants in extraordinary situations, is the main cause of the systematic rape of this population's human rights, and up to this time it has prevented this phenomenon, which surely will not stop, from being regulated and therefore becoming visible to the State and to society.

Following, we will analyze the INAMI's two main lines of work, and point out that its logic on national security does not coincide with what it says about the promotion and defense of the human rights of the Central American migrant population.

### a) Operations to Verify Immigrant Status

The INAMI carries out immigration checks along the route traced by the railroad, the means of transportation used by hundreds of thousands of migrants from Central America who travel from the southern border to the northern border of Mexico. These operations are performed on a daily basis in various districts of the southern border of the country, among

<sup>9</sup> International Organization for Migration - National Institute of Migration *Basics for migration management*, the National Migration Institute, Center for Immigration Studies, Mexico City 2009, pp. 73-100

<sup>10</sup> Carlos Martínez y Ricardo Vaquerano, *entrevista a Cecilia Romero*, en *Diario La Jornada Morelos*, 2 de enero de 2010, en <http://www.1ajornadamorelos.com/suplementos/correo-del-sur/82454?task=view.consultada> el 7 de mayo de 2010

them Tenosique, Chontalpa area and different surrounding towns, Pijijiapan, Tapachula, Arriaga, Jiquipilas, Huehuetán, Palenque and Tonalá, Chiapas, Coatzacoalcos, in Sayula Medias Aguas, Tierra Blanca Orizaba, Veracruz, Lechería, in the State of Mexico; Apizaco, Tlaxcala; Escobedo, Comonfort and Celaya, Guanajuato, in the cities of Puebla, Querétaro, Aguascalientes, Zacatecas and San Luis Potosí, Saltillo, Coahuila, and Nuevo Laredo, Tamaulipas. In this regard, in a recent interview, Commissioner Cecilia Romero admitted that "(...) As soon as immigrants are detected, we carry out operations, and recently there have been some very important ones. We carry out these operations for repatriation purposes and we must continue doing them"<sup>11</sup>.

Generally, the INAMI have their agents on the train tracks, in an area near the station, and they make the train stop to go to meet migrants, surprising them. Migrants who get to see the operation from the train fan out in different directions, even when the train is still moving, and run in order to hide and avoid being caught (which would mean detention and subsequent deportation or repatriation). At that time, federal agents run after migrants and grab them by their clothes, then take them to a vehicle designed for their transportation and subsequently transfer them to the immigration station. These operations are often accompanied by the Mexican Army, Federal Police and even officers from various municipalities.

In Belén, Posada del Migrante, a total of three hundred twenty-six victims of these operations were documented from May 2008 to the present date; these are only a representative sample of the many migrants who have been affected by this practice of the INAMI. These operations routinely violate the right to life and the security and integrity of the migrant population, since they expose men and women traveling on the train to beatings, injuries and accidents that can result in amputations and even death. On several occasions, migrants say their life was put at risk in these checkpoints, since it is extremely dangerous to jump from a train when it is in motion and to run on land where there are plants and vermin, and even swamps, in which witnesses say many people have died.

*Back in the entrance to Coatzacoalcos, we saw an immigration checkpoint and we all jumped the train when it had not yet stopped. I was hiding nearby, but I saw some kids come running into the swamp, and then they were no longer there. They could not get out. They drowned. 19 years, El Salvador)*

However, it is not only the recognized human rights in Mexico that are not respected by the authorities of INAMI but also the rights stated in the General Population law, which does not permit authorities to carry out these operations for migration control. Paragraph V, Article 151 of the General Population Law mentions that immigration services and the Federal Police can carry out immigration checks on temporary routes or points other than the established ones. However, such acts are covered by Article 156 of the same law, which states:

*The office in which the review alluded to in section V Article 151 shall identify, at a minimum:*

- I. The responsible party for the review and staff assigned to it;*
- II. Duration of the review, and Geographical area and place in which the review is to take place; the officer responsible for the review will make a daily report of activities to his superior<sup>12</sup>*

As we noted in the report submitted in April of this year by Amnesty International<sup>13</sup>, the immigration check taking place in the railways does not have any legal proceeding. In the Fifth Report on the Human Rights Situation of Migrants in transit through Mexico by Posada del Migrante, Border Justice and Humanity Without Borders,<sup>14</sup> we noted that in March 2008, we asked the INAMI, under the right of petition, to let us know the guidelines under which they maintain their

<sup>11</sup> Jorge Ramos and Alberto Lopez *It is impossible to stop migrants: INM*, in Diario El Universal. 18 April 2010, and [n http://www.eluniversal.com.mx/notas/673590.html](http://www.eluniversal.com.mx/notas/673590.html), accessed May 14, 2010

<sup>12</sup> 13 Article 156 of the *General Law of Population*, published in the Official Journal of the Federation on 17 April 2009, and [n http://www.inm.gob.mx/index.php?page/Marco\\_Juridico\\_Leyes](http://www.inm.gob.mx/index.php?page/Marco_Juridico_Leyes), accessed 11 April 2010

<sup>14</sup> Amnesty International. *Invisible Victims. Moving migrants in Mexico*, April 2010, <http://www.amnistiainternacional.org/Publicacion.php?Id=138>, accessed May 13, 2010

<sup>15</sup> -- Belén, Posada del Migrante, Border Justice and Humanity Without Borders *fifth annual report on Status of Transit Migrants in Mexico*, Op Cit.

<sup>16</sup> Artículo 196 del Reglamento de la Ley General de Población, publicado en el Diario Oficial de la Federación el 14 de abril 2000 in <http://www.inm.gob.mx/index.php?page/Marco-Juridico-Reglamentos>, acceso Mayo 13, 2010

operational control of migration along the railroad tracks, but at first they replied that such information could not be provided to us due to its confidential character. Given the rise in the frequency of these illegal operations, we again asked for information in June 2009. However, to date we have not received a response.

Even more serious is the fact of acting completely against Provision 196 of the Regulations of the General Population Law, which sets the standards that every agent must follow in any immigration verification procedure:

*I. The public servant who performs the verification must have the position to act, which will show the purpose of the act of verification, where it is to be made, and the name of the person to whom it may concern; in the event that it is available, date, legal basis, and the name, signature and title of public servant who issued it and the person who will carry it out is noted.*

*Upon the express request of the institute, the Federal Preventive Police carry out checkpoints in specific locations;*

*I. The personnel must identify themselves to the foreigner, or the person on whom the check is made, with an ID card accrediting him as a public servant of the Institute and, where applicable, the Federal Preventive Police, both from the Secretariat, and*

*II. Of all verifications made, there will be detailed descriptions, in the presence of two witnesses accepted by the proceedings, or by the person performing it if its purpose has been denied; in the same way there will be a copy for the person with whom the agreement was made, even if he/she refused to sign, something that will not affect the validity of the proceedings nor of the document in question, always and when the person verifying it states that fact for the record.<sup>15</sup>*

It is clear that no immigration check made in railway lines follows the guidelines stipulated by this article. In fact, INAMI agents never identify themselves nor make any affidavit. Therefore, it is easy to conclude that these operations are completely illegal and obviously, outside any legal framework, because no law dictates the humiliating persecution of migrants.

Moreover, Articles 198 and 199 of the General Population Law dictate that, if after the immigration check procedure it appears that the person has entered the country without the required documentation, the public servant should turn him/her to the competent authority. However, members of INAMI do not require any documents of migrants, but rather assume that they are undocumented and stop them without strict adherence to the law, thus violating their right to justice and due process.

In Belén, Posada del Migrante, many victims have indicated that at these checkpoints there was involvement of members of the Mexican Army and Federal Police in the towns of Tonalá, Chiapas, Orizaba, Veracruz; Tutitlán, in the State of Mexico, Celaya, Guanajuato, San Luis Potosí, and Nuevo Laredo, Tamaulipas, and State Police presence at Tlaxcala and Guanajuato. Although Article 73 of the General Population Law and Articles 98 and 196 of the Rules of General Population Law authorize that, as a specific request or as an emergency measure, the INAMI agents may require the cooperation of these security forces, migrants indicate that these confrontations often lead to blows, physical and verbal abuse, and even shots fired in the air. An example is what happened in April 2010 in Chahuítes, Oaxaca, when police stopped a Federal train that traveled with more than four hundred migrants. It was reported that in this operation, the federal police verbally humiliated the migrants, stripped them of their belongings and sexually abused women: *"They stopped the train and ordered us to get off because we did not want to get down. They grabbed us and kicked us to get off. When we got down they had us put our hands behind our backs and our noses to the ground and not to move. Then they began to search us and took our wallets."*(Evidio, Guatemalan)<sup>16</sup>

In fact, this participation in detention operations, which public security institutions sometimes do, has contributed to the systematic extortion suffered by migrants, who repeatedly are threatened by municipal, state and even federal police who threaten to hand them over to INAMI if they do not give them money in exchange for their freedom. We continue to receive knowledge of arbitrary and unlawful detentions and open collusion with the INAMI. In March of this year, we recorded the testimony of three victims of the Municipal Police of Comonfort, in the state of Guanajuato:

*The local police arrested us and took us to their cells in Comonfort. There we found that they had twenty other migrants arrested, who had been locked up for three days. We heard that the police said that now they already had*

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<sup>16</sup> Martha Izquierdo, *Federal Police accused of assault on a train of immigrants in Oaxaca*. Digital Newspaper *BBMnoticias.com*, april 23, 2010, in [http://bbmnoticias.com/index.php?option=com\\_content&task=view&id=18368&Itemid=28](http://bbmnoticias.com/index.php?option=com_content&task=view&id=18368&Itemid=28), accessed May 13, 2010.

*arranged the trip, and over the radio they said that they would call Immigration. We were all angry because it was not fair to keep us prisoners and the police also had stolen our money. So we started to complain. Then the police began to attack us: they fired several cartridges and beat us with clubs; in fact, a companion was beaten and left with a bruise. (Marisela, 17, Honduras)*

Even more serious are the testimonies of migrants about abuse of authority and the illegal detention that members of the municipal police have committed against them, principally in Nuevo Laredo, Matamoros and Reynosa in the state of Tamaulipas; General Bravo, in Nuevo Leon; and Chontalpa and Tenosique en Tabasco. In collusion with organized crime, the police use their authority, their uniforms and the official vehicles, including the centers of detention, to kidnap migrants and turn them over to members of organized crime.

*"(...) Some municipal police stopped us on the pretext that something had been stolen, handcuffed us and we climbed into the van to go to the cells. After about two hours of this the police turned us over to some men who said they were Zetas. They begin to beat us, slapping us and hitting us with a ruler all over our bodies." (Alexander, 36, Honduras)*

Therefore, because the operational verification of migrants in railways is illegal and lacking any type of legal argument, is executed in an irregular manner, and at the same time seriously threatens the life, integrity and security of migrants, we affirm that it is the duty of the person in charge of INAMI to order this organization not to conduct any more such operations, but instead to seek ways to end this vision of contention against the migrant and to contribute to strengthening the life and dignity and security of the Central American population going across Mexico. In the same way, it is the obligation of the director of INAMI to instruct the police who carry out these illegal detentions and are in collusion with the network of organized crime, to carry out actions necessary to clean up the institutions, to proceed with criminal proceedings against the elements involved, and to raise awareness of these actions to the public and organized civil society.

#### **b) Detention in immigration detention stations**

In 2008, Article 121 of the General Population Act was repealed, which meant that the process of entering into Mexico without corresponding immigration documents is not a crime, so could not be punishable by detention and jail. However, contrary to the current provision of law, undocumented migrants who are intercepted by INAMI agents are detained in immigration detention centers, places where they remain until they are repatriated or deported to their countries of origin. In fact, even despite the legalization of undocumented migration, to date, fifty detention facilities for migrants have been built.

The INAMI notes that "it takes in" migrants for their safety, because, since they are in Mexico without the required immigration documents, this makes them susceptible to crimes and violations of their human rights. In Press Release number 133, issued on March 23, 2010 by the Ministry of the Interior for the purpose of securing three hundred forty-four migrants from Central America, it was reported that: *"The National Immigration Institute will be operating in compliance with the General Population Law, in order to safeguard the lives of undocumented migrants traveling through the national territory under vulnerable conditions"*.<sup>17</sup>

This process of keeping the migrant population deprived of its freedom results in a perspective towards immigrants as possible criminals who should be detained and returned to their country of origin. This way of operating is proper to a policy of containment and management for persons passing through, but not to a human rights policy focused on understanding the needs of the Central American in transit through Mexico.

Moreover, this logic allows immigration officials to claim that they have responsibility for migrants only if they are under their strict supervision, when in fact their obligation is to ensure respect for the right to life, integrity and security of the migrant population without the need to hold them. On the other hand, according to Article 208 of the General Law of Population, *"the immigration stations are those physical facilities under the care of the Institute to provide security for foreigners according to the terms of the law"*.<sup>18</sup> However, these detention centers have never been places of real security for migrants. Since their inception and to date, numerous human rights violations by federal agents of INAMI and private security guards who look after these facilities have been documented.

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<sup>18</sup> Ministry of the Interior, Secure INM to 344 Central American migrants in two states. Bulletin No. 133-23/03/2010. Mexico, DF, 23 of March of 2010 in <http://www.segob.gob.mx/Portal/PtMain.php?pagina=salaprensa&articulo=1961&pref=0&cat=1>, accessed May 14, 2010

<sup>19</sup> Article 208 of the Rules of the General Law of Population, *op.cit.*

Either way, nothing is as serious as the evidence documented by Belén, Posada del Migrante, which demonstrates that: *In Tenosique, the leader of the Zetas has a house behind the Immigration Station. Whenever he wants to, he goes to the Immigration Station and takes migrants to his house as hostages. Since the agents of the National Immigration Institute work with him, they exchange people: when the Zetas have "balines", that is, migrants who have no way to pay the ransom, and immigration has migrants that have family in the United States, they are exchanged.* (John, age 25, Nicaragua)

At the same time, a migrant woman recounted that in May 2009, in the immigration station of Reynosa, Tamaulipas, two INAMI agents became aware of the kidnapping of two women from Central America and, instead of giving them the attention that victims require, they called their captors and returned the women to them: *Then it happened that two of my friends were freed because they paid the ransom, so they went to immigration in Reynosa. They told the officers what had happened, and then they were sold again to the Zetas. They arrived at the house and the two were killed there as an offering to Santa Muerte.* (Daisy, 28, El Salvador)

Likewise, in the last two years at least three incursions of organized crime to kidnap immigrants have been documented<sup>19</sup> in the immigrant stations; the last one took place in the immigrant station of Acayucan, Veracruz, where, according to bulletin number 466 issued by the Attorney General (PGR) on April 20, 2010, "*According to the information we have so far, a group of about 30 armed men arrived at the property in two vehicles in which they overcame and disarmed the guard, taking with them the undocumented and a vehicle owned by the institute itself, which was later left on the Gulf coast road, towards Coatzacoalcos*"<sup>20</sup>.

The answer to the lack of security in the centers and the zero confidence in INAMI agents to ensure the integrity of migrants is not, as the person responsible would like us to believe, in the strengthening of security by members of the Federal Police, but in the reconstruction of the model of intervention of INAMI of migrants without documents. While this institution continues to detain and deprive the immigrant population of its liberty, and sees this as the only mechanism to respond to undocumented immigration, it will continue to be the main party responsible for endangering the life and safety of Central American migrants in transit through Mexico.

In addition to the above discussion, it should be noted that migrants who find themselves in detention centers and looking to be given asylum or refuge in this country are obliged to remain detained, unless some form of humanitarian immigration or a permit to leave the detention center is given, so as to begin the process of petitioning for legal stay—a procedure that, by law, can last up to three months. This being the case, the Mexican government at no time takes into account the rights of these victims, and, on the contrary, keeps them in a situation that offers no aid in the reestablishment of their physical or psychological condition, converting them *de facto* into persons responsible for their own condition.

## **CHAPTER 2**

### **ACTIONS TO ERADICATE THE ABDUCTION OF MIGRANTS IN TRANSIT THROUGH MEXICO**

The country of Mexico has the sovereign authority to determine immigration policy in accordance with its national interests; however, it also has the responsibility to comply with its international obligations of respect, protection, and defense of the human rights of persons who are in its territory regardless of race, color, gender, language, religion, political opinion, national or social origin, economic status, birth or any other condition. The development, implementation,

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<sup>20</sup> On November 11, 2008, an armed group calling itself "Los Zetas" raided the Immigration Station in San Pedro Tapanatepec in the state of Oaxaca. There subjected to agents INAMI and federal security guards. Cf. *Drafting the Complaint INAMI Punch Zetas*. Newspaper Digital Letter MAR. 15 of November of 2008 in <http://www.cartamesoamericana.com/modules.php?name=News&file=article&sid=193>, accessed 14 May 2010. Moreover, in an interview published in *La Jornada* on January 2, 2010, the Commissioner Cecilia Romero said: "We had specifically in Tenosique very serious issues against immigration facilities. Earlier this year there was an attack by people who are, or claim to be Zetas, who came, opened the immigration station and took the undocumented and agents left them trembling." See Carlos Martínez and Ricardo Vaquerano, *Interview with Cecilia Romero*. Op. Cit.

<sup>21</sup> Attorney General of the Republic, AMPF launch a preliminary investigation of 13 Evasion Foreign Bulletin No. 466/10. Mexico, DF, 20 of April of 2010 in <http://www.pgr.gob.mx/prensa/2007/bol10/Abr/b46610.shtm>, accessed May 14, 2010

monitoring and evaluation of a regulatory framework should draw on the trends and characteristics of the phenomenon of immigration passing through Mexico, as well as from the study of human development conditions prevailing in the Central American area from which come the largest percentage of immigrants in transit<sup>21</sup>. However, limited actions and programs have been stipulated for the detention and deportation of undocumented persons, and carrying these out implies risks for the immigrants and the repetition of issues such as the ones that concern us in this report. The kidnapping of migrants in Mexico is thus a result of a lack of conditions that will guarantee respect for human rights and of a policy that places these persons in situations of great vulnerability as they travel to the United States.

#### **a) Recommendations to the Mexican government regarding human rights and migration**

The character of Mexico as a country of migrants' origin, transit, destination and return has meant that the established international human rights mechanisms provide several recommendations for the security and integrity of migrants. As discussed in the first chapter, since 2002 the abstracts on international migration issues and inter-American system of human rights and the Special Abstract on Violence against Women, its Causes and Consequences (CEDAW)<sup>22</sup> have identified as problematic the levels of insecurity and violence that persist in the northern and southern border towns, and the climate of harassment and unsafe conditions for men and women who, not having immigration permission, must travel in a clandestine manner by cities where gangs commit crimes and assaults. In the same manner, these agencies have been increasingly concerned with the number of kidnappings with the objective of extorting families and freeing migrants who offer money as well as the permanent corruption at all levels of government and the close relationship between authorities and networks of criminal gangs.

In this situation, the special abstracts have issued several recommendations to the State involving strategies for action to protect the lives of migrants and prevent their immigration status from being a factor in the commission of aggressions and violations of their human rights. It was noted that the State must implement a policy of migration management that will translate into concrete programs, underpinned by the premise of respect for life and safety of persons; a restructuring of INAMI that will protect from the administrative sanction of special groups and will penalize abuse of power, corruption and extortion by officials and immigration agents; penalties for public security agents on all three levels of government who are involved in violation of human rights; and effective access to mechanisms for denouncing crimes so that this impunity will come to an end<sup>23</sup>.

The recommendations, therefore, imply that the attacks against migrants and the increasing human rights violations are the result and reflection of an immigration law applied at the discretion of many authorities, even by those not empowered to address immigration issues. Abuse of power, combined with legal barriers for denouncing, investigating and sanctioning crimes committed by authorities, leads to the fact that these violations of migrants human rights are committed without any kind of penalty. Moreover, and in a systematic manner, the condition of the migrants' vulnerability increases with the collusion between immigration and public officials and gangs of organized crime, who are involved in crimes such as the kidnapping of migrants<sup>24</sup>.

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<sup>21</sup> United Nations Program for Development (UNDP) Report Human Development 2009. *Overcoming barriers: Mobility and Human Development*, New York, October 2009, pp. 181-189, in [hdr.undp.org/en/media/HDR\\_2009\\_ES\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2009_ES_Complete.pdf), accessed 18 May 2010

<sup>22</sup> CEDAW's report on his visit to Mexico in 2005 reiterated that a significant number of women and foreign girls enter Mexican territory as a migrant to obtain better opportunities in life or in transit to the United States. Nature puts undocumented flows this population in terms of greater vulnerability and thus to suffer operating conditions sexual abuse and violence. Some of the recommendations of the Special Rapporteur have been to end impunity committed the attacks and different types of violence against women, strengthen administration of justice to ensure that migrant women victims of crime have access to and adopt necessary protection legislative frameworks to prevent and respond to violence against women in state and federal level. See Economic and Social Council, United Nations, Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Mission to Mexico, January of 2006 in <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/101/95/PDF/G0610195.pdf?OpenElement>, Please ask on 9 May 2010

<sup>23</sup> Cfr. Economic and social Council, United Nations, Report submitted by Ms. Gabriela Rodríguez Pizarro, Special Rapporteur on the Human Rights of Migrants, on conformity with resolution 2002/62 of the commission on Human rights, Visit to Mexico, October 2002, on <http://www.ohchr.org/english/issues/migration/rapporteur/visits.htm>; accessed May 2, 2010; Council on Human rights, United Nations, Informe del Relator Especial Sobre los Derechos Humanos de los Migrantes, Jorge Bustamante, Mision a Mexico, March 2009, in <http://www2.ohchr.org/english/issues/migration/rapporteur/visits.htm>, accessed May 10, 2010; Interamerican Commission on Human Rights, Relatoria especial on Migrant workers and Members of their Families. *Visita in loco a Mexico 2002*, Washington, D.C. 2002 in <http://www.cidh.org/migrantes/2003.sp.cap.5c.htm>, accessed may 18, 2010, accessed May 10, 2010

<sup>24</sup> As confirmed by the Reporter Jorge Bustamante in his report of visit to Mexico in 2008, "[...] the impunity of human rights violations of migrants is a widespread phenomenon. With the pervasiveness of corruption at all levels of government and the close relationship many authorities have with the

This position and the recommendations of human rights agencies are reiterated by the Houses of Migrants and civil society organizations. These recommendations have been identified through the documentation of cases, the persistence of aggression and an increase in crimes such as kidnapping migrants. In fact, as discussed in the introductory part of this report, the seriousness of kidnappings prompted several organizations to appear at a public hearing before the CIDH for the purpose of emphasizing the responsibility of the Mexican state to eradicate the problem and to make proposals for a human rights approach<sup>25</sup>.

In addition, the NHRC pointed out in its report<sup>26</sup> the work the Mexican government should do, and made several proposals to address the problem. It recommends pushing public security actions that will prevent and investigate the crimes, combating impunity by punishing all persons responsible and including the immigrant population in programs of the National Center for the Prevention of Crime and Citizenship Participation. For its part, it recommends that the INAMI issue guidelines that enable migrant victims of crime to issue complaints, and to provide the necessary resources so that the victims can proceed with the appropriate measures, whether of a criminal or administrative nature, facilitate access to the immigration procedures and promote legislative reforms to the Articles of the General Law of Population and its Regulations, which currently prevent undocumented migrants from having access to justice.

The recommendations that the international agencies have formulated and the proposals put forward by civil society organizations and the NHRC show the serious human rights problems represented by kidnapping of migrants. Also, they spell out the remaining tasks of the Mexican government to ensure that the flow of undocumented people in migration does not involve criminal groups who commit all sorts of cruelties; that immigration authorities, in security and public defense, do not apply the law illegally and arbitrarily; that migrants not be seen as a population which can be extorted without an intervening effective justice system, and that violations of human rights do not remain without any punishment and reparation towards those affected.

### **c) Answer to the abduction of the Mexican migrants**

The abduction of migrants is not a problem of recent origin or a subject outside the knowledge of the immigration authorities and law enforcement agencies who have contact with the people who daily pass through cities in the migratory route. But it is a crime that has increased following the territorial expansion of the activities of organized crime. Its systematic manifestation corroborates what Mexico indicated in a report from the United Nations Commission on Crime Prevention and Criminal Justice on the *modus operandi* of organized criminal groups involved in kidnapping<sup>27</sup>.

Faced with this undeniable reality, and before the publication of reports from non-profit organizations and the National Commission on Human Rights, the INAMI published in its Bulletin No. 123/09 on July 15, 2009<sup>28</sup> expressing the concern of the Attorney General for the problems faced by migrants entering and transiting through the country who are victims of serious crimes such as kidnapping. Similarly, it assumed its responsibility of ensuring respect for the human rights of undocumented persons and their access to justice.

In several communications<sup>29</sup>, the office reiterated that it would support the combating of crime through measures such as increasing the capacity to identify victims, requiring persons in charge to inform the migrants of their

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*gangs, extortion, rape and assault against migrants continued. "Human Rights Council, United Nations, Report of the Special Rapporteur on Human Rights of Migrants, Jorge Bustamante, Mission to Mexico, op. cit.*

<sup>25</sup> Report on Abductions of Transit Migrants in Mexico, presented at Hearing Public before the CIDH, op. cit.

<sup>26</sup> National Human Rights Commission, Special Report on the Abduction of Migrants, op., cit.

<sup>27</sup> In accordance with the published report of the United Nations Office against drugs and Crime, Mexico indicated that its *modus operandi* of organized crime groups that participate in kidnappings is similar; the careful choice of the victim, studying his/her habits; his/he kidnapping and taking to a secure place; and the negotiation for release. Cfr Comisión de prevención del Delito y Justicia penal, Consejo Económico y social, Naciones Unidas, International Cooperation to prevent, combat and eliminate the kidnapping and assisting victims, report of the Secretary General, March, 2003, p.9, in [http://www.unodc.org/pdf/crime/commissions/we\\_commission/7s.pdf](http://www.unodc.org/pdf/crime/commissions/we_commission/7s.pdf), accessed May 10, 2010

<sup>28</sup> National Institute on Immigration, comparte INAMI preocupación de CNDH sobre secuestro a migrantes. Bulletin No. 123/09, Mexico, D.F., July 15, 2009, in [http://www.inm.gob.mx/index.php?page/Boletin\\_123\\_09](http://www.inm.gob.mx/index.php?page/Boletin_123_09), accessed May 7, 2010

<sup>29</sup> National Institute on Immigration, INAMI establishes new actions to combat kidnapping of immigrants. Bulletin No. 160/09, Mexico, S.F., September 10, 2009, in [http://www.inm.gob.mx/index.php?page/Boletin\\_160\\_09](http://www.inm.gob.mx/index.php?page/Boletin_160_09) y NOTIMEX, INAMI ofrece garantías a migrantes que denuncien secuestros, Mexico, D.F., July 23, 2009 in <http://www2.esmas.com/noticirosestelevisa/mexico/nacional/081063/ofrece-inm-garantias-migrantes-denuncien-secuestros>, accessed May 16, 2010

right to complain when they are victims of organized crime, accompanying them to the Federal Public Ministry to submit a complaint, and offering the possibility of granting a Supplementary Protection Humanitarian Visa.

The actions so far undertaken by the government to combat the kidnapping of migrants are announced in the Second Periodic Report to the Mexican government sent January 14, 2010 by the United Nations Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families to be submitted at the first session of 2011. This report notes that in response to a recommendation put forward by the Committee on strengthening the training process for officials working in the field of migration during 2008, courses were given to immigration officers and agents of the Federal Police on issues relating to procedures to control and check immigration status, approval of criteria regulating immigration, interview and interrogation techniques, comprehensive training plan for Officials for the Protection of Infants (OPIS), administrative procedures for foreigners in their care and sensibility towards crimes and treatment of persons<sup>30</sup>. Through this action, the government pretends to show the willingness of responsible authorities to apply the immigration legislation and guarantee human rights to immigrants, identify possible cases of kidnapping, as well as to show those institutions responsible for public security and who support INAMI how to carry out actions of investigating kidnapping gangs while respecting human rights.

It is reported that INAMI, in coordination with the National Human Rights Commission, has supported migrant kidnap victims by providing transport and housing facilities for those who are required to appear before the public prosecutor to file complaints<sup>31</sup>. In this regard it should be noted that there has not been any public report which states the number of people who have been provided this support.

In a separate release regarding the attention paid to complaints in the chapter on General Dispositions<sup>32</sup>, it is reported that "with the end of overcoming the restriction imposed by Article 67 of the General Population Law and its 210 Regulation, since March 20, 2007 a circular issued by INAMI CRM/189/2007<sup>33</sup> handles the legal stay of migrants who are victims of crimes, human rights violations or who are witnesses in criminal proceedings. Based on this circular a humanitarian visa valid for one year is granted (renewed four times), with multiple entries and exits and the right to work while they are part of the judicial proceedings against the kidnappers."

To complement its efforts to address the crime of migrant kidnapping, INAMI says it has created INAMI Beta Groups for Migrant Protection, an increased number of OPIS, the Memorandum of Understanding between the Mexican government and their counterparts in Central America for a dignified, orderly, fast and secure repatriation for Central American nationals, the guidelines for the care of migrant children and adolescents, and the program of re-dignifying migrant stations, among others.

Various means of communication<sup>34</sup> that have published the carrying out of operations directed by agencies for public security and defense have identified the locations of "safe houses" and rescued kidnapped migrants. However, in the current context of the government policy of drug war and militarization in areas with high organized crime (the same areas that are traversed by the migrant population) there are common operations to identify members of criminal networks

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<sup>30</sup> *Comité para la Protección de los derechos de Todos los Trabajadores Migratorios y de sus Familiares, Naciones Unidas, Segundo Informe de México sobre la implementación de la Convención Internacional para la protección de los derechos de todos los trabajadores migratorios y sus familiares*, enero de 2010, p. 34, en [http://www2.ohchr.org/english/bodies/cmw/docs/AdvanceVersions/CMW-C-MEX-2\\_sp.pdf](http://www2.ohchr.org/english/bodies/cmw/docs/AdvanceVersions/CMW-C-MEX-2_sp.pdf), consultado el 10 de mayo de 2010

<sup>31</sup> *Ibid* p.28

<sup>32</sup> *Ibid* p.38

<sup>33</sup> *It should be noted that the information contained in this circular on the regularization of witnesses and victims has been classified as Restricted "[...] given that the circular sets out the measures and steps relating to migration to grant legal residence to witnesses and victims, so to provide such information on individuals could violate its integrity, since it would identify aliens who are in this case, leading to retaliation or intimidation, it can also hamper immigration enforcement operations, to prevent or obstruct the actions of organization, coordination, operation and enforcement of immigration services, which are made for the internment of aliens in the country, and the development of coordinated operations with other institutions to combat illegal."* Cf National Migration Institute, *Resolution of the Committee on Information, Registration No. 041110000508 SISI* in <http://www.inm.gob.mx/resoluciones/2008/RN-002-00508.pdf>, accessed May 13, 2010

<sup>34</sup> Cfr sa *Liberan en Veracruz a 60 indocumentados secuestrados*, Periódico La Jornada, 22 de marzo de 2010 in <http://www.jornada.unam.mx/ultimas/2010/03/22/liberan-en-veracruz-a-60-indocumentados-secuestrados>, consultado el 18 de mayo de 2010; *Julieta Martínez, Detienen a banda de secuestradores de migrantes*, Periódico Digital El Universal, México, DF 23 de abril de 2010, en <http://www.eluniversal.com.mx/notas/675301.html>, consultado el 18 de mayo de 2010; y *Ignacio Alzaga, Marina libera en Matamoros a 17 migrantes secuestrados*, Periódico Digital Milenio, 5 de mayo de 2010, en <http://www.milenio.com/node/436813>, consultado el 18 de mayo de 2010

and the places in which they operate. The foundations of these tasks are part of a strategy to combat drug cartels and hired killers, but this agency policy is not aimed at dismantling groups engaged in kidnapping of migrants, ensuring protection and access to justice for the victims, ensuring that transit through Mexican territory does not mean that migrants suffer crimes, and research that leads to having those responsible for crimes receive appropriate criminal penalties.

It is necessary to state that the measures announced so far are limited to an immigration management policy that facilitates the legal stay for victims of kidnapping, reinforces the immigration check operations to identify vulnerable people being kidnapped and "bring them to safety" in the immigration detention centers, and streamlines procedures for repatriation of undocumented migrants. However, these efforts are not leading to the eradication of the systematic practice of kidnapping, ensuring adequate access to justice, repairing damage to the victims, or ending the conditions that allow the commission of the crime, including the arbitrary application of law, the corruption of authorities and their links with criminal organizations, the implementation of strategies to contain immigration (not just to regulate it), and the impunity with which human rights violations are treated. The reaction of the Interior Ministry, via the INAMI, to this situation has remained very limited despite regulatory frameworks and institutional structures established to address national issues that have a negative impact on the human rights of migrants.

Principally, the Orders of the General Population Law Article 137 determines that the Interior Ministry may set up protection for migrants who are in national territory irrespective of their nationality and their documented or undocumented status. It further specifies that "*such groups will be created under coordinated agreements that for this purpose will be carried out with the objectives of the states, taking into consideration in all cases what corresponds to the municipalities*"<sup>35</sup>. In addition, Article 138 of the same Regulation emphasizes that the INAMI will be responsible for coordinating the operations and functions of these groups for protection, in which "[...] public security elements of the federal, state and municipal governments may participate together"<sup>36</sup>. It can be seen that the only protective groups that bear this responsibility are the newly formed Beta and OPIS. However, the former have not met their responsibility to assist migrants in the protection of their right to life, their safety and physical integrity, whereas the latter limited its intervention to protect migrant children during the stages of verification, detention, deportation and reception.

Proof that the protection efforts by the Beta groups is minimal, and in many cases non-existent, are stories told by migrants seen in Belén, Posada del Migrante, who report that these agents do not protect against risks on the migratory routes (robberies, extortion by private railroad security, specific acts of aggression, and abuse by municipal, state and public security authorities) and are not present in those places where the crime of kidnapping is systematically committed. This is corroborated by the fact that in cities like Tenosique, Tierra Blanca, Coatzacoalcos, Lecheria, San Luis Potosí, Monterrey, Reynosa and Nuevo Laredo, none of these groups exist<sup>37</sup> even if they have long been places where there is a high incidence of kidnappings, numerous human rights violations and endless attacks on migrants.

In addition to what was said before, we add that the INAMI has not offered a proposal for the creation of some group in which, as was established in Art. 138, members of public security from the three levels of government can participate and work in coordination to investigate the *modus operandi* of criminal groups responsible for the kidnapping of migrants, identify the places where they have kidnapped people, support the capture of the perpetrators and take responsibility at all times to ensure the safety and protection of migrants. It is noted that this group should begin by recognizing that many of the aggressions and violations of human rights of migrants are committed by agents of the municipal and state police, and that its creation would be accompanied by identification of police involved in these crimes, who would subsequently be tried for administrative and criminal penalties.

The following stories bear witness to this:

*I left my country to go to the United States. I had heard rumors that the road was dangerous, but did not believe it. I arrived in San Luis Potosí on January 20. There I was, waiting on the tracks for the train to pass, when two members of the State Police, who wear blue pants and white shirts, came up. They put me with another partner in a patrol car and took me to an abandoned house. The house had a lot of garbage. There they stripped me and took away the nine hundred dollars I had. Moreover, they threatened me, telling me to not to look at them because I would be killed. They hit*

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<sup>35</sup> Artículo 137 del Reglamento de la Ley General de Población, Op. Cit.

<sup>36</sup> Artículo 138 del Reglamento de la Ley General de Población, Op. Cit.

<sup>37</sup> Juan Carlos Calleros Alarcón, *El Instituto Nacional de Migración y los derechos humanos de los migrantes en México*, Instituto Nacional de Migración, Centro de Estudios Migratorios, México, DF, 2009, pp. 191-193

*me very hard in the back and kicked me. I was kept in this place about twenty minutes and then they left. At that moment I felt free and I left the place, full of fear. (Victor, 21, Guatemalan, unmarried, without children)*

*Although my path has been difficult, because I have been assaulted three times and had eight thousand six hundred dollars stolen, I managed to reach the border from Matamoros. I stayed at the Casa Migrante[...] when I was outside a block away from the Casa Migrante, we were approached by a patrol car of the Municipal Police. We were asked if we had family in the United States and we could not answer. Then they told us to wait for the chief to come. I asked them who the chief was, but they did not say anything. Ten minutes passed and a white car arrived. A man got down and again asked us if we had family in the United States. He ordered us to get into the car, but as we saw that he was armed and we were eight, we ran and returned to the Casa Migrante. (Antonio, 48 years, El Salvador, three children)*

If it is true that the investigation, prosecution and punishment of members of criminal groups and organized crime are the tasks assigned to the federal, state and municipal public safety officials, the INAMI as a body under the Ministry of Interior must assume responsibility for preserving sovereignty and national independence, territorial integrity and constitutional order<sup>38</sup>. Its inclusion in the National Security Council<sup>39</sup> means that it must assist in identifying and implementing national policies, actions and programs in national security; assist with the formulation of the National Security Program and the definition of the National Risk Agenda; provide information and support the development of intelligence and counterintelligence activities that the bodies of the Security Council made in response to threats to national security; be involved in the actions and measures of prevention, deterrence and containment of threats; and share information with the Research Center and National Security (CISEN).

In this vein, the INAMI is committed to contribute to minimizing threats to national security, including organized crime<sup>40</sup>, and specifically three of its most profitable businesses related to migration, which are kidnapping, smuggling and human trafficking, ensuring at all times and conditions the safety and security of migrants, respect for the elements of due process, access to justice and reparation.

In an incipient manner and to address the problem of trafficking of migrants from an administrative and structural point of view, in 2000 it launched the Special Prosecutor for Trafficking of Children, now the Special Research Unit on the Trafficking of Minors, Undocumented and Organs<sup>41</sup>, which carries out activities that will lead to the integration of preliminary investigations and arrests of members of organized crime involved in the national and international abduction and trafficking of migrants under eighteen years of age. This unit is under the Deputy Attorney General Specialized in Investigation of Organized Crime (SIEDO) and, it is an effort targeted, if at all, solely at the receipt of complaints, analysis and monitoring of information, defining the characteristics of victims, designing plans of action to capture offenders and exchanging data on transnational criminal organizations dedicated to trafficking of children and adolescents for sexual exploitation.

After ten years in operation the Special Unit is not known to have taken action to investigate and dismantle networks trafficking in migrants; to have offered protection to victims with the involvement of federal, state and municipal agencies; to have shared intelligence, especially with INAMI and PGR; to have identified networks involved in kidnapping of migrants. In general, there is a need to define federal programs with the participation of authorities at the three levels of government to ensure security in the areas of transit migration. Furthermore, to date it has not been public knowledge whether such a group would incorporate in its focus the crime of kidnapping, or if there would be joint and concrete action arising from a national program.

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<sup>38</sup> For more information please refer to Article 3 of the National Security Act, last amendment published in the Official Journal of the Federation on December 26, 2005, and National Security Program from 2009 to 2012, published in the Official Journal of the Federation on August 20, 2009.

<sup>39</sup> Agreement acknowledges the National Institute of Migration and National Security Instance, published in the Official Journal of the Federation on May 18, 2005.

<sup>40</sup> According to the National Security Program from 2009 to 2012, organized crime poses challenges that currently are not restricted to the realm of public safety, since some of them have implications for national security, as can violate the sovereignty and constitutional order. In this regard, various dynamics are relevant arising from the actions of organized crime, coercion characterized by criminal groups seeking to exercise on elected and appointed "authorities" in the three levels of government co-optation of members of the public security institutions and enforcement and administration of justice, in order to obtain impunity and undermine the persecution of the state and the systematic violation by criminal groups, the state monopoly on the coercive application of force. See also Article 2 of the Federal Law against Organized Crime, last amendment published in the Official Journal of the Federation on January 23, 2009

<sup>41</sup> Cfr Procuraduría General de la República, Unidad Especializada en Investigación de Tráfico de Menores, Indocumentados and Órganos, April of 2007, in <http://www.pgr.gob.mx/combate%20a%20la%20delincuencia/delitos%20federales/delincuencia%20organizada/Trafico%20de%20menores/Antecedente.s.asp>, consultada el 18 de mayo de 2010.

Regarding the participation of INAMI in the fight against trafficking of migrants and the treatment of people, it has been made public that in 2009 two hundred and eighty persons connected as agents of the institution and as immigration officers were sanctioned for such offenses<sup>42</sup>. However, there is no information on how many of them have been punished by law, much less the number investigated and turned over to the authorities for their involvement with or commission of the crime of kidnapping migrants. Despite this, the head of INAMI has confirmed<sup>43</sup> that there has been collusion with organized crime and participation of officials from that agency in the kidnapping of migrants in violation of the Federal Law of Administrative Responsibilities of Public Servants<sup>44</sup> and several laws set forth in the Federal Criminal Code<sup>45</sup>.

The increase and the continuance of cases of kidnapping leads to questioning the implementation of the commitments enshrined in the National Accord for Security, Justice and Legality, specifically:

- *"The commitment of the Federal Executive Branch to subject to permanent evaluation and control of personal confidence law-enforcement personnel, customs, federal prisons, as well as officers of the National Immigration Institute [...]"*
- *Support federal entities in combating crimes most sensitive to society, according to the responsibilities of each order of government. In particular it will support the strengthening or in some cases the creation and formation of state units to combat abductions [...]"*
- *Strengthen and consolidate the networks of care for victims of crime on a national level [...]"*
- *Strengthen, with the participation of the public, the system of denouncing corruption and the bad behavior of federal public servants responsible for security and the carrying out of justice[...]"*
- *Move for a General Law for the crime of kidnapping [...]"*
- *Confirm, develop or strengthen the special units to combat kidnapping [...]"*<sup>46</sup>

In conclusion, when reviewing the national policy framework, the international obligations assumed by the Mexican government and inter-institutional administrative bodies established to combat crimes related to the migration phenomenon, it appears that efforts to eradicate the abduction of migrants do not correspond to the wishes expressed on the international and regional levels of INAMI to develop a comprehensive migration policy responsible for ensuring protection of the human rights of migrants in transit through Mexico.

The answers that have been given so far are, as we shall see in the next chapter, streamlined administrative procedures (that may grant an immigration document to a kidnapping victim, but cannot assure adequate access to justice or a comprehensive process of care and integration) and isolated individual actions to rescue kidnapped migrants. These actions are not precisely the result of national and public security programs.

Thus, we conclude that INAMI has shown minimal progress in its proposed National Migration Program 2010 -2012, which would be a tool for collaboration and coordination to define strategic objectives, lines of work, projects and actions on migration. So far it has announced an initiative to rethink its institutional and regulatory framework, but the work to ensure the care, protection and respect for the rights of migrants, as well as for contributing to national and public security, has been left behind<sup>47</sup>.

### CHAPTER 3 – ASSISTANCE TO VICTIMS

The Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power<sup>48</sup> states that the victims of crime are those who, individually or collectively, have suffered harm, physical or mental injury, emotional suffering, economic

<sup>42</sup> Instituto Nacional de Migración, *Continúa el proceso de reestructuración y lucha contra la corrupción al interior del INM*. Boletín No. 114/09, México, DF, 1 de julio de 2009, in [http://www.inm.gob.mx/index.php/blog/show/imagenes/index.php?page/Boletin\\_114\\_09](http://www.inm.gob.mx/index.php/blog/show/imagenes/index.php?page/Boletin_114_09), consultado el 18 de mayo de 2010.

<sup>43</sup> Carlos Martínez y Ricardo Vaquerano, *Entrevista a Cecilia Romero*, Op. Cit ; *sa Autoridades mexicanas, parte activa en abusos a migrantes: Al Periódico La Jornada*, México, DF, 28 de abril de 2010, en <http://www.jornada.unam.mx/ultimas/2010/04/28/autoridades-mexicanas-parte-activa-en-abusos-a-migrantes-ai> consultada el 18 de mayo de 2010.

<sup>44</sup> Artículo 8 fracciones I y IV de la Ley Federal de Responsabilidades Administrativas de los Servidores Públicos, última reforma publicada en el Diario Oficial de la Federación el 28 de mayo de 2009.

<sup>45</sup> Artículo 215 fracciones II, III y VII; Artículo 222 fracción I; Artículo 288; y Artículo 366, del Código Penal Federal, última reforma publicada en el Diario Oficial de la Federación el 20 de agosto de 2009.

<sup>46</sup> Acuerdo Nacional por la Seguridad, la Justicia y la Legalidad, publicado en el Diario Oficial de la Federación el 25 de agosto de 2008.

<sup>47</sup> Centro de Estudios Migratorios del Instituto Nacional de Migración, *Proposal for the elaboration of a National Program on Immigration (PNM)2010-2012*, National Institute on Immigration, October 2009.

<sup>48</sup> Declaración sobre los Principios Fundamentales de Justicia para las Víctimas de Delitos y del Abuso de Poder, Adoptada por la Asamblea General en su resolución 40/34, del 29 de noviembre de 1985, en <http://www.juridicas.unam.mx/publica/librev/rev/derhum/cont/19/pr/pr30.pdf>

loss or substantial impairment of their fundamental rights, through acts or omissions constituting violations of criminal laws in the government, including those laws proscribing criminal abuse of power. It also notes that these provisions are applicable to all persons without distinction as to race, color, sex, age, language, religion, nationality, political persuasion, cultural beliefs or practices, financial situation, birth or status of family, ethnic or social origin, or physical handicap.

The stories told are living testimonies that migrants who have lived through a kidnapping are victims of a serious crime that involves suffering such as torture, sexual abuse, slave trade, murder, among others, by which we can be assured that every victim of this reality is faced with a problem that undermines human dignity.

Each victim interviewed, who in turn represents the thousands of people who are in captivity, shows that the kidnappings are widespread and systematic, since they do not exclude anyone from the context in which Central American migrants find themselves. That is, there is no distinction between sex, age or nationality: men, women, and young children are seen as merchandise.

*In September 2009, I was freed after being kidnapped for six months. I arrived in Mexico in April to the border city of Nuevo Laredo, where a man nicknamed "Raton" convinced me that he could help me cross to the United States through the border city of Reynosa. He took me to the bus station and paid my fare to Reynosa and once I arrived, three men came to get me and took me to a large house with a large gate. The people in the neighborhood knew what was happening in that house, but said nothing out of fear.*

*The kidnappers were referred to as "sicarios". There were approximately 15 men, armed and drugged most of the time. Three days after I arrived at that house they took me to a room where they questioned me, struck me with a stick and kicked me in the stomach and head. I saw how they had killed a Honduran migrant in front of everyone, by hitting him with a stick until he died. He begged not to be hit, but the kidnappers were angry because he did not want to give them telephone numbers of his family; afterwards he stopped moving and they took him in a truck and we do not know what happened to him. When I saw that, I was very much afraid, besides being beaten and having blood coming from my mouth and nose. So I had to give them my uncle's telephone number in the U.S. They called my uncle and charged him \$5000 dollars and later asked him for \$900 more. They kept me for six months, while my uncle got the money.*

*There were approximately 300 persons in the house, about 30 women; five women had given birth a short while before and had children a few months old. There was an eight year old girl and one 15 years old; women were sexually abused, as were the young girls, especially the 15 year old. She was traumatized and cried all day and trembled when she saw the men. They also abused me sexually. One woman told me she had been there two years, and it seemed that she was there for the use of the men. She was sad all day and seemed to have given up on life; I understood because the first three or four months I spent crying all day and night asking God to listen to us, but months later I lost all hope, as did some of the other ones who were in that place.*

*The kidnappers treated us badly, giving us a time to eat rice and tortillas without water every two or three days; the women who had babies, cried and pleaded for a little water for their children who were extremely thin.*

*From the time I arrived, they took my clothes and shoes, all of us nude and sleeping on the floor without blankets. The time that I was there I saw how the kidnappers took different groups of migrants, approximately 15 persons, who came deceived by them. (Arturo, 21 years, Honduran, homosexual)*

#### **a) Humanitarian FM3 (visa) for Crime Victims**

Despite the serious context, migrants cannot go to the Mexican authorities to report the crime of kidnapping because of the regulatory framework. According to Article 67 of the General Law of Population, "*The authorities of the Republic, whether federal, local or municipal (...), are obliged to require foreigners who come before them with these matters within their competence, to first confirm their legal status in the country*<sup>49</sup>". Coupled with the lack of an appropriate regulatory framework is the lack of trust in and credibility of Mexican authorities, which are, at all levels, in collusion with organized crime.

Moreover, when the victims dare to complain, they have to repeat their history of pain and suffering in various government departments, both to those in charge of the administration of justice, and to immigration, where the victim is obliged each time to relive the pain and shame of the aggression to which he/she was subjected. Even so, he/she may do all this without receiving satisfaction, and may have to face all sorts of legal and administrative obstacles for the complaint to proceed.

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<sup>49</sup> Article 67 of the General Population Law, Op. Cit.

As noted above, the response to the Special Report on Abductions of the National Commission for Migrants of the CNDH of INAMI was to issue the official letter No. 51 INM/258/2009<sup>50</sup>, which proposes, among other things, issuing internal guidelines to ensure migrant crime victims can file complaints and have access to state protection.

The INAMI grants victims the opportunity to acquire this immigration form when submitting the public document issued by the authority empowered to grant the status of victim or witness of a crime. This means that, to begin the process of regularizing migration, it is necessary to present a written complaint or, alternatively, the application of a detailed affidavit before the INAMI in which the victim testifies to having being a victim of crime. Then, as for everyone else, the times of the necessary immigration procedures can last up to three months afterwards.

In reality, this process does not guarantee in any way that migrant crime victims will be compensated for their damage, for, in the first place, to have humanitarian immigration status requires remaining in Mexico for a long time, which is not a reasonable matter for consideration by migrants, who, for the most part, are their family's main financial providers. Thus, upon analyzing their own situations, despite the abuse experienced, they decide to continue their trek or return to their country of origin, *i.e.*, give up.

It is clear that the context of widespread violence has paralyzed many government institutions such as INAMI, who has forgotten that a victim of kidnapping lives with terrible physical and psychological consequences and, therefore, has failed to take into account the need to follow up with each victim. Once the victim is under the custody of INAMI he/she is seen as any other detainee, and so is not provided with any special attention to personal needs, physical and psychological health, the importance of proper temporary shelter, the ability to restore his/her life by obtaining gainful employment, and validation of the principle of family reunification.

Article 20 of the Mexican Constitution states that "*in any criminal proceeding, any victim of any crime or offense shall be entitled to legal advice, to receive compensation if appropriate, to assist the office of public ministry, to receive emergency medical care when required and other requirements indicated by law*"<sup>51</sup>.

The term "victim" also includes family members or persons having direct relation to the victim and persons who have suffered harm in intervening to assist victims in distress<sup>52</sup>. However, to this day the government apparatus has not been able to ensure effective access to justice or to repair the damage to the direct victims, let alone be able to extend the administration of justice to families of the victims who also suffer the imprisonment of their sons, brothers, nephews or parents, listening to abuse and humiliation by phone, and not being able to help in any way.

To provide proper care to victims it is necessary to coordinate efforts among different government institutions: those responsible for public safety and law enforcement, as well as immigration authorities responsible for ensuring respect for human rights of migrants. It also requires the establishment of a safe and dignified place that will provide timely and adequate attention, with a skilled and strictly selected interdisciplinary staff that is, above all, sensitive to human needs.

To date there are no inter-agency mechanisms responsible for addressing the problem of kidnappings of migrants from the viewpoint of both law enforcement and assistance to victims.

## **b) Voluntary repatriation**

The survivors of kidnapping, faced with ineffective access to justice and a lack of proper compensation for the harm done to them in Mexico, are forced to surrender voluntarily to any immigration officer in order to escape the fear that keeps them in Mexico, unable to return to their country. Those migrants have been silent witnesses of corruption among INAMI officials and organized crime gangs, and, as such, they are suspicious of institutional mechanisms, are forced to skirt the issue and start back to their country on their own, either by train or bus.

*I was kidnapped on April 13 and kept until June 22. They caught me in Coatzacoalcos, Veracruz, where two large trucks arrived which were something like moving vans. They caught me and 83 other companions. They said they would charge us \$2500 dollars, which we would have to pay in Houston, Texas. They took us to Reynosa, and there, along the road, we passed checkpoints of the National Institute of Immigration and the Federal Police, who saw how we were traveling and, despite that, did nothing except take some money they were given to keep quiet. The kidnappers told us that they were*

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<sup>50</sup> Instituto Nacional de Migración, Oficio no. INM/258/2009, de fecha 10 de agosto de 2009, en el que se hace mención de la Circular CRM/189/2007

<sup>51</sup> Constitución Política de los Estados Unidos Mexicanos, última reforma DOF 27-04-2010 en <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>

<sup>52</sup> Declaración sobre los Principios Fundamentales de Justicia para las Víctimas de Delitos y del Abuso de Poder, Op. Cit.

*taking care of paying everything. One of the men began bothering us and abused some of the women who were there. Then, one of our companions got angry and tried to defend us, but he could not because he too was raped and then beaten to death. He fell dead at my feet while he told me and my other two friends to please speak up and let people know what was going on. (Rosa, Honduras, 29 years old, married, 2 children)*

Upon entering the immigration station, priority is not given to recording and investigating human rights violations committed against migrants. One example is in the report of Human Rights and Conditions of Immigration Detention Station in the XXI Century<sup>53</sup>, Tapachula, Chiapas, which reports that 68% of those interviewed said they had not appeared before INAMI authorities, and nearly 8 in 10 people said they had not been informed about their rights at the time of arrest or admission to the immigration station. This means that two guarantees of due process were violated. As a consequence, migrants remained defenseless and unable to claim and exercise the rights due to them as migrants deprived of their liberty.

It is also important to note that the moment of the declaration is the time when the competent authority has the duty to identify likely applicants for refugee status and victims of crimes, such as kidnapping. Failure to successfully perform the declaration and to detect these cases threatens the physical and psychological security of not only the individuals but their families and, in short, of all migrants.

Moreover, immigration agents are not trained in or sensitized to the care of victims. We have found that on many occasions, when migrants report their situation to the authorities, the authorities neither let them know that they have the right to lodge a complaint nor inform them of immigration laws in the country.

*On August 18th of 2009 in Tenosique, Tabasco, five men stopped the train and got on. All of them were armed. They took about thirty five of us in the train to Coatzacoalcos. We arrived at a house near the railway, where we stayed for two hours. We took a bath and ate. From there different men took us out. They took us to Reynosa to a very luxurious house, shut on the inside with boards. The kidnappers took our shoes, belts and our money. Every Tuesday or Wednesday, a different group of eighty or more migrants arrived. When the migrants arrive they take them upstairs where there are several rooms where they are classified. The new ones go to a room where they ask us to get in touch with our family and then go to another room for those who have been "confirmed," or whose family says it will pay. In this room there is a man in charge and there are guards. The man in charge said that that he liked for his shoes to be full of immigrants' blood each time he left the room, because he would beat migrants. The kidnappers got in touch with my wife; she sent them \$2000 and later \$1500.*

*We planned to escape, broke the wall, and about 200 persons got out, among them eighteen women and children. Some time after we left the house, the federal police came with soldiers and the press. We got out and ran close to the river where we were caught by well-dressed young men called "The Mafia". They asked us where we had escaped from and they took us to a home of a woman "coyote"; she said we were not hers. Later they took us out of there and took us to the municipal police where we were jailed. The following day, the municipal police turned us over to Immigration; we were only forty eight immigrants by then. The rest had run in different directions and we do not know what happened to them. We told the police what had happened to us, that we had been kidnapped, and they did nothing but only made fun of us. (Enrique, Honduras, 27years, married, 2 children)*

Given this reality, in order to ensure the proper care for migrants in detention, it is necessary to strengthen the processes of education and training in human rights, asylum, trafficking, and care for vulnerable groups, among other things, in the various security forces involved in the verification and detention of migrants.

#### **A) Guidelines of care for children and adolescents (Officials for Child Protection, OPIS)**

*I was kidnapped in Orizaba, along with seventeen other Central American companions; the kidnappers took us to a house in a deserted place. Inside the house there was blood everywhere and many flies; there were about thirty hostages. There were migrants who had several days to weeks in there. Some had no fingers or toes and some lacked hands or arms. The kidnappers had cut them because their families had not answered their calls or could not pay. I can say in truth they did not respect age, because there were about five fifteen year olds and one of them also had cut fingers. The poor kid complained all the time, and cried a lot at night because they bled and he had a slight temperature. Although we could not get near them because the guards would beat us, I helped one of the boys; his name was Eduardo and he*

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<sup>53</sup> Human Rights Center Fray Matías de Córdova Human Rights Report and Conditions Immigration Detention Station Siglo XXI, Tapachula Chiapas in December 2009, p. 25

was Honduran. I believe he is now dead because he had been kidnapped fifteen days and was very thin; they had cut three of his fingers, two in the right hand and one in the left. I would give him my bread when the guards could not see me, because every day they would bring each migrant bread and water; they would throw the bread at us and would shout and insult us. (David, Honduran, 20 years old, common-law union, 1 daughter)

Edith Zavala, Executive Secretary of the National Forum for Migration in Honduras (Fonamih), said that "about ten thousand children left Honduras this year to achieve their dream in another country, but half of them found a nightmare"<sup>54</sup>. The data handled by the Fonamih reveals that between fifty and sixty percent of them were victims of human trafficking, extortion and kidnapping, statistics that include all children under eighteen who were victims in their journey through Guatemala and Mexico. For his part, José Manuel Capellin, director of Casa Alianza in Honduras, said the daily migration affects more children: "Every day we see more children leaving the country, exposed to dangers, and nobody, neither the governments of the countries from which these immigrants come nor the ones who send them, imposes policies to prevent abuse"<sup>55</sup>.

Mexico has made commitments at the international level for the care of children and adolescents, including the Convention on the Rights of the Child<sup>56</sup>, which stipulates that the Member States should ensure that all children and adolescents benefit from a series of measures for special protection and access to services such as education and health care, so that they can fully develop their personalities, abilities and talents, grow in an atmosphere of happiness, love and understanding, and receive information on how they can achieve their rights and participate in the process in an accessible and active manner.

Although Mexico ratified this Convention on September 21, 1990, the process to put the regulations in place has been slow. On July 9, 2009, at the Regional Conference on Migration<sup>57</sup>, the Regional Guidelines for the Care of Children and Unaccompanied Migrant Adolescents became a reality, with the objective to "promote cooperation in the protection and repatriation of children and adolescents among member countries of the CRM, and serve as a guide, from the time of detection to the return, always safeguarding the rights and best interests of unaccompanied children and adolescents"<sup>58</sup>.

The signing of the Guidelines for the Care of Children and Adolescents was cemented in the Circular No. 001/2010, which specifies the procedure for the care of children and unaccompanied migrant adolescents. Thus OPIS assigns specialized personnel from INAMI to children and young unaccompanied migrants housed in immigration detention facilities or turned over to the immigration authorities, taking into account gender and age. According to the Interior Ministry, "On a national level, INM has 165 OPIS, and plans to expand to double this number to provide protection for migrant children"<sup>59</sup>.

However, in an interview with El Universal,<sup>60</sup> Oliver Bush, Director of Institutional Relations for INAMI, admitted that due to difficulties in the budget, no specific staff were recruited, so that "one hundred and sixty five OPIS agents have taken courses on violence, maltreatment, abuse, effective communication, children's rights, and trafficking, among others, which will meet the needs of 20,000 infants (...) In four days, with a maximum of 40 hours training, federal agents of the INM have been accredited as Officers for the Protection of Children." Bush adds: "To be an agent I do not think that a university degree is required. We get a profile of interaction skills"<sup>61</sup>.

<sup>54</sup> About ten thousand children emigrated to the USA. Newspaper La Prensa, Tegucigalpa, Honduras, December 16, 2009, in <http://www.laprensa.hn/Migrantes/Ediciones/2009/12/15/Noticias/Unos-diez-mil-children-emigrated-to-US>, accessed May 18, 2010

<sup>55</sup> Redacción. Unos diez mil niños emigraron para EUA. Op. Cit.

<sup>56</sup> Convención sobre los Derechos del Niño, Oficina del Alto Comisionado de las Naciones Unidas, Asamblea General, en su resolución 44/25 de 20 de Noviembre de 1989, entró en vigor el 2 de septiembre de 1990, Convención sobre los Derechos del Niño, en <http://www2.ohchr.org/spanish/law/crc.htm>

<sup>57</sup> La Conferencia Regional sobre Migración (CRM), también conocida como "Proceso Puebla", es un foro de diálogo e información integrado por Belice, Canadá, Costa Rica, El Salvador, Estados Unidos, Guatemala, Honduras, México, Nicaragua, Panamá y República Dominicana, para el desarrollo de políticas públicas nacionales en materia migratoria. Cfr [http://www.crmv.org/pagina\\_descripcion.htm](http://www.crmv.org/pagina_descripcion.htm)

<sup>58</sup> Conferencia Regional sobre Migración, Lineamientos Regionales para la atención de niños, niñas y adolescentes migrantes no acompañados en casos de repatriación, ciudad de Guatemala, Guatemala, 9 de Julio de 2009

<sup>59</sup> Secretaría de Gobernación, Se emiten procedimientos para proteger a la niñez migrante no acompañada, Release 56/10, México, DF, 11 of February of 2010 in <http://www.segob.gob.mx/Portal/PtMain.php?pagina=salaprensa&articulo=1855>, accessed May 2010

<sup>60</sup> El Universal, Capacita INM de forma expés a agentes de atención a niños, Diario Digital Plano Informativo, 1 de marzo de 2010, en <http://www.planoinformativo.com/nota.php?id=63466>, consultado el 17 de mayo de 2010

<sup>61</sup> Ídem

With the above statement it is clear that the government policy for the care of children and adolescents is not specialized according to international standards and does not cover key aspects to ensure the best interests of the child. Children and young unaccompanied migrants are being kidnapped, and are especially vulnerable to organized crime networks, who can use their helplessness for various illicit businesses, such as trafficking of people, sexual exploitation, labor and the removal of organs.

*I was kidnapped in Reynosa and there was a woman from Honduras named Sara, who was pregnant and had been held captive for some time. She just told me her name, and said that perhaps the moment would come when she'd forget her name, so she asked me to remember it when the time came. It was true. After some days, she did not remember her name and spent time crying. Then she went into labor and no one helped her. On the contrary, they would beat her, asking her to stop complaining. The baby was born, but the placenta was never expelled. After two hours with no one helping she bled to death. They took the baby and I do not know what happened to him. The kidnappers did nothing with Sara's body but left it there. We had to live with the corpse there and it began to smell and the neighbors became aware and reported to the army that something strange happened in the house. We were then taken to another place and Sara's body was left there. (Martha, Honduran, 25 years old, single, no children)*

In conclusion, the testimonies received are compelling evidence of the physical and psychological damage that victims suffer; nevertheless, children and adolescents will be repatriated, as will adults, without any warranty, without form of compensation for the damage they suffered and without any follow-up process of reintegration into their communities.

## CONCLUSIONS

Belén, Posada del Migrante has received, in its eight years of humanitarian assistance, over forty thousand Central American migrants in transit through Mexico. Every day men and women continue to come to this place in even greater need of protection, but, above all, needing respect to reestablish their human dignity.

This Sixth Report is the result of interpretation and analysis of information that every traveler gives with words that express actual needs, stories of violence, marginalization, exploitation and lack of opportunities. However, the interpretation of data is empty if it is not projected beyond the technicalities, into the reality of human suffering that thousands of people from Central America experience on their way through Mexico. The words are also in vain if they do not awaken in those who hear them a desire to bring about change. Passive compassion cannot be a response. It is necessary that we end all appearances that respond to the interests of a power that is not of the people and that we not permit, in any way, that the different government entities continue to merely make empty gestures.

Our hope is to fight so as not to have to write a report about the human rights violations of migrants. Our hope and our fight is for an end to the kidnappings, extortion, theft, corruption and impunity. Our hope needs and demands a powerful reform of the Mexican immigration system so that it can meet the needs of those who suffer the existence of borders in an area in which they do not even expect to create or seize wealth.

Therefore, we conclude that:

1. Mexican immigration policy gives discretionary rights to agents of the National Immigration Institute, making the rights of migrants difficult to protect and hindering the punishment of the authorities who break the law. In this respect, we affirm that there is no compatibility between discretionary and corrupt practices of INAMI and the international agreements signed and ratified by Mexico regarding the human rights of immigrants. Given this situation, it is important to note that, as long as authorities do not break away from corruption, it will be impossible to implement effective policies or actions in respect to the rights of migrants.
2. The actions so far undertaken by the government through the INAMI to eradicate the crime of kidnapping stem from an approach towards the management of the movement of migrants, which continues to set the migrants' conditions in greater vulnerability. Therefore, we demand a comprehensive immigration policy, consistent with international regulations on human rights, based on the root causes which have led the Mexican government to return a massacred population to Central America.
3. The operations carried out along the railroad seriously jeopardize the life and health of migrants, are all illegal, and stem from a logic of national security and containment, not a policy of defending the human rights of migrants. Therefore, we demand that these operations no longer be justified as care for the lives of migrants, when, in reality, they put them more at risk.
4. Corruption and collusion with organized crime is so prevalent among INAMI federal agents that they prevent stations for migrants from being places to ensure the safety and integrity of foreigners. In addition, these detention

centers should not exist any longer because undocumented migration is not a crime. Therefore, it is necessary that INAMI work to eradicate the practice of detention, thereby reducing the responsibility it has to ensure the enforcement of human rights for all the migrant population in its national territory.

5. The inclusion of INAMI in the National Security Council and the responsibilities of this institution, established in the National Security Program 2009-2012, do not imply that there should be more border controls, more verification of migratory status, or more centers for detention and restrictions to the regularization of migratory status, even with the motive of enforcing the law and identifying possible threats and risks to national security. The work of INAMI, in inter-institutional coordination with other agencies, is to contribute to the eradication of problems such as the kidnapping, smuggling and human trafficking of migrants, which does not imply a strengthening of immigration control and the arbitrary enforcement of the law.
6. The operations that have been the basis for finding "safe houses" and rescuing migrant hostages have been the result of a strategy to fight drug trafficking and, therefore, are not designed to end the problem. Due to this reality, it is urgent that the agency establish a policy intended to dismantle groups engaged in kidnapping migrants. It must also offer protection and access to justice for any resulting casualties, ensuring that passing through Mexican territory does not result in migrants suffering crimes and that those responsible for the crimes receive corresponding penalties.
7. Strict adherence with the provisions of Articles 137 and 138 of the Regulation of the General Population Law requires the creation of *ad hoc* groups to protect migrants and to cooperate and coordinate with public safety groups, so that, in this way, they will assist in the investigation of kidnapping and also ensure safety, security and reparation for all victims.
8. All attention to victims of kidnapping must fulfill the requirements of international agreements, which is one of the main challenges and obligations of INAMI.
9. INAMI is responsible for improving its procedures for the detection of victims of crime, beginning with the correct application of its proper norms, and with demonstrating both indicators of performance and concrete results.
10. The programs for training in human rights, which INAMI supports along with other agencies, such as the Federal Police, do not represent effective actions for the protection of migrants. As long as the immigration institutions and bodies dealing with public security do not punish any officers at the administrative level or any officials involved (by omission or commission) in violations of immigrants' human rights, the abuse of power, lack of discretion in applying the law, impunity, and corruption will continue. The processes of awareness and professionalism must be accompanied by a broad and extensive process of restructuring units involved with migrants.
11. Immigration Application for Victims of Crime is only one short-term immediate mechanism to fix the problems, and does not contribute to actual remediation of the damage, because it is an administrative document that does not provide real, substantial protection. Therefore, it is urgent that INAMI develop measures that will contribute to a meaningful reparation, with special attention to women, children and adolescents who have suffered the scourge of kidnapping.

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