

MIGRATION CONTEXT IN MEXICO AND PROPOSAL OF ISSUES AND QUESTIONS TO BE TRANSMITTED TO MEXICO FOR THE SUBMISSION OF ITS THIRD PERIODIC REPORT ON THE IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS THEIR FAMILIES

This proposal is the result of participatory work of various organizations, networks and human rights defenders who work with the migrant population and those who subject to international protection in Mexico, North and Central America.

It is a document that aims to update the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) on the migration context in Mexico, including the main challenges and issues of concern that civil society identifies through its work. It also presents a proposal of issues and questions to transmit to Mexico for the submissions of its third periodic report on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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1. Migration Context in Mexico

Mexico's multi-causal and multidimensional dynamics in human mobility, where various population sectors and mixed migration flows converge and require an analysis of the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, hereinafter Convention, as well as the actions taken by the Mexican State, from the different needs of international protection and motives of migration that go beyond the economic factor, also stemming from the intersection of discrimination generated by policies, actions that xenophobic or that violate human rights, which increase the inequality gap in sectors or certain social groups affected by migration, such as children, women, indigenous peoples and sexual and gender diversity groups, in the exercise and portability of their rights.

Mexico faces significant challenges as a result of its proximity to the United States. On the one hand, 12 million Mexicans live in the northern country (equivalent to 10% of the population in Mexico), 51% of them in an irregular situation. Both the economic crisis and the escalation of restrictive immigration policy in the US have led to an increase in return migration in Mexico, either "voluntarily" (1.4 million between 2005 and 2010), or through "repatriation" (2.8 million repatriation events between 2008 and 2013).¹

On the other hand, the Mexican territory is the main migration corridor in the world. Each year, about 400,000 migrants in an irregular situation are transiting through the country on their way to the United States, more than 90% are from Central America.² According to the Ministry of the Interior (*Secretaría de Gobernación*, SEGOB), along the 1,149 km border, there are 11 international land transit points and 370 points of informal transit, where 95% of the flow of migrants are in an irregular situation.³ In addition, in the southern states bordering Guatemala and Belize, there is an unfolding of intra-regional migration that responds to historical causes and to proximity, as well as the search for new horizons. In this sense, Chiapas in particular, is a node that attracts people from Central America who come to work in a trans-border⁴ form or as temporary⁵ or permanent⁶ residents.

Access to justice.

Mexico is experiencing a situation of institutional weakness and human rights violations, especially on the issues of torture, murder, extrajudicial killings and disappearances. The Mexican government presented estimated figures of 27,000 missing persons, according to recent data from INEGI, 19,669 homicides were recorded in Mexico in 2014. According to studies conducted in Mexico, 93% of reported crimes remain in a state of impunity.

Although the causes are multifactorial, one of the main problems is the impunity generated by lack of capacity of law enforcement institutions to conduct effective and efficient investigations, as highlighted by reports of United Nations agencies. This reflects the violation of Article 16 section II of the Convention on the right to effective protection by the State against violence; Article 18, which in its section I stipulates the same rights as nationals of the State in cases before the tribunals and the courts of justice, a situation which is also highlighted by the 2030 Agenda in its target 16.3.

¹ Secretaría de Gobernación (2014), *Programa Especial de Migración 2014-2018*, p. 10.

² G Díaz Prieto y G Kuhner (2014), *Un viaje sin rastros. Mujeres migrantes que transitan por México en situación irregular*, pp. 16 y 47, <http://imumi.org/unviajesinrastros/assets/un-viaje-sin-rastros.pdf>.

³ Secretaría de Gobernación (2014), op.cit, p. 21

⁴ Cross border transfer or commuting refers to population movement that occurs between the place of residence and another, without any change of residence, associated with performing work-related activities, health care and tourism.

⁵ Female temporary workers are determined based on the duration of their stay, which can be very variable, more than 24 hours to several months. The unifying criterion is that the female workers consider their residence to be outside of Mexico.

⁶ Information provided by G Díaz Prieto y G Kuhner from the Women's Institute for Migration (*Instituto para las Mujeres en la Migración*).

With regard to the serious situation facing Mexico with disappearances and mass appearance of clandestine graves, it is urgent to unite efforts that advance the right to truth and access to justice of the families of the victims. Recognizing that within the population most affected by these problems are migrants. The Executive has made a first draft of a bill and the creation of law proposal designed and driven by committees of relatives of missing persons and civil society to punish and eradicate disappearances at the hands of individuals as well as forced disappearances; which would benefit cases of missing migrants, seeking compliance with Articles 8, 11, 14 and 16 to 18 of the Convention, which seeks the fulfillment of the fundamental rights of migrant workers and their families, such as the right to return to their country of origin at any point, the non-exigency to forced labor and arbitrary or unlawful interference, the right to freedom, among others.

Access human rights of migrants

The Constitutional Amendment to Article 1, related to human rights reforms, and the publication of the Migration Law in 2011 and the National Planning propelled by civil society since 2013, integrating a gender perspective and that of the migrant population in its objective 5.4 of the National Development Plan (NDP) 2013-2018, which is mandated by the current Special Migration Program (*Programa Especial de Migración, PEM*) 2014- 2018, all which represent a significant progress in national framework on migration. However, according to Recommendation 16 made in 2011 by the Committee on Migrant Workers⁷ in its “Consideration of reports submitted by States parties under article 74 of the Convention”, the law does not provide sufficient guarantees of the right to due process in the case of deportation, access to information, and the inclusion of the gender dimension and protection of unaccompanied children. With regard to the PEM, lacking budget allocation and information to generate impact indicators on the migrant population and their families, the application of a restrictive policy that seems to be aligned to the decree which created the Coordination for Comprehensive Care of Migration in the Southern Border (*Coordinación para la Atención Integral de la Migración en la Frontera Sur*)⁸ published 3 months after the PEM without civil society participation, supported by the National Security Program. As members of civil society, we have recorded systematic and repeated violations directed to migrants, extending even to the Mexican population, thereby violating Article 39 of the Convention concerning the liberty of movements and Article 11 of the Constitution. An example is the case of three Mexicans of indigenous background who were detained and deprived of their liberty in the Queretaro detention center, one of them being a minor, involving immigration agents who retained their Mexican birth certificates and official identity documents and the Guatemala Consulate in Mexico City issuing a document as proof of nationality without due process while at the same time one of the detained individuals was also tortured, a situation that was documented and a testimony was recorded.⁹ The complaint with the National Commission on Human Rights (*Comisión Nacional de Derechos Humanos, CNDH*) generated Recommendation 22/2016, acknowledging the human rights violations in the case.¹⁰

With regard to harmonization of the Migration Law, only five Mexican states have harmonized their laws to-date. As for the harmonization related to the right to identity and civil acts contained in Article 9 of the Migration Law, no state has harmonized its entire normative framework¹¹ to ensure that in the 33 states in the country migrant workers and their families have access the right to identity via registration of birth or various civil acts, without making it conditional to their regular stay or immigration documents¹² nor with the 4th Constitutional Article amended in 2015 on the gratuitousness of the first record of birth. The aforementioned exposes the challenge that the State faces on regulatory and policy harmonization and alignment, as well as in the coordination between the three levels of government. The lack of state laws that

⁷ Hereinafter referred to as “The Committee”

⁸ Published in *Diario Oficial de la Federación* on July 8, 2014 by Executive Action.

http://www.dof.gob.mx/nota_detalle.php?codigo=5351463&fecha=08/07/2014

⁹ See recorded testimony. <https://vimeo.com/161574543>

¹⁰ General Recommendation 22/2016 of the National Commission on Human Rights.

http://www.cndh.org.mx/sites/all/doc/Recomendaciones/2016/Rec_2016_022.pdf

¹¹ Civil Code, Civil Registration Act, Rules of Civil Registry, Administrative Criteria and State Revenue Act.

¹² See, Proposed Antidiscrimination regulations adjustments to the civil registration of births, marriages and divorces. <http://imumi.org/sep/propuesta.html> Revision date. July 28, 2016.

guarantee the rights of migrants, generates a dynamic of exclusion of this sector of the population, one which is a concern expressed in Recommendation 20 made in 2011 in the Committee in its “Consideration of reports submitted by States parties under article 74 of the Convention”.

Rights and working conditions

Currently, the entry and support of transnational corporations has been enabled, under the appreciation of the Mexican State, they have generated sources of employment directly benefiting a certain segment of the population. However, little to nothing is known about the situation of irregular migrants and workers in informal employment. With regard to the flow of migrants from Mexico who repeatedly try to cross the border illegally and are deported to the northern states of Mexico, they are in need of work in agricultural fields to continue with their journey.

The Convention recognizes what is considered the right to remain or the right to not have to emigrate, as indicated in paragraph 2 of Article 8, which states: “Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.” At the same time, the socio-economic contexts of the country’s southern states remain with the lowest rates nationally and showing a negative trend. In the case of Mexico and Canada, for example, there is the Seasonal Agricultural Worker Program (SAWP) between the two states, which has been in place for 42 years and is considered a model of orderly, safe and legal migration, in which the 21,000 Mexican nationals participate. On the other hand, under the H-2A and H-2B visa system for agricultural and non-agricultural jobs, it involves 83,000 Mexican men and women. All of them are exposed to violations of their labor rights despite of the existence of the Memorandum of Understanding between Mexico-Canada, and a contract between the two states.

The 2030 Agenda and its target 8.8 sets forth the protection of labor rights and the promotion of safe working environment that protects migrants workers, particularly migrant women and individuals with precarious jobs; They are paid a lower wage compared to national citizens in the countries of destination. The working conditions are unsafe, affecting their life and security due to the following; agrochemical poisoning, abusive bosses who use different types of violence, threats of contract non-renewal; among many others. In addition to the persistence of gender discrimination among companies that demand manual labor of migrant men, the Mexican government limits access to temporary work visas for women who travel each year to the US and Canada for use in agriculture or service industry, which is seen in particular in the case of SAWP, where only 3.29 percent of participants are women.

Migrants women from Central America who arrive in Chiapas for work suffer repeated violations of their human and labor rights, most of them are young women in a productive and reproductive age, with high levels of illiteracy and only few years of schooling. Most work in trade commerce, in domestic work and the service industry, in addition to agricultural labor, the sex and entertainment industries. There are precarious jobs, in the informal economy and in an irregular situation where abuses and lack of access to rights prevail. Especially for migrant workers on farms, homes and entertainment centers in Chiapas face conditions of exploitation.¹³

Violations of their human rights begin even before they reach their work destination, during the recruitment process for both Mexican workers abroad as well as for migrant workers in Mexico, evidenced in the null implementation of the CEDAW General Recommendation 26 of on women migrant workers, the Convention and Articles 11, 21, 25, 54, 58, 61 and 70.

Many Mexican women workers with the need to obtain a better paying job or in the hope to work in the US or Canada, are the subject to fraud when they are asked for money to be included in a waiting list, to process their visas, and withhold their documents and threaten to not receive further help if they report such practices; this notwithstanding Article 23 of the Convention which stipulates their right to protection and

¹³ UN Women and IMUMI (2015), op.cit., p. 9.

assistance of the consular or diplomatic authorities and recommendation 43 of the Committee, which recommends implementing a monitoring system on individuals or organizations that are dedicated to transfer Mexican migrant workers to the countries of destination, so that it takes the required actions when violations occur.

Abuse happens even in the case of SAWP, from officials who provide services in the Ministry of Labor, who also ask them for money for inclusion in the program. Additionally, there is no effective institutional control over the activities of the so-called recruitment agencies which allows them to charge for transportation, lodging and food up to 80 percent of total earnings of a working person; although Article 27 of the Convention states that migrant workers should enjoy the same treatment as nationals as it relates to social security.

Immigration detention

In Mexico, immigration detention is a constant practice implemented by the Ministry of the Interior (*Secretaría de Gobernación, SEGOB*) through the National Migration Institute (*Instituto Nacional de Migración, INM*) which promotes xenophobia and racism. This is coupled with impunity, corruption and collusion of authorities as it leaves a void in the rights of migrant populations, violating their rights to personal freedom and being at high risk and exercise of illegal and arbitrary detention. Immigration policy focuses on the identification, apprehension, exposing individuals who are not able to prove their regular immigration status to immediate detention, resulting in massive returns or deportations within the shortest time possible. Having as an objective the rapid and expeditious management of migration flows rather than the implementation of the Convention and the international and national regulatory framework, it makes various sectors of the population vulnerable as it fails to make an assessment and identification of comprehensive and international protection as well as differentiated services that migrants require according to age, gender, the various reasons why they migrate or their circumstances in transit.

In addition, there is an absence of real possibilities to use legal defense against immigration detention and there is a lack of impartial and independent authority (authority with judicial or quasi-judicial powers), or a mechanism for automatic review of detention at the time of decreeing or at a later time, contrary to the Convention in articles 16 and 17. In Mexico, the sustained increase in detentions for immigration purposes, as well as the implementation of detention as the first and only response to irregular migration make it even more urgent and necessary to the development and implementation of alternatives to detention that allow people to live freely in the community and meet their basic needs while participating in the resolution of their immigration procedures, as well as being able to resort to protection and assistance of consular or diplomatic authorities as proposed in Article 23 of the Convention.

In the past five years, progress has been made towards alternatives to detention, as a process that would have to go faster to improve mechanisms for identifying, channeling, receiving and providing care to migrants in situation with various protection needs.

Migrant Trafficking

Despite the various articles of the Convention seeking fulfillment of rights such as the right to life (art. 9), the prohibition of torture, cruel treatment, slavery and forced labor (arts. 10 and 11), in addition to the right liberty and security of person (Article 16); there are still many gaps in the protection of the human rights of migrants in transit, that face various violations, including human trafficking.

While statistical, documentary and field data available suggested that the main form of human trafficking is for sexual exploitation against women and children, last year in Chihuahua public denunciations of cases where migrant trafficked persons for forced labor, not only in an undocumented situation in Mexico, but also Mexican population deported from the United States captured by organized crime to work on marijuana

crops in different parts of the sierra. We are aware that in Tamaulipas migrants are forced to perform work in surveillance for organized crime, known as “hawks” (*halcones*) for illicit activities.

In Mexico, human trafficking represents the third largest source of income for organized crime, after arms sales as reported in the Diagnosis of Human Trafficking of the National Commission of Human Rights (2013). The city of Chihuahua became the main route of migrant smuggling migrants and is an identified route for human trafficking, in addition, the border region of the states of Chihuahua, Sinaloa and Sonora, was classified as a hot spot on the National Assessment on the situation of Human Trafficking in Mexico prepared by the United Nations Office on Drugs and Crime (UNODC, 2013), a document that states that Chihuahua along with seven additional Mexican states account for 81% of all preliminary investigations into this crime, however this state is one that has fewer sentences.

It is important that the State creates more mechanisms to develop information and indicators on the impact on the actions undertaken by the government to prevent, punish and eradicate human trafficking in that migrants are subject to in all its forms.

Forced Internal Displacement

Forced internal displacement in Mexico has increased in recent years under the scenario of insecurity and violence afflicting the country. It is a phenomenon that has not been officially recognized by the Mexican State and there is no diagnosis to determine the number of victims and the needs required, precisely because of the lack of available information and indicators that can account for this reality.

International reports (IDMC 2016) and work carried out by the Mexican Commission for the Defense and Promotion of Human Rights (*Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C.*, CMDPDH), have identified that there are at least 287,358 people in this situation and from 2011 to date, there have been 154 reported episodes of mass displacement in 15 states in the country.

In light of this panorama, the response from Mexican authorities has been denial and reluctance to assume responsibility, leaving thousands of Mexicans in a situation of great vulnerability and complete abandonment. Currently, despite the document OEA/Ser.L /V /II 44/15 F.57 of the Inter-American Commission on Human Rights, which establishing the adoption of specific legislation at the federal and state level to address internal displacement, as well as the establishment of an institution in charge of the protection of persons from forced displacement, in accordance with the Guiding Principles on Internal Displacement, Mexico lacks a conceptual, legal and institutional framework to address the problem of internal displacement, making this an issue that needs to be addressed, made visible and handled in an urgent manner. Through the accompaniment of paradigmatic cases and documentation of evidence, the CMDPDH been able to identify victims of forced internal displacement, including journalists and human rights defenders.

Particularly, it has been observed that the attacks, harassment, abuse, stigmatization and criminalization of which human rights defenders and journalists have been subject to make them particularly a vulnerable group to internal displacement and as such, there is no mechanism of protection against the risk and vulnerability status after fleeing from their place of habitual residence, this being a recommendation of the Inter-American Commission on Human Rights in its document OEA/Ser.L/V/II. Doc. 44/15.F.60

Migrant Children

The Mexican State has overcome a legal barrier in the recognition of the rights of children and adolescents in developing and approving the General Law on the Rights of Children and Adolescents and its Regulation, as a regulatory framework of the highest standards of rights for children in Mexico; however, on the issue of migrant children, there is a need to propel operational and institutional improvement processes that can translate into the full recognition of the rights of migrant children. In recent years, despite Article 16 of the

Convention, the sustained increase in immigration related arrests of children and adolescents exposes the urgency and the need to implement sustainable solutions that can guarantee the full protection of their rights.

In turn, the Regulation of the Law protecting children includes an explicit prohibition of deprivation of liberty in detention centers and also mandates the adoption and implementation of measures to prevent children and adolescents accompanied by their mothers or fathers from being deprived of their liberty on immigration grounds.

The great challenges that exist in the short-term are: the definition of institutional responsibilities, particularly in relation to the enjoyment of the right to personal liberty; the effective recognition within policies and state practices of the right not to be detained on immigration grounds; constructing care schemes that incorporate the protection of the rights of children, not only for their life in the community but also against judicial or administrative proceedings of which they engage in; the implementation of tools and mechanisms to determine in each case the best interest of migrant children under the pro person and non-discrimination principles; and to amend the Migration Law so that the migratory function is per se a secondary consideration in the decision-making concerning the protection of rights and interests of children.

Additionally, the fulfillment of articles of the Convention seeking benefits for migrant children are necessary, such as access to education in conditions of equality as stated in Article 30 and the right of children of migrant workers to a name, registration of birth and nationality based on Article 29. The Executive through the Ministry of Public Education (*Secretaría de Educación Pública, SEP*) has made regulatory changes to eliminate administrative barriers in education access for migrant and returned children in Mexico, including amendments to the SEP's Agreement 286, the publication of the Specific Standards of School Control for Basic Education (*Normas Específicas de Control Escolar para Educación Básica*) in 2015 and the criteria for secondary education in February 2016. The implementation of necessary and countervailing measures at the federal and local level to ensure that migrant children and adolescents enjoy the right to education remains a challenge, also impacting the rights of their parents, mainly migrant and returned women workers who generally assume the responsibility for generating channels and eliminating barriers in the access of education of their children.

Regarding the right to juridical personality, to identity and nationality of migrant and returned children and adolescent, it is essential to take the necessary measures for the implementation of Article 30, paragraph A, section II of the Constitution of the United Mexican States, regarding the right to Mexican nationality (known as dual citizenship) of the children of a Mexican parent born abroad, as well as Articles 24 and 29 of the Convention and Recommendation 148.175 of the United Nations Universal Periodic Review (UPR) of Mexico made on 23 October 2013 on the rights of migrant children.

Women in Migration

Dangerous, abusive and exploitative working conditions that migrant workers face daily, reveals a weak public policy implementation. The available public information is not sufficient to know the extent to which migrant workers have access to their rights and/or services, as well as the impact of public programs under the conditions of life, work and transit of migrant workers.¹⁴

The escalation of restrictive US policy and of the governments in the region have resulted in the increment of forced return or "repatriation" of migrants to Mexico, exacerbating conditions of risk and exclusion, with impacts seen with a large percentage of unaccompanied children and adolescents migrating to be able to

¹⁴ UN Women and IMUMI (2015), *Las trabajadoras migrantes centroamericanas en Chiapas. Recomendaciones de política pública para garantizar el ejercicio de sus derechos*, p.24, <http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/las%20mujeres%20migrantes%20en%20chiapas%20recomendaciones%20de%20politica%20pblica%20pa.pdf>

reunite with their mothers, fathers or relatives in the United States. On the other hand, the separation of transnational families, where migrant workers are deported or forcedly returned to Mexico because of the lack of mechanisms and access to timely information and services in both countries, are at risk of losing custody of their children in the US.

When migrant women are returned or "repatriated" to Mexico in a family unit with their children who were born in the US, the violation of their rights and of their families is a result of the lack of mechanisms and actions by federal and local governments in Mexico to guarantee the inclusion and access to effective rights such as the right to identity, education, health, labor inclusion, economic autonomy and freedom from violence.

It is important that the Committee resume with the States the importance of implementing the General Recommendation 26 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹⁵ to eliminate violations and barriers to access rights for women and their families throughout the migration process¹⁶, as well as identifying the intersectionality of exclusions when analyzing the implementation of the Convention and recommendations to States¹⁷, as stipulated in Article 7 of CEDAW.

Los Altos de Chiapas, a region with indigenous communities of Tzotzil-Tzeltal Mayan origin, is considered a region with the highest rates of marginalization and lowest index in human development. Historical devastation- a colonial heredity-, the power relations between genders, along with development models deepen the contradictions, leading to an exacerbation of situations of structural violence along with few or no options for staying in their communities of origin in a dignified manner nor a human mobility with rights, despite the protection of equality that Articles 25, 27, 28 and 31 of the Convention seek to guarantee. In general, migrant women face much discrimination from employers because they do not speak Spanish, because of their skin color, their attire and because "they do not know how to do the job they are asked to do";¹⁸ they are not involved in family life. On several occasions, they do not have days off from work, they work twelve to thirteen hours a day, uninsured, without any social or labor protection; therefore, they often become ill at work while still performing their work activities.

2. Proposal of issues and questions to be transmitted to Mexico

Part I

A. General Overview

1. Provide information on the national legal framework pertaining to the Convention, in particular:
 - a) The hierarchy of the Convention within domestic law, and whether it has direct effect or has been incorporated through legislation within national law.
 - b) Information on relevant national legislation of the State with regard to the security and protection of migrant workers and their families and migration policies in the framework of the Convention, and how these have been harmonized with legislation local.
 - c) Past and current measures as well as those planned in the future which have been or will be adopted by the State party to bring its legislation up to par with the provisions of the Convention.

¹⁵ ONU Mujeres e IMUMI (2015), op.cit.

¹⁶ Follow-up on report approach and recommendations on the situation of migrant women, presented at the Global Forum on Migration and Development 2015 by the Women and Global Migration Working Group/Women in Migration Network. See Report <http://wgmwg.org/wp-content/uploads/2015/10/Gender-Rapporteur-Istanbul.pdf> and Women in Migration <http://wgmwg.org/wp-content/uploads/2015/10/WGMWGBridgeDoc-FINAL.pdf>

¹⁷ "It is not that we are vulnerable because we were born that way, we are women who are made vulnerable by other people" (translated from Spanish) domestic workers in Los Altos de Chiapas interviewed by Voces Mesoamericanas, Acción con Pueblos Migrantes, A.C.

¹⁸ "Sometimes I would not understand what I was asked because I did not speak their language, they would hurt me or would even burn my hands because I did not know how to make a fried egg" (translated from Spanish). Voces Mesoamericanas, Acción con Pueblos Migrantes, A.C.

- d) The existence and scope of bilateral and multilateral agreements with other countries related to the rights of migrants workers and their families in the framework of the Convention, particularly with the United States, Canada and Central America.

We ask that the State specifically address how these agreements protect the rights and guarantees of migrant workers in countries of transit and destination, especially as it relates to detention procedures, repatriation, expulsion and family reunification, and cases of human rights violations, particularly on the disappearance of migrants in transit and the cases dealing with search and identification of migrants who are victims of a crime. Additionally, we request information on measures taken to strengthen the protection of Mexican migrant workers abroad and foreigners in national territory by reviewing and amending bilateral and multilateral agreements, in particular with regard to the collection and exchange of data between countries

2. Provide information on the ministry or the institution responsible for the intergovernmental coordination needed for the overall implementation of the Convention in State party, including information on staff and resources available, the supervision activities and the monitoring procedures and sanctions. Include information on the existing mechanisms for coordination and participation of relevant governmental entities and civil society in these mechanisms.
3. Provide information, including both qualitative information and statistical data disaggregated by sex, age, nationality and immigration status, as well as migration inflows and outflows in the State party, including returns, other issues related to labor migration, and information on migrant children. In addition, we request the qualitative and statistical data or, if accurate data is unavailable, studies or estimates of migrant workers in an irregular situation (in the country and abroad), particularly those working in sectors which are less regulated such as agriculture, textiles, construction, food industry, mining and domestic service. Furthermore, we request the State to provide information on measures taken by the State party in order to establish a coherent and comparable system for collecting data on these matters, including measures to make such information publically available.
4. Provide information on the measures taken by the State party to promote and publicize the Convention and other human rights instruments to increase awareness and understanding of its provisions among the general public, migrant workers and their families, employers, teachers, and civil servants, including law enforcement and the judiciary within the State party. For both the Mexican population working abroad and migrants workers in Mexico, we ask the State to describe in a differentiated manner, the measures taken by the State party and the related budgetary allocations to promote training programs on the human rights of migrant workers and their families, particularly on the sensitivity to gender issues and the rights of children and adolescents and assistance to migrants who are victims of trafficking and other crimes, so that the staff who provide legal and consular assistance to nationals of the State party abroad or from other countries in the State party and who deal with migration and related issues, including abuse and exploitation in the workplace, as well as the migrant workers or their families who have been killed, detained in prisons or immigration detention centers, or detained as they await an expulsion hearing or repatriation proceeding.
5. Provide information on the cooperation and interaction between the State party and civil society organizations working on issues relating to the rights of migrants workers in connection with the implementation of the Convention. We ask the State party to indicate whether representatives of civil society, including organizations of family members of missing persons and migrant victims of crime in countries of transit and destination as well as other stakeholders, are involved in the preparation of responses to the aforementioned issues and in what manner they are engaged. And the form of participation to harmonize local and federal laws with the Convention.

B. Information concerning articles of the Convention

1. Part II of the Convention

1. Clarify whether national legislation, including the Mexican Constitution, Migration Law and the Federal Labor Law, ensure that all migrant workers and their families enjoy the rights afforded in the Convention without distinction of any kind, and if that legislation covers all grounds of discrimination prohibited by the Convention (see Art. 1, para. 1 and 7), including gender, language, national, ethnic or social origin, nationality, age, economic status, wealth, marital status, birth or any other status. We also request information on all measures taken by the State party to ensure non-discrimination and gender equality, both in law and in practice. Additionally, to provide information on measures taken to guarantee non-discrimination and gender equality in access to temporary work programs for Mexican nationals offered abroad, particularly in the United States and Canada. To supply further information about the access of migrant workers and their families, in both regular and irregular situation, to medical care and other social services as well as access to educational and cultural, artistic, recreational and leisure activities of the children of migrant workers, both in a regular and irregular situation. Furthermore, to provide information on the measures the State has considered for the protection of children and adolescents from labor exploitation and illegal recruitment.

2. Part III of the Convention

2. What are the guidelines and criteria used by immigration agents in Mexico to identify undocumented migrants during immigration revisions in Mexican territory, particularly in checkpoints along roads?
3. Based on the principle of exceptionality of detention, we ask the State party to provide the following information:
 - a) To what extent is detention of individuals based on immigration grounds implemented in accordance with the principle of exceptionality?
 - b) The mechanisms used by the State party to assess its necessity, reasonableness and proportionality for each individual case.
 - c) Mechanisms, procedures or protocols that exist for the identification, non-detention and care for people in vulnerable situations (asylum-seekers, pregnant or nursing women, victims of trafficking, victims of domestic violence, LGBTTI community, children and adolescents, etc.) and how they operate in practice.
 - d) Procedural safeguards that exist to protect people against illegal and/or arbitrary detention (information, communication, legal aid, notification, etc.) and if these include legal representation to assist the person filing a legal defense against immigration detention.
 - e) To what extent are the available means for defense effectively protecting individuals against unlawful or arbitrary detention and which actions have been taken by the State to ensure that individuals are not detained unlawfully or arbitrarily, including facilitating access to immigration detention places for independent monitoring?
 - f) To what extent are the authorities providing information about access to alternative measures to detention and implementing such alternatives or other mechanisms so that individuals are not placed in detention centers or can be released?
 - g) Qualitative and quantitative information on detention centers and on the conditions of detention of migrant workers, disaggregated by nationality, sex, age, and the relevant legislation.
4. What international standards and recommendations of United Nations Committees have been taken into account by the State party for the creation of guidelines and protocols of the Crimes Investigation Unit for Migrants of the Attorney General of the Republic (*Unidad de Investigación de Delitos para Personas Migrantes de la Procuraduría General de la República*) and how many people have been consigned and processed as a result of the two cases of massive massacres against migrants: 1) clandestine graves in San Fernando, Tamaulipas in 2011 and 2) 49 torsos in Cadereyta, Nuevo Leon? How many criminal groups have been arrested? How many public officials were part of the same criminal groups and removed from office? We ask for this information to be disaggregated by sex, nationality, entity and crime type. Is there a transnational character to the administration of justice and can a migrant pursue it in the country of destination?

5. How much resources, human and material, have been allocated by the State party and how much is it planning to designate in 2017 to the Crimes Research Unit for Migrants and the Mexican Foreign Support Mechanism for Search and Investigation of the Office of the Attorney General of the Republic (*Unidad de Investigación de Delitos para Personas Migrantes y el Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación de la Procuraduría General de la República*) to comply with the agreement which mandates its creation? What work of interagency and interregional coordination is being articulated with the Crimes Research Unit for Migrants, with other national and international agencies for the comprehensive protection of migrant crime victims and their families? How will the implementation of the Mechanism of the Unit be propelled to ensure the protection of migrants and those who are subject to international protection?

6. Following the efforts made by Mexico in terms of access and law enforcement in cases of migrants who are victims of crimes of trafficking, kidnapping, disappearance, murder, torture, deprivation of liberty and gender violence, we ask the State to supply the following information for each:
 - a) How many complaints were submitted by migrants for these crimes, both at federal level and in each state in the review period, disaggregated by sex and nationality?
 - b) On the mentioned complaints: How many resulted from a preliminary investigation and placed in an investigation archive? How many were presented before a judge? How many sentences were rendered and against how many people? How many sentences were issued against public officials responsible for these crimes? How many officials were dismissed from their public duties and are in prison or in judicial proceedings?
 - c) How many migrants, victims of crimes and human rights violations, have obtained repair of damages?
 - d) What are the budgetary resources earmarked to address these crimes?
 - e) What public shelters have been installed for the care of victims of these crimes?
 - f) What has been the performance of the Executive Committee of Victim Care (*Comisión Ejecutiva de Atención a Víctimas, CEAV*) in relation to migrants?

7. What are the actions and results of the efforts made by the State party intended for the search and identification of missing migrants and the guarantees of access to justice for their families, reparation and non-repetition?

Particularly:

 - a) Partnership agreements and accords with international organizations and other stakeholders.
 - b) Allocated and expended resources.
 - c) Number of persons found and identified and their status.
 - d) Number of judgments emitted as a result of these crimes.
 - e) Regulatory frameworks proposed and/or approved and their implementation status.

8. What jurisdictional actions, legal measures, administrative requirements, public policies, campaigns and other actions are being carried out by the State party to dignify the working conditions of migrant workers and their families, and which are designed to guarantee and ensure their rights? We ask the State to provide this information in a disaggregated manner for the case of formal and informal work, and integrate information on:
 - a) The actions of creation or modification of regulatory frameworks at the federal and local level that the State party has undertaken to guarantee the rights of migrant workers and if there is any effort around paid domestic work.
 - b) The actions that the State party has implemented to raise awareness, promote and ensure that people who hire migrants carry out their labor obligations as employers.

9. In the case of Mexican migrants working in agricultural fields in the United States, we ask the State party to provide the following information:
 - a) What actions of prevention, monitoring and access to justice are being coordinated jointly between the Mexican state and the United States government to reduce cases of human trafficking for labor exploitation and forced labor?

- b) What kind of joint inspection measures are undertaken by governments of Mexico and the United States to ensure that Mexican migrant farm workers in the United States are not deprived of their liberty in the workplace?
 - c) What steps are being taken by the governments of Mexico and the United States to prevent Mexican migrant farm workers from being confiscated their identity documents, entry and stay permits, residence or settlement in the country territory, or work permits by employers?
10. What are the actions that the State party has implemented to monitor paragraph 42 of the Concluding Observations of The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families at its 5th session in 2006 (CMW/C/MEX/CO/1). In particular, we request to provide information on:
- a) The harmonization of migration policy frameworks based on the new framework of child protection in Mexico (General Law on the Rights of Children and Adolescents).
 - b) The implementation of the General Law on the Rights of Children and Adolescents in relation to migrant children, especially the mechanisms, procedures or protocols that exist for identifying children and adolescents, the determination of their best interest and how to ensure that they are not held in immigration detention centers or other places that deprive them of freedom due to immigration reasons.
 - c) The allocated budget resources.
 - d) The authorities and specific powers of these for the protection of migrant children.
 - e) The programs implemented in other government agencies related to the protection of migrant children and adolescents.
 - f) The mechanisms to ensure the participation of civil society.
11. Concerning the determination of the best interests of children and adolescents, we ask the State party to provide information on:
- a) What mechanisms, procedures or protocols exist for the reception, shelter in the community and care for children and adolescents while they engage in the effective resolution of their immigration status, according to their interests?
 - b) For children and adolescents who are in immigration proceedings, what are the mechanisms and processes of detection and analysis of the best interests of the child in a case by case basis, that are not only intended to manage their return to their countries of origin but to adopt more consistent decisions in accordance to their welfare and development?
 - c) Mechanisms to prevent illegal recruitment and labor exploitation of migrant children and adolescents as well as protection measures.
12. How is the State party implementing the regulatory framework to guarantee the right to legal personality and identity and nationality of Mexican migrants and their children? We ask the State to including the information on:
- a) Article 30 of the Constitution, paragraph a), section II.
 - b) Fourth Constitutional Article on the right to identity and to be registered immediately following birth and free issuance of the first certified copy of the first birth certificate (added on June 17, 2014).
 - c) Article 9 of the Migration Law.
13. How is the State party implementing the regulatory framework to guarantee access to education in the 33 states of the country for all migrants and their families?, particularly:
- a) Agreement No. 07/0615 modifying Agreement 286 which establishes the guidelines that determine the general rules and criteria, modifying the recognition of education completed abroad and equivalence of studies, as well as the procedures used to accredit knowledge corresponding to educational levels acquired in a self-taught manner through work experience or based on the certification scheme referenced on the job training (Agreement No. 286) on June 11, 2015.

- b) Specific Standards of School Control for Basic Education concerning enrollment, re-enrollment, accreditation, promotion, regularization and certification of primary and secondary education by 2015.
 - c) Criteria for entry, stay, transit and exit of upper secondary education, including providing official documentation upon completion.
14. We ask the State party to provide information on measures taken so that in criminal and administrative proceedings, including removal procedures, migrant workers and their families, particularly those in irregular status, are provided with legal aid and interpretation services, if necessary, and they have access to information in a language they understand. Report on measures taken to ensure that migrant workers and their families are only expelled from the territory of the State party under a decision taken by a competent authority, after the completion of a procedure established by law and in accordance with the Convention, and that this decision may be reviewed on appeal. Specify what kind of crimes lead to the expulsion of a migrant worker in the country.
15. The measures taken to ensure that rights and due are respected, including the provision of legal assistance of Mexican and foreign migrant workers and their families who are being detained and awaiting expulsion in countries of transit and destination, in Mexico and particularly in the United States of America, including through consular protection and assistance policies and programs. Include information on measures taken to guarantee that people have information on their right to seek asylum.

3. Part IV of the Convention

16. What specific actions have been developed to provide information on labor rights to Mexican migrant workers involved in Temporary Employment Programs in the United States and Canada?
17. We ask the State to present detailed information on:
- a) The different mechanisms that have been established to prevent abuses against temporary foreign workers, especially Central American workers in Mexico, as well as the resources that the State provides to report cases of abuse at work and to ensure access to justice and repair of damage of workers.
 - b) The different mechanisms that have been implemented to provide legal assistance and access to justice systems of as temporary female workers, both Mexican and foreigners, on the labor demands that the wish to place or to continue when they are in their countries of origin, including the number complaints and sanctions.
18. To provide information on measures taken by the State party to review and update its legislation and its effective implementation in order to ensure migrant workers in the State party and their families, when they are abroad: the right to participate in public affairs in the State party; the exercise of their voting rights in the State party, and the right to be elected to public office in the State party.

4. Part VI of the Convention

19. What actions, measures and strategies have been propelled, in the short-term, medium-term and long-term, in cooperation with other states, especially with the North American region and Central America, for information exchange and the adequacy of mechanisms and programs related to regulated labor migration of migrants to promote safe, equitable and humane conditions.
20. Provide information on actions, measures or strategies implemented by the State party regarding the performance of placement agencies in the recruitment and hiring of temporary migrant workers, particularly:
- a) The actions implemented to control and regulate placement agencies of Mexican workers abroad and its individual agents.

- b) The number of employment agencies registered with the State party, detailing the types of agencies and services they offer and indicating the government agency that centralizes these records.
 - c) The number of inspections conducted in the agencies and the frequency in which the inspections are carried out.
 - d) The number of complaints that have been filed against agencies for committing criminal offenses and the sanctions established.
 - e) The means used to inform migrant workers on the reporting mechanisms and access to justice that exist for those who have been victims of crime by these agencies.
 - f) The evaluation, supervision and monitoring of these agencies.
21. What mechanisms and programs have been adopted by the State to facilitate economic and social integration of migrants and their families in destination and return countries?
- a) The assistance and support programs in the social environment available to migrants, asylum-seekers or refugees (legal assistance to regularize their immigration status, places of accommodation, medical care, support accessing education, work , etc.).
22. Provide information on measures adopted so that migrant workers and their families in an irregular situation in the State party have the opportunity to regularize their status in accordance with Article 69 of the Convention. Describe the measures taken by the State party to improve assistance and protection of foreign persons in its territory and its nationals abroad, including initiatives to promote the regularization of their situation.

5. Other

23. Based on the knowledge of the visibility that different institutions and civil society organizations have made about the conditions of forced displacement in Mexico, based on this information, we ask the State party to provide the following information: (OEA/Ser.L /V/II. Doc. 44/15. F.57.)
- a) What actions has the Mexican State taken in coordination with the three levels of government, international organizations, civil society and the private sector to collect information and generate a qualitative and quantitative assessment on this issue?
 - b) Measures in accordance with international standards in the matter, in particular the Guiding Principles on Internal Displacement, the State party has executed to create a basic legal framework for the distribution and assessment of the concurrence of powers and duties of the State authorities in the matter.
 - c) What is the status of the statewide legal framework in the matter that has been developed in Chiapas and Guerrero? In particular, what is the status of the regulation of these laws?
 - d) What is the institutional structure that the State party has created or established as responsible for assisting the victims of forced internal displacement at national and sub-national level? What are the guidelines or protocols in which its action is based on? Have the necessary budgetary and human resources for its operation being assigned?

Part II

Invite the State party to briefly provide (a maximum of three pages) information concerning the protective actions for migrant workers and their families, with regard to:

- a) The bills or legislation, and their respective regulations;
- b) Institutions (and their mandates) or institutional reforms;
- c) Policies, programs and action plans on migration and their scope and financing;
- d) The ratification of human rights instruments,
- e) Extensive studies that have been made recently about the situation of migrant workers and their families.

Part III. Data, official estimates, statistics and other available information

3. To provide, if available, quantitative statistical data, disaggregated and updated, and qualitative information from the past three years (unless otherwise stated) on:
 - f) The volume and nature of migration flows to and from the State party from the entry into force of the Convention in the State party to the present;
 - g) The migrant workers who are been detained in the State party and the national migrants workers of the State party detained in States of transit and employment, and if their situation is based on immigration grounds.
 - h) Migrant workers and their families who have been expelled or deported from the State party and the reasons;
 - i) The number of children and adolescents unaccompanied or separated from their parents who are in the State party, including the number of Mexican migrant children and adolescents in transit and employment as well as Mexican children and adolescents whose parents have migrated;
 - j) Remittances received from the State party nationals working abroad, in real terms and as a percentage of gross domestic product;
 - k) Reported cases of trafficking and smuggling of migrants, investigations, prosecutions and convictions of those responsible for such acts (with data disaggregated by sex, age, nationality and purposes of trafficking) and any sentences that have been issued in this regard;
 - l) Legal services provided to migrant workers and their families in the State party and to nationals of the State party working abroad or transiting in third countries.

4. Provide additional information on important developments that have occurred and the measures that the State party considers to be priority to implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.