



Fédération internationale des ligues des droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,  
DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation  
for Human Rights

Federación Internacional  
de los Derechos Humanos

الغدرالية الدولية لحقوق الانسان

## Human Rights Committee. Session 13<sup>th</sup> -31<sup>th</sup> July 2009

### MEXICO

#### List of Questions

In view of next session of the United Nations Human Rights Committee, the International Federation of Human Rights (FIDH), whose organizations members in Mexico are “Liga Mexicana por la Defensa de los Derechos Humanos” (LIMEDDH) and the “Comisión Mexicana de Defensa y Promoción de los Derechos Humanos” (CMDPDH), would like to communicate to the Committee’s experts several concerns concerning the legal framework and the situation of migrants who arrive to Mexico from different Latin American countries.

#### Article 2

The Mexican authorities have repeatedly infringed the principle of non-discrimination by detaining migrants (especially Guatemalan migrants) despite presentation of their voter registration card accrediting their legal status as a migrant.

- On what basis are the Mexican authorities detaining migrants?
- What is the reason for these detentions which are not provided for by law?
- What do the Mexican authorities intend to do to ensure that these situations are not repeated?

#### Article 6

Undocumented immigrants passing through Mexico are frequently the victims of crime and mafias operating in the country, in some cases they even die and these facts are not reported to their families by the Mexican authorities. On some occasions, their documentation is removed and they are buried as unidentified persons. The Committee of Human Rights has already deemed this fact a violation of Article 7 as it constitutes cruel treatment.

- What measures are the Mexican government intending to implement to rectify this violation of Article 1 and 7 PICP and thus comply with its obligation to identify and/or repatriate

unidentified deceased immigrants?

- How has Mexico taken into account the danger and human cost of the investment in terms of human and material resources to reduce migratory flows?
- What is the Mexican authorities' appraisal of the increase in migratory flows over recent years despite the considerable financial investment made to deter this?

#### Article 7

There are frequent operations during which the use of violence by the police, member of the Army and private security forces is disproportionate (beatings, robberies, extortion, psychological, verbal and sexual abuse, etc.). In addition, no investigation, processing and sanction is taken by the authorities in respect of the majority of these violations and there is a clear will on the part of many elements within these groups to hide these abuses rather than penalize them to the extent that even the investigation of these facts is hampered.

- Why have these cases of the abuse and extortion of illegal migrants not been investigated and prosecuted by the public authorities and private security forces?
- What do the Mexican authorities intend to do to penalize this behaviour? When does the Mexican government intend to investigate the situation and determine who are the responsables, both through criminal and administrative channels ?
- What actions does the Mexican government intend to take to rectify and ensure compliance with legislation and with migrants' human rights by its law enforcement officers and private security forces?

#### Article 9

Although this article only provides for detention in the cases provided for by law and in accordance with the procedure established thereby, the fact is that illegal detention has occurred in Mexico and continues to occur. For example, people have been detained simply for associating with undocumented migrants and mass detentions of migrants do take place. Furthermore, despite the fact that only INM officials and the Federal Preventive Police have the legal authority to stop a person and demand information concerning their migratory status. In practice, all types of police officers stop migrants. In many cases these arrests are accompanied by extortion on the part of the security police forces as well as threats, beatings, and sexual violence, etc.

- What are the Mexican authorities doing to penalize this behaviour?
- What normative and supervising measures will the Mexican government adopt to stop these violations?

#### Article 10

Paradoxically, in spite of no breach of the penal code being committed, illegal migrants are held as criminals in penitentiaries even when there are doubts concerning their legal status. A number of migratory stations are seriously overcrowded and the right of access to health and food safety are lacking. Furthermore, communication with the outside is unjustifiably restricted.

- What is the reason for this disproportionate treatment of migrants and what do the Mexican authorities intend to do to rectify the situation?

## Article 13

Despite the fact that, according to this article, expulsion may only occur “in observance of a decision adopted in accordance with the law”, Article 33 of the Mexican constitution runs counter to this provision inasmuch as it permits collective expulsions which violates the right to effective appeal and due process. This seriously undermines immigrants’ opportunity to appeal against an expulsion order.

- Do Mexican authorities intend to withdraw the reservation over this article and bring national law into line with the various international texts relating to this right?
- How do Mexican authorities justify this contradiction of international law?

## Article 9 (4) and (5)

It is also worrying that the new regulation on the operation of INM migratory stations provides for a period of up to 180 days detention. This appears to contradict Article 21 of the constitution which limits administrative sanctions to a maximum of 36 hours.

- Why do detentions occur outside legal provision? What measures have been taken to ensure that detained migrants are able to appeal or challenge against a detention ruling?
- Why does this contradiction exist between supreme law and Mexican legislation and what measure will be taken to overcome it?

## Article 14

There is a lack of information of migrants concerning their right and their legal situation or even misinformation and this is “per se” a breach of their basic human rights. Neither are the consular authorities of their country of origin usually informed of their detention and situation. In addition, migrants’ right to present evidence is not usually respected in the processes. In practice, the exercise of the guarantees to a right trial is limited to the taking of a statement from the migrant without informing them of its purpose. They are not permitted to read this statement and they are asked to sign it without knowledge of its contents.

Neither is the right to a lawyer or defence attorney complied with in the administrative process. No public defence lawyers are assigned to migrant detention centres or provide their services regularly in said centres or in general. When migrants do manage to obtain the services of public or free lawyers, the latter have limited access to the clients they are representing.

There are also restrictions that lack any legal basis on the right to receive visits.

On the other hand, the migratory procedure is performed expeditiously, without complying with the timeframe established by law for it to be concluded and without notifying anyone of the outcome. In addition, this does not usually provide sufficient and effective protection to prevent the deportation of any applicants for recognition of refugee status.

- How does the Mexican government intend to investigate the lack of information supplied to detainees? what measures will be adopted to ensure the respect to this right?

- Why are migrants not allowed to present evidence or assisted and informed about their right to do so?
- How does the Mexican government intend to ensure that deportations are carried out once applications for recognition of refugee status have been studied?
- What is the reason for this modification of the regulations of functions of the EM? Has the degree to which it is in line with international law on migrants' rights been studied?

#### Article 24

The process of the repatriation of unaccompanied minors is especially dangerous and therefore in violation of this article inasmuch as it concerns children who have no means of travelling to their homes by themselves or cases where their families cannot come to the handover point and thus their wellbeing cannot be guaranteed until they are reunited with their family members. The United Nations Convention on the Rights of the Child has already raised this concern.

- What specific steps do the Mexican authorities intend to take to ensure the protection and wellbeing of minors during the deportation process?