

# SHADOW REPORT

Mexico's Third Periodic Report  
CMW Twenty-seventh Session

Presenting by:

Human Rights Commission of the Federal District

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## I. INTRODUCTION

It is within the context of the CMW's Twenty Seventh Session, which is to take place between the 4th and the 13th of September 2017, that the Mexico City's Human Rights Commission (CDHDF, as per its Spanish acronym) presents its Shadow Report to the CMW regarding Mexico's Third Periodic Report. The Shadow Report has been carried out in collaboration with several civil society organisations (CSO), namely: Instituto de Investigación y Práctica Social y Cultural, A.C. (IIPSOCULTA), Casa de los Amigos, A.C., Colectivo Ustedes somos Nosotros, Salud Integral para la Mujer (SIPAM), Sin Fronteras, I.A.P. and Centro de Protección Internacional Adolescentes en el Camino (CEPROIAC).

The Mexico City's Human Rights Commission (CDHDF, as per its Spanish acronym) is a public autonomous body, with legal personality and its own resources and assets. The Commission is responsible for the protection, defence, monitoring, promotion, as well as for the study, education and diffusion of human rights, as established in the Mexican juridical order and by international human rights instruments. Its mandate is also that of fighting against any type of discrimination and exclusion which might derive from an action on behalf of the authorities against any person or social group.

This Shadow Report's main goal is provide alternative information to the CMW, considering the List of Issues Prior to Reporting, the information present in the State's report, the existing public information on programmes and plans implemented by the Mexico City's government as dictated by the local Law of Interculturality and Human Mobility and the Mexico City's Constitution, and, finally, the information held by CDHDF and by civil society on the human rights situation of migrant workers and their families in Mexico City (CDMX, as per its Spanish acronym). It is hereby declared that this Shadow Report can be published on CMW's website, for public information purposes.

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## II. CONTEXTUALISATION OF THE HUMAN RIGHTS SITUATION OF MIGRANT WORKERS IN MEXICO CITY

An adequate analysis of the current human rights situation of migrant workers and their families in Mexico City, must necessarily begin with a general outlook on the human rights situation of migrants, in general, both in Mexico City and in the country. This outlook is both a reflection and a consequence of the regional migration scenario: one which is marked by intense migrant fluxes from Central and South America, from the Caribbean as well as from some African countries such as the Democratic Republic of Congo, Ghana and Senegal, caused and motivated by high levels of insecurity, poverty and violence present in the place of departure. This scenario is also marked by increasing fluxes of returnees coming from the United States of America, by rigid migration policies created and implemented with a national security, rather than a human security approach and, finally, by the structural existence of racism and discrimination which exclude, marginalise and dehumanise migrants.

Mexico City is currently a place of origin, transit, repatriation (to a lesser extent), and destination for migrants. The last type of flux mentioned – destination – is currently exponentially growing. This phenomenon is patent in the rise of asylum-seeking applications: in 2016, there were 8.788 asylum applications, whereas in 2013 there were solely 1.296<sup>1</sup>. Considering that the federal<sup>2</sup> and local<sup>3</sup> legislative framework dictates that refugees are entitled to a job – a dignified job according to the Mexico City's Law on Interculturality, Migrant Support and Human Mobility – it is possible to conclude that this population group represents a substantial amount of the total of migrant workers in CDMX. However, despite of the national and local legislative frameworks, only 37% of all male asylum-seekers and refugees and 28% of the female ones in Mexico City are currently employed. Twenty eight percent of these men earn minimum wage – which equals a total of 80.04 MXN or 4 USD<sup>4</sup> per day – whereas the percentage for female asylum-seekers and refugees is that of 43%. On the other hand, 43% of these men, and 14% of these women work over 48 hours per week, whereas 81% of men and 86% of women do not receive any employment benefits, such as social security or holidays<sup>5</sup>.

These percentages are a manifestation and a reflection of the overall situation faced by migrants in CDMX and described by the CSO which participated in the Shadow Report. This situation is characterised by a lack of comprehensive and integration policies designed for people within a human mobility context, which, in its turn, entails that the existent measures and state support towards the migration population are often not

<sup>1</sup> Amnistía Internacional. (2017). *Enfrentando Muros: Violaciones de los Derechos de Solicitantes de Asilo en Estados Unidos y México* (p. 32). Available at: <https://amnistia.org.mx/contenido/wp-content/uploads/2017/06/ENFRENTANDO-MUROS-AMR0164262017.pdf>

<sup>2</sup> Cámara de Diputados del H. Congreso de la Unión. (2016). *Ley de Migración* (p. 13). Available at: [https://www.colmex.mx/assets/pdfs/17-LMIG\\_64.pdf?1493134257](https://www.colmex.mx/assets/pdfs/17-LMIG_64.pdf?1493134257)

<sup>3</sup> Asamblea Legislativa del Distrito Federal. (2011). *Ley de Interculturalidad, Atención a Migrantes y Movilidad Humana en el Distrito Federal* (pp. 3, 4). Available at: <http://www.aldf.gob.mx/archivo-e800ffd58570472c879df856002040c5.pdf>

<sup>4</sup> Servicio de Administración Tributaria. (2017). *Salarios Mínimos 2017*. Available at: [http://www.sat.gob.mx/informacion\\_fiscal/tablas\\_indicadores/Paginas/salarios\\_minimos.aspx](http://www.sat.gob.mx/informacion_fiscal/tablas_indicadores/Paginas/salarios_minimos.aspx)

<sup>5</sup> This information is the result of the study carried out in 2017 by UNHCR and the ILO, titled "Refugees in Mexico: from the humanitarian response to labor integration". Information obtained in the presentation of the report.

coordinated nor continuous. There lacks a comprehensive system designed to support the migrant and refugee population, both at a federal and local level, in a coordinated manner, and which is transversalised by a human rights and gender perspective which promotes and guarantees accompaniment, integration and adequate conditions in CDMX. Regarding labour rights, however, these lacunae entail that migrant workers and their families must face the widespread precarious conditions inherent to the labour informality which is predominant in Mexico<sup>6</sup> and in Mexico City. Migrant workers and their families must, however, face added levels of vulnerability due to the structural discrimination which exists in the country and city against migrants.

The Mexico City's Human Rights Commission has, from 2010 up until now, received 107 complaints on behalf of migrants regarding public servants. Out of this total, 70% have been presented by men, whereas 30% were presented by women. Regarding the complainers' nationalities, 25.9% were Colombians, 21.29% were Honduran, 10% were Salvadorian, 4.6% were Guatemalan, 3.7% were Cuban, Nicaraguan, American and Venezuelan, 2.7% were Egyptian and Argentinian, 1.8% were Peruvian, Nigerian, Hungarian, French, Chinese and Haitian, and finally, 1% were Costa Rican, Hong Kongese, Polish, Dutch, Brazilian, Panamanian and Belgian.

Regarding the human rights violations reported in the above mentioned complaints, 35 of these entailed a violation of the right to a due process and judicial guarantees; 34 a violation to the right to juridical security; 30 a violation to the rights of the victim, 22 to the right to equality before the law and to no discrimination; 14 to the right to personal integrity; 10 to the rights of people deprived of their liberty; 6 to the right to health; 6 to the rights of the child; 4 to the right to not be forcibly disappeared; 3 to the right to honour and dignity and 2 to the right to a life free of violence.

Complaints received by CDHDF regarding migrants	
Period in which complaint was registered	Complaints by year
2010	6
2011	4
2012	7
2013	34
2014	12
2015	16
2016	22
2017	6
<b>Total</b>	<b>107</b>

<sup>6</sup> In the fourth quarter of 2016, the National Institute of Statistics and Geography (INEGI) determined that 57.2% of the total employed population in the country worked informally. See INEGI. INEGI. Boletín de Prensa: Resultados de la Encuesta Nacional de Ocupación y Empleo, 2017, p. 9. Available at: [http://www.inegi.org.mx/saladeprensa/boletines/2017/enoe\\_ie/enoe\\_ie2017\\_02.pdf](http://www.inegi.org.mx/saladeprensa/boletines/2017/enoe_ie/enoe_ie2017_02.pdf)

As patent in the previously mentioned information, the number of complaints does not correspond necessarily to the amount of human rights violations experienced by migrants. In fact, as we contrast this data with informal interviews carried out with migrants who have sought support from the CDHDF and who live in shelters in Mexico City, as well as with testimonies provided by CSO, one can conclude that, as shall be subsequently exemplified, migrants and refugees do not consider themselves to be subjects of rights and are mostly unaware of the legislation which ought to protect them regardless of their migrant status, which may have an impact on the likelihood of them filing complaints at CDHDF.

### **III. LEGISLATIVE ALIGNMENT OF THE NATIONAL FRAMEWORK WITH THE INTERNATIONAL CONVENTION ON THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES**

Regarding the legislative alignment, a reform to the Constitution's article no. 1 was presented within the federal realm, in order to promote the acknowledgment that every person within Mexican territory enjoys every right and guarantee recognised both by Mexico's Political Constitution and by the highest international standards signed and ratified by Mexico. It was within this agenda that the Special Programme for Migration 2014-2018 was created. The programme is based on a vision of complementarity between government levels and CSO and places special emphasis on the need to provide support for migrants and their families through a comprehensive migration policy.

At a local level, the Law of Interculturality, Migrant Support and Human Mobility was approved and published on the 7<sup>th</sup> of April 2011. This Law notes the importance of "recognising the sociocultural diversity of its inhabitants and of guaranteeing their protection and respect in order to conserve their cultural backgrounds, thus allowing different societies to interact". On the other hand, on the 30<sup>th</sup> of May of 2011 the Law for the Mexico City's Human Rights Programme was published. This Law establishes that human rights are to be a transversal concern in the execution, evaluation and monitoring of public policies. It is worth noting that this Law clearly establishes that its content is to be applied to every person, group and social collective that inhabit or transit through Mexico City.

In the specific case of Mexico City, this legislative alignment has been carried out through laws, regulations and decrees, which firmly establish the City's entity as a Hospitable, Intercultural and Supportive City for Migrants. On the 7<sup>th</sup> of April 2017 Mexico City is equally declared to be a Sanctuary City; firstly for returnees and subsequently, as declared by the Mexico City's Commission to Prevent Discrimination (COPRED, as per its Spanish acronym), for every migrant and refugee: "Mexico City reaffirms its willingness to constitute itself as a Sanctuary City, with solidarity, hospitality and free of discrimination so as to strengthen the dialogue of wisdoms and cultures apart from enriching every type of life, work and coexistence in this city"<sup>7</sup>.

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<sup>7</sup> COPRED. (2017). *Pronunciamento 011 "Día Mundial de las y los Refugiados"*. Available at: <http://copred.cdmx.gob.mx/comunicacion/nota/cdmx-ciudad-santuario-para-personas-refugiados>

Lastly, since the recent promulgation of Mexico City's Political Constitution on the 5<sup>th</sup> of February 2017, the full right to exercise his or hers human rights, as well as to be integrated in every social programme, is to be granted to every person who lives and transits through the City. This is patent both in the Constitution's Bill of Rights and in its article no. 11, paragraph I, where the rights of migrant and people under international protection are stated:

*Migrants, people under international protection and people within any other context of human mobility as well as their families, regardless of their juridical situation, are to be protected by the law and shall not be criminalised by the migrant condition. Authorities will adopt the necessary measures for the effective protection of their rights, by following the criteria of hospitality, solidarity, interculturality and inclusion.*

#### **IV. AN EVALUATION OF PUBLIC POLICY AND PROGRAMMES ON MIGRANTS IN MEXICO CITY**

In order to promote and guarantee the full exercise of the human rights of those who inhabit and transit through Mexico City, along with the publication of the above mentioned laws, it is necessary to generate inter-institutional coordination. This should foster spaces for collaboration, where projects and actions – in line with what was proposed in the legislative realm – can be established and carried out through the Commission on Interculturality and Human Mobility. It is important to point out that this Commission started its first working groups in 2015; presently, these meetings have ceased to take place. The latter, is considered to be an inter-institutional control and coordinative body that seeks to optimise spending and accountability and to establish a human rights perspective as a cross-cutting axis, as well as the principles of social equity, diversity and integrity.

Derived from the above, the Sectorial Program for Hospitality, Interculturality, Attention to Migrants and Human Mobility 2013-2018 began. This program was achieved through the Participation Space of the Rights of Migrants, Refugees and Asylum Seekers of the Federal District's 2014 Human Rights Program and with the participation of NGOs and academia. The CDHDF pointed out the need to promote, through a Rapporteurship, the prevention and attention to human rights violations of migrants and persons subject to international protection in Mexico City; therefore, in May 2017 the Rapporteurship for the Rights of Migrants, Refugees and Subject to International Protection was created. It is worth noting that the Mexico City's Human Rights Commission is a pioneer, amongst other autonomous human rights bodies, regarding this topic.

To establish if this public policy objective is met, an analysis was made. This was done through an evaluation of the public information from different governmental institutions and programs of the City of Mexico; as well the daily experience. The latter was collected for this report through interviews and focus groups with organizations working directly with migrants and refugees. Thus, it is sought to establish that, in addition to the public declarations and the legislative harmonization existing in the City, there are structural gaps. These are

related to access to information and the adequacy of operational norms, and the impact those have on the guarantee of migrants and refugees' rights in Mexico City.

The objective of public policy in this context should be to try to make everyone - both locals and newcomers - feel included in their environment. That generally means creating a broader sense of "we," a sense of identity that goes beyond the prominent lines of nationality and ethnicity. Migration governance cannot remain a matter of control, national security and the economic development of a few, but of generating opportunities for all and building a new sense of community and regional identity beyond nationalities. (Elizalde, 2014:10)

To exemplify the later, the information found in the official pages of the local public institutions and their programs will be analyzed. It should be noted that finding this information was extremely complicated, since there are very few public data regarding beneficiaries in the last seven years, as well as information disaggregated by sex, age and nationality. The information given here, was also found through transparency portals, cross-referencing information with public statements given by public servants and the analysis of the Annual Operational Programs of the institutions.

As it can be seen in the following table, there is very little public information that can help to measure the actual access of migrants to existing public programs in the City. Therefore, it is particularly difficult for citizens and national and international organizations working with migrants to measure the effective exercise of rights through the generation of public policies that contemplate this population in Mexico City already existing projects. On the other hand, as NGOs mentioned in interviews, focus groups and work reports, access to information is extremely limited. This hampers their day-to-day work and, consequently, it becomes doubly inaccessible to migrants living and transiting the City.

In short, as will be seen below, it is impossible to establish if what is stated in local legislation has a direct impact on the daily lives of migrants and their families. This is because public information, except in some cases, does not specify the beneficiaries. In addition, it is important to note that, to date, only one program has changed its Rules of Operation so that migrants, refugees and returnees can have comprehensive access to support; those, are derived from the social programs implemented in Mexico City for people in situations of vulnerability.

Public information gathered on assistance programs for migrants from public institutions in Mexico City			
Institute	Program	Number of beneficiaries	Disaggregation by sex / age and nationality
Ministry of Rural Development and Equity for	Migrant Operative, summer 2017. Welcome to Mexico City.	No available information	No available information
	Migrant line	No available information	No available information
	Program for rural, indigenous and migrant women (indigenous women and indigenous people)	2016: 40 people	Women: 40
	Hospitable and intercultural city, attention to migrants.	2016: in three programs	Men: 14 Women: 30

<b>Communities (SEDEREC)</b>			Men: 22 Women:21 Men: 24 Women: 36
	Guests credential, migrants and their families.	No available information	No available information
	Migrant support fund program	2016: 1,199 supports	No available information
<b>Ministry of Social Development (SEDESO)</b>	Clinic Condesa: Secure Point Program Transsexual Clinical Program. Clinic for women Sanctuary Clinic Program	No available information	No available information
	Gratuity Program	2016: 98 people, it is not specified the number per program.	No available information
	Telephone-base medical advice (Migrant line)		No available information
	Doctor in your house		No available information
Popular insurance		No available information	
<b>Integral Family System (DIF CDMX)</b>	DIF and INM work together to support migrant children and adolescents (the name of the program is not indicated)	No available information for Mexico City	No available information
	Integral Support to Single Mothers residing in the CDMX	No available information	No available information
<b>Ministry of Labor and Employment Promotion (StyFe)</b>	Unemployment insurance <sup>8</sup>	2016: 314 deported migrants	Women: 54 Men: 260
	Employment exchange	No available information	No available information
	Jobs fairs	No available information	No available information
	Support for the Development of Cooperative Societies in Mexico City	No available information	No available information
<b>LOCATEL</b>	CDMX with you	No available information	Women: 54 Men: 260

## V. AN ANALYSIS OF THE SUPPORT, STRENGTHENING AND PARTNERING INITIATIVES OF THE MEXICO CITY'S GOVERNMENT TOWARDS CIVIL SOCIETY

The CSO that have participated in the creation of this Shadow report have pointed out three main issues regarding the support, strengthening and partnering initiatives existent in Mexico City and offered by the local government. The first issues, and the most structural one, is the absence of a comprehensive policy designed to strengthen civil society, both at a federal and local level. This absence entails that the type of support received by CSO working within the migration field varies drastically, depending on the federative entity in which it is based, the current government and migrant situation within the entity, on possible changes in the administration, on the government's policies and on the constant personnel rotation, characteristic of governmental institutions. This means that the support received by CSO is unstable and must be constantly negotiated.

<sup>8</sup> It changed Operating Rules so to include migrants on January 13, 2017. This change was published in the Official Gazette of the Federal District.

The second issue is intimately connected with the institutional scenario within the migration realm in Mexico City, which has been described and analysed throughout this Report. Indeed, the lack of support received by civil society on behalf of the City's Government is combined with and worsened by the delegation of some of the State's responsibilities to civil society, thus contributing towards the saturation of the operative capacity of the latter. Considering the frequent inefficiency of governmental services and policies available to migrants, as well as their lack of information and a widespread discoordination between the federal and the local powers, it is civil society which must guarantee and provide migrant support as the State appears to be unable to guarantee the full and effective exercise of migrants', refugees' and people under international protection's human rights.

This issue was reiterated by every CSO participating in the Report, which agreed that migrants' navigation within the Mexican bureaucratic and institutional system, their possible integration or access to services is unstable and arbitrary, as it depends on the possibility of this migrant having been accompanied by an organisation. In fact, the presence and accompaniment provided by these organisations has a clear impact on the speed and probability that migrants access existent services – such as identity documents, access to health, work, housing, education, etc. – considering the absence of institutional channels for them to access.

For example, one of the participating CSO acknowledged that its workers have, in the past, paid for migrants' housing in hostels in situations in which it is not possible to channel them to shelters. It equally notes that its workers pay medical staff to treat migrants at the organisation, as well as for a refugee child's summer school at a public institution – which should thus be free. Migrants' rights to housing, health and education are evidently recognised in the local legislative framework and public policies, nevertheless, it is CSO which must fill their gaps.

The third issue regards the economic and material realm and represents an aggravating factor to the previously mentioned situations. Participating CSO collectively noted that there are difficulties in accessing the available funds for projects in Mexico City, as well as bureaucratic barriers, such as the need to obtain the Inscription Code to the Federal registry of Civil Society Organisations (CLUNI, Clave Única de Inscripción al Registro Federal de las Organizaciones de la Sociedad Civil) so as to be able to apply for the Social Development National Institute's funding (INDESOL, Instituto Nacional de Desarrollo Social) and an evident reduction of the amount of funding available<sup>9</sup>. This situation is worsened by the inexistence of other types of material support, such as the exemption of property tax, or other types of tax, or even of a support programme for civil society initiatives.

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<sup>9</sup> Even though the reduction of this funding is usually attributed to SEDEREC's budget reduction, this Ministry received 8 million pesos more in 2016 than in 2015 from the Mexico City's Government, considering that in 2017 it received 16 million pesos more than in 2016, with a total of a 233 million pesos budget for 2017. See Gaceta Oficial del Distrito Federal. (2014) *Decreto de Presupuesto de Egresos del Distrito Federal para el Ejercicio Fiscal 2015* (p. 22). Available at: <http://www.aldf.gob.mx/archivo-89196820f02e58c06c0a6320b562e10a.pdf>; Gaceta Oficial del Distrito Federal. (2015). *Decreto de Presupuesto de Egresos del Distrito Federal para el Ejercicio Fiscal 2016* (p. 5). Available at: <http://cgsservicios.df.gob.mx/prontuario/vigente/5639.pdf>; Gaceta Oficial del Distrito Federal (2016). *Decreto de Presupuesto de Egresos del Distrito Federal para el Ejercicio Fiscal 2017* (p. 6). Available at: [http://data.consejeria.cdmx.gob.mx/portal\\_old/uploads/gacetas/e6f472fabadd79dcad8e06fc7252455d.pdf](http://data.consejeria.cdmx.gob.mx/portal_old/uploads/gacetas/e6f472fabadd79dcad8e06fc7252455d.pdf)

## VI. THE HUMAN RIGHTS SITUATION OF VULNERABLE POPULATIONS

This section will analyse the main challenges faced by each population in the context of migration, with emphasis on the particularities of the situation in CDMX.

### a) Children and Adolescents

In relation to the situation of migrant children, accompanied by their families or traveling without company, we find that the biggest problem facing Mexico City is that the legal representation of children and adolescents, the regulation of social assistance centers, and the restitution of the rights of children and adolescents are Powers that depend on the federal scope through the System of Integral Protection of the Rights of Children and Adolescents.

The attention to this migratory group rests with the Federal Office for the Protection of Children and Adolescents, which depends on the Integral System for the Development of the Family (DIF).

This situation brings with it a worrying lack of local initiatives and programs to attend to migrants under 18 who live and transit through Mexico City, that is, to depend entirely on the federal level and not to generate strong public policies in the local level leads to multiple violations of the human rights of this population and lack of attention to their specific needs.<sup>10</sup>

Non-Governmental Organizations (NGOS) consulted for this report point out that, on one hand, the creation of new reception spaces for unaccompanied migrant children and adolescents is indispensable, since spaces that exist today do not necessarily specialize in migrant population but in street children, they are completely overrun in space and personnel and they depend on NGOs. For its part, the DIF at national and local level also does not have the adequate infrastructure to effectively serve these children, despite its mandate, as it is established in the Migration Law.

In terms of health, it has been detected that the NGOs resolves access to services through the guest visitor credential of SEDEREC and the popular insurance, but a clear path of care has not been established through the DIF although they point out that there is an Interdisciplinary Group that analyzes the problem of migrant children but has little contact and clarity about its action and its scope.

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<sup>10</sup> The Committee on the Rights of the Child, in its General Comment No. 5, pointed out the need for States to ensure adequate territorial coordination between the federal government and local governments when implementing policies aimed at this population (UNICEF, 2013).

On the other hand, in the educational field it has been detected that the enrollment of children and adolescents without migratory documents is very complicated at the time of entering to schools or the presentation of exams in the open modality by the National Institute of Education For Adults.

The same thing happens with children and adolescents returnees, who, like the children and adolescents recognized as refugees or with a humanitarian visa, cannot attach their school documents or carry out the corresponding revalidation.

Regarding the issue of discrimination and exclusion, as pointed out by Sin Fronteras, I.A.P. In their diagnosis, in CDMX, migrant children and adolescents face a process of discrimination due to their way of speaking, dressing and their migratory situation, they also refer to mistreatment by the officials of the National Institute of Migration (In cases in which they were in Migratory Station).

This report agrees with the fact that "it is still necessary to work in the harmonization of local and federal normative frameworks, taking into account the pro-person principle, and to foster the crossing and solidarity between different organizations, agendas and causes of human rights, of migrant children" (Sin Fronteras, 2017:80) and we highlight that, through the experiences gathered in interviews and focus groups, it has been detected that in the field of psychosocial care for this group, especially those children who have suffered violence, there is a worrying void since no specific proposals have been developed to address this situation.

## **b) Women**

The main obstacles faced by migrant women in the country, and in particular in the CDMX, lie in the field of health, policies and employment. In relation to the health field, the central problem faced is gender-based violence. Indeed, although there is no statistical information on the number of migrant women who are victims of violence, it is possible to conclude from the information provided by the participating organizations, as well as from various research work, it is possible to conclude that a substantial number of migrant women suffer from different types of gender-based violence - physical, sexual, psychological - both at the place of origin, transit and destination. Being in a situation of special vulnerability during their journey, in particular if they are transported on foot or by public transport, the risk of sexual violence, being trafficked for sexual exploitation or forced prostitution<sup>11</sup> is exacerbated.

This situation is complicated by obstacles: the difficulties in accessing health services by victims of violence and the lack of psychological support for them by government actors. Examples of these situations were described by the participating organizations: On one hand, SIPAM notes that although the prophylaxis of Sexually Transmitted Infections (STIs) and Acquired Immunodeficiency Virus (HIV) in cases of sexual violence

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<sup>11</sup> Kuhner, G. (2011). *La violencia contra las mujeres migrantes en tránsito por México* (p. 21). Available at: <http://corteidh.or.cr/tablas/r26820.pdf>

(in the first 72 hours) is a norm imposed at the federal level by the Health Secretary,<sup>12</sup> cases have been documented in which local and municipal institutions refuse to guarantee this right to victims.

This is particularly worrying considering that, during their journey, migrant women are usually in precarious situations that require them to exchange sex to meet their survival needs, which radically increases the risk of contracting sexually transmitted infections. In addition, several NGOs have pointed out that medical care for pregnant migrant women is adequately carried out if women are accompanied by an organization, but if they are alone, they are afraid of approaching pre-delivery health services for fear of not being cared for or deported if they do not have migratory documents. Similarly, they argue that in cases of psychosocial disability, women have little support because they are labeled as "problematic" without understanding that many times, this disability has been unleashed after living a traumatic experience in the migration process.

These cases emphasize not only existing barriers to access to health services, but also the general situation of discrimination and racism that permeates the country, including the CDMX. With regard to vital psychological support in cases of essential sexual violence due to the traumatic experiences inherent in most migratory journeys by Mexico, a diagnosis of Sin Fronteras states that mental health services for survivors of violence are absent from politics on migration.<sup>13</sup>

This last statement leads us to the second field mentioned: politics. Many of the challenges specifically faced by migrant women in Mexico focus on the lack of a gender perspective in the normative framework, public policies and rules of operation in this area. This is materialized both at a macro level - in the absence of specific considerations to the situation of migrant women, partly evident in the high levels of impunity in cases of complaints made by women for the commission of crimes against them,<sup>14</sup> which have not resulted in sanctions or reparations - as on a micro level - in the discriminatory acts documented against migrant women and human rights defenders that accompany them, resulting in the revictimization of the former and the burning out of the latter.

It is necessary to include the voices and perspectives of women migrants in the process of public policy making,<sup>15</sup> mainstream gender perspective in justice-seeking institutions, in the delegations and in the actors responsible for migration, namely SEDEREC, the Ministry of Health, COMAR, among others, and to sensitize public servers of these same institutions.

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<sup>12</sup> Centro Nacional de Equidad de Género y Salud Reproductiva. (2012). *Atención Médica a Personas Violadas* (p. 16). Available at: <http://www.cdi.salud.gob.mx:8080/BasesCDI/Archivos/Violenciafamiliarystgenero/YA%20280612-personasvioladas.pdf>

<sup>13</sup> Sin Fronteras. (2017). *Diagnóstico interseccional sobre la situación y necesidades de mujeres; niñas, niños y adolescentes; y personas LGBTTTI migrantes y sujetas de protección internacional en la Ciudad de México* (p. 66). Available at: <http://sinfronteras.org.mx/wp-content/uploads/2017/06/Diagnostico-sin-marcas.pdf>

<sup>14</sup> Sin Fronteras. (2017). *Diagnóstico interseccional sobre la situación y necesidades de mujeres; niñas, niños y adolescentes; y personas LGBTTTI migrantes y sujetas de protección internacional en la Ciudad de México* (p. 65). Available at: <http://sinfronteras.org.mx/wp-content/uploads/2017/06/Diagnostico-sin-marcas.pdf>

<sup>15</sup> *Ibidem*, p. 68.

Finally, migrant women face serious obstacles in their workplace. Indeed, women are not only affected by the lack of a labor integration policy, which hinders access to work worthy of all migrants, but also by three other elements: The "absence of immigration documents, childcare and lack of access to spaces such as day care centers, and xenophobia"<sup>16</sup>. Due to the widespread existence of gender stereotypes and discrimination, deeply rooted in the country, women are associated with care - at home and in the family - with the private sector and with feminized professions, such as domestic work or factories at which imported parts are assembled by lower-paid workers into products for export.

Public policies are needed to avoid these stereotypes and to promote the decent inclusion of women migrants in several sectors of the labor market, something that is not verified in the public policies in this area, such as the Program for Rural Women, Indigenous Women, And migrant from SEDEREC. Indeed, this program, dedicated to the empowerment of women towards participatory citizenship, has financed a total of 40 projects promoted by women migrants, which are concentrated mainly in the sectors of aesthetics, restaurant, textile - sectors mostly feminized-. The lack of gender perspective of this program is evidenced, in the lack of incentives and tools for these women to enter other sectors of which they have been historically excluded.

### c) LGBTI

The human rights situation faced by the migrant LGBTI population in the country is characterized by violence and discrimination, mainly in the areas of health, politics and employment. Considering that there is a lack of statistical information about this group in migratory context – similarly to other groups –, it is particularly difficult to understand the magnitude and severity of the situation, which will however be exemplified below with some cases documented by NGOs.

In terms of health, including mental health, of migrant LGBTI population, it should be noted that a phenomenon that marks them, is the systematic violence suffered by these people throughout their lives. This violence, which is mostly sexual and frequently begins in infancy, is triggered by the existing patriarchal and heteronormative system that discriminates and hypersexualizes LGBTI persons, particularly transsexual women. However, despite the obvious need for this population to have free access to health services, especially quality sexual health, their access is null or scarce. The organization Sin Fronteras identifies some of the obstacles faced by the migrant LGBTI population regarding their right to health, including: health personnel lack of knowledge about the right of migrants to health, LGBTI people unawareness about their right to free access to these services and the reluctance and fear felt by these same people to approach health

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<sup>16</sup> Sin Fronteras. (2017). *Diagnóstico interseccional sobre la situación y necesidades de mujeres; niñas, niños y adolescentes; y personas LGTBTTI migrantes y sujetas de protección internacional en la Ciudad de México* (p. 66). Available at: <http://sinfronteras.org.mx/wp-content/uploads/2017/06/Diagnostico-sin-marcas.pdf>

institutions "for fear of being discriminated because of their national origin, migratory situation or gender expression".<sup>17</sup>

These difficulties were also mentioned and exemplified by the organizations participating in this Report. The NGOs *Colectivo Ustedes somos Nosotros* and *SIPAM* emphasized two problems in this field: the first one, is the difficulty of transferring medical cases from entity to entity and, the second one, the obstacles that exist for long-term access to antiretroviral treatment. The first illustrates how the right of migrants to travel with medical records it is not materialized in practices; mainly because of the lack of coordination between the federal and local levels, as well as mistakes in the records (false or poorly registered names) and erroneous understanding of patient privacy principle.

The second example was documented at the Condesa Specialized Clinic, in which long-term treatment with antiretrovirals was denied to a man with HIV. In that case, the migrant in transit was guaranteed the necessary treatment only for three days, even though it is the responsibility of the clinic and patient's need to obtain it for three months. The reason for this, arises from the lack of budgetary autonomy that impacts the Clinics antiretroviral availability. It is important to point out that its budget depends on the federal scope; therefore, the people who request those medicines must have a current medical records and CURP. That results in limited capacity to attend the need of the population. It should also be noted that, although there are public mental health services in the CDMX – mainly focused on psychiatry and not psychology –, the responsible staff is not adequately trained on the particularities of the LGBTI population (especially those in migratory transit). Consequently, the attention is only given in one place and its capacity has already been exceeded.

At the same time, in Mexican society, exists a structural discrimination to LGBTI population, especially those in contexts of mobility. This discrimination is verified in existing public policies, which do not consider the particular needs of this population, such as: emergency accommodation for victims of violence, access to identity documents that reflect gender identity or broad awareness programs for public servants, employers, etc. Training in non-discrimination and gender perspective is essential and urgent, especially considering the systematic acts of discrimination suffered by LGBTI people, that prevents them from enjoying their rights.<sup>18</sup>

Finally, in the workplace, discrimination and hypersexualization of LGBTI people – especially transgender women –, is materialized in barriers that prevent access to decent work and drive them to prostitution. This situation was described by several participating organizations, as well as in the research work done by *Sin*

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<sup>17</sup> Sin Fronteras. (2017). *Diagnóstico interseccional sobre la situación y necesidades de mujeres; niñas, niños y adolescentes; y personas LGBTTTI migrantes y sujetas de protección internacional en la Ciudad de México* (p. 74). Available at: <http://sinfronteras.org.mx/wp-content/uploads/2017/06/Diagnostico-sin-marcas.pdf>

<sup>18</sup> Sin Fronteras. (2017). *Diagnóstico interseccional sobre la situación y necesidades de mujeres; niñas, niños y adolescentes; y personas LGBTTTI migrantes y sujetas de protección internacional en la Ciudad de México* (p. 73). Available at: <http://sinfronteras.org.mx/wp-content/uploads/2017/06/Diagnostico-sin-marcas.pdf>

*Fronteras*.<sup>19</sup> CEPROIAC points out that in their experience with young transsexual women, their access to employment was denied on several occasions when the employers knew that in addition to being transsexuals, they were Central American.

#### **d) Returned Migrants**

In terms of return, NGOs working with this population have repeatedly pointed out that people who return to Mexico after being deported, they frequently do not enjoy the rights they have as Mexicans. In a strict sense, being nationals, access to services and the effective enjoyment of their rights should be more agile; nonetheless, it is often seen obstacles in terms of programs operation rules, such as the recognition of consular registrations as an official document. Those impediments make it difficult for them to be recognized as fellow citizens.

On the other hand, NGOs argue that the state has told them that they are duplicating work the government is already doing. But in reality, it is not that those actions are duplicated, but that there is a gap in access to information for returnees regarding the services and rights they have. Additionally, they point out that, governing bodies at local level, underestimate the accompaniment done by civil society. An example of this is the Return Network that has been created by NGO, returnee migrants and academia. This Network has had multiple working meetings, but had little involvement of high-level public servants, until well-known human rights defenders began to participate.

Furthermore, it is important to note that, as advocates who work directly with returnees have said, the normative framework already exists, but the integration mechanism has not been set in sequence. That is to say, there should be a route for resolving first the access to identification documents, then work, health, education and integration into a life – right that implies a process of grieving what they left behind, which can be their family, school, way of life, language, etc.

When all the efforts and Ministries are disjointed, there is no transversal policy. Efforts and programs do not go hand in hand, each institution gives the support according to their budgets and their reports; that results in lack of collaborative work and efforts. For example, what relationship can the Ministry of Public Education (SEP) have with the Ministry of Labor? The SEP is the entity that certifies skills; such certification is necessary for employment. The Ministry of Labor must create the frameworks and conditions so that workers who access the labor market, have all the benefits and services as defined by the Law; hence, the right to an endorsement to gain access to housing could be derived (Testimony of IIPSOCULTA, focal group). Therefore, joint work and agile mechanisms become crucial.

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<sup>19</sup> *Ídem*.

It is also pointed out that an effort has been made by civil society to cover these institutional gaps; thus, there are calls for both local and federal government to be accountable for what they are doing. That is to say, without the construction of indicators, it is impossible for NGOs to monitor whether or not the law is being implemented and, consequently, to articulate institutions, so that rights are respected from a human security and inclusion approach.

To sum up, despite the fact that Mexico City has declared itself as a Sanctuary City for returnees, a clear plan of coordination at the institutional level must be strengthened; so that Mexicans returning know the related programs that exists – especially since many of the returnees do not have support networks at local or community level.

## VII. FINAL CONSIDERATIONS

From the information given in this report, it was detected some actions to be undertaken; those are the following:

1. Urgently restart the work of the Intercultural and Human Mobility Commission of the Federal District.
2. Update the Rules of Operation of Social Programs so that people have access to them regardless of their immigration status; thus, giving validity as a local official identification to the guest visitor card issued by SEDEREC.
3. Generate impact indicators that are accessible, this in order to effectively measure the functioning of social programs implemented in Mexico City. Those indicators should present the information disaggregated by sex, age and nationality.
4. Create shelters for migrants in transit, unaccompanied minors, and refugee managed by the Government of Mexico City. This activity should be done with the advice and collaboration of NGOs.
5. Generate a culture of hospitality through sensitization and training of public servants that work with migrants in local government institutions and create impact indicators to measure progress.
6. Generate public policies to fully exercise the rights of migrants, refugees and persons subject to international protection; those in accordance with the provisions found in the Political Constitution of Mexico City, especially the ones referred in Article 11 and the Rights Charter.
7. Broadly disseminate and promote the rights of migrants, refugees and those subject to international protection, as well as existing plans and programs in Mexico City.
8. Strengthen the coordination among NGOs working with migrant and refugee populations.
9. Establish mechanisms for migrants to have a decent life and work, regardless of the support given by NGOs.

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