

**REPORT REGARDING SEVERAL ISSUES CONCERNING THE HUMAN RIGHTS
OF MIGRANTS IN TRANSIT THROUGH MEXICO ADDRESSED TO THE
COMMITTEE ONTHE PROTECTION OF THE RIGHTS OF ALL MIGRANT
WORKERS AND MEMBERS OFTHEIR FAMILIES**

February 22, 2011

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1. Mexico signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter CMW for its English acronym) in 1991 and ratified it in 1999. However, 12 years after its ratification and although Mexico is a State party to several international and regional human rights instruments, the conditions of the migrants passing through the country continue to threaten their human rights. In order to address several issues published in the list of issues that must be addressed by the Committee for the Protection of the Rights of all Migrant Workers and Members of Their Families upon reviewing Mexico's second periodical report, the group of organizations mentioned above, submit this report.

A. General Principles

The information contained in section A of the document is based on the initial Bill presented to the Senate on December 09, 2010. The Bill was amended by the Senate on February 24, 2011 before it was passed. The Bill will next be sent to the House of Representatives where it may be further modified before being voted on by this body. As a result, the information in this section may not be current, but it is presented to provide an understanding of the legislative process to date as well as the content of the initial Bill.

Comprehensive Reform to the General Law of Population

2. On December 09, 2010, the Bill proposed to become an executive order by which the Migration Law is issued (hereinafter, the Bill) was presented before the Senate of the Republic. While preparing it there was no consultation with civil society organizations (CSO), therefore several CSO and academics have gathered in a Work Group about Legislation and Migrant Population in order to perform an analysis of the Bill¹. From said analysis the following stands out:

3. The Bill represents an advance in the fulfillment of the CMW by establishing rights of access to education (art. 30 CMW) and health (art. 28 CMW) for migrants, as well as access for themselves and their families to acts of the civil registry (art. 29 CMW), regardless of their migrant status. Likewise, the elimination of concepts such as dependency and expanding access to migrant regularization, (art. 69 CMW) shall favor the security and protection of groups such as migrant women, boys, girls and teenagers. However, the human right approach continues having a declarative nature by not contemplating a definition of institutions, instruments and mechanisms from which a public policy that effectively guarantees the rights of migrants, particularly the rights of all those passing through national territory, can be elaborated. Next the most pressing needs and voids are mentioned.

4. Non discrimination with Respect to Rights (Art. 7 CMW)

Inclusive language: it is necessary to review the Bill's text in order to substitute the use of excluding and inappropriate words and expressions: eliminate the distinction between the use of foreigners and migrants and only use migrants; instead of underage children, use girls, boys and teenagers.

Gender approach: there is no transverse approach to gender, which should be among the guiding principles of the Law, as in an assessment system with indicators to measure its differential impact on women and men.

Migrant Children: it is favorable that the Bill includes the principle of the higher interest of the child, however the latter is declarative and loses its operative nature by keeping a guardianship approach whereby boys, girls and teenagers are to be protected and are not subjects to rights. The Bill is not clear with regards to migrant children who are unaccompanied by contemplating only a guardianship role, and not one of grantor of rights, on the part of the Integral System for the Family (DIF), given that it does not provide for the DIF's articulation with the judicial system and law enforcement for the investigation and prosecution of crimes and the effective safeguard and restitution of rights. It does not provide for the access of migrant children to a public, specialized and free counsel and defense.

5. Arbitrary or unlawful interference in the privacy (Art. 14 CMW). Right to liberty and security of person, effective protection by the State, due process and justice (Art. 16 CMW), presumption of innocence (Art. 18 CMW)

Verification visits in private homes: the Bill provides on its art. 94 the possibility to carry out verification visits in private homes under the sole basis of a complaint presented by

individuals or corporations, without the need for motive or legal basis, or guarantees of due process to carry out the action, and without the need of a court order².

Migrant verification filters: arts. 93, 95 and 98 of the Bill grant the authorities with ample powers to establish migrant verification filters outside of the places established to that effect, namely it establishes the possibility to carry out “operatives” and “volantas (*mobile verification operatives*)”. The latter contravene arts. 16.2 and 3 of the CMW, are unconstitutional and in practice put the lives and integrity of migrants at risk, foster corruption of public officials and generate conditions to stigmatize and discriminate persons. They lead to acts of disturbance to nationals and non-nationals, which contravenes national and international laws. No administrative authority has the faculty to request that Mexicans identify themselves and credit their nationality, hence such measure could only be applied with the establishing of profiling under discriminative criteria that would allow the authority to assume that a person is a migrant³.

Detention and access to justice: Art. 100 of the Bill established the possibility of detaining or “securing” migrants in the Migrant Stations. In order to respect the migrants’ human rights it is indispensable that securing a person must be recognize as a form of administrative detention subject to the temporal and legal limits of all administrative procedure according to the Constitution and other relevant regulations. It is also important to consider alternatives to a detention, which must not be the rule, and in any case must always be monitored by the CSO and human rights public organisms⁴.

Article 112⁵ of the Bill provides for the extension of migrant detention “when an administrative or judicial resource has been put forward where matters inherent to their migrant situation in national territory are claimed; or a proceeding for the protection of constitutional rights (*Juicio de Amparo*) has been initiated and an express prohibition from the competent authority has been issued impeding the migrant to be moved or to leave the country”. This article contravenes art. 16.8 of the CMW and is unconstitutional by being opposite to the guarantee of access to justice given that it inhibits migrants from defending their rights and makes them responsible for the lack of celerity of the justice system. Neither the Proceeding to Protect Constitutional Rights (*Amparo*) Law nor jurisprudence impedes migrants to be freed or regularized in the aforementioned circumstances. The latter contradicts art. 11⁶ of the same Bill, which establishes the migrants’ rights to justice and due process.

Right to a defense and consular notice: Art. 110⁷ of the Bill establishes the detained migrants’ right to a defense declaratively, given that it does not provide the means to make it effective as the effective stipulation of public defenders trained in the subject, access to directories of legal firms that provide pro bono services and CSO lawyers that might assist them.

Presumption of innocence, double penalty and access to a defense: The Bill violates arts. 18.2 and 18.6 of the CMW in terms of the presumption of innocence and applying of double penalty in its art. 44⁸ and art. 65⁹.

Impact indicators of training different authorities on the subject of prevention of people trafficking

6. People trafficking is a massive violation to the human rights of migrant workers and the members of their family. This has been so recognized by the Mexican State, which has obliged it to carry out actions tending to train and sensitization of the migratory personnel. To this date said training has been carried out at a basic level and primarily with respect to the content of the international instruments and national legislation on the subject without the necessary instruction for its practical application.

7. The content of said training on the subject of people trafficking, has not integrated other international instruments directly related to the protection of the human rights of migrants and their families or international instruments tending to the protection, assistance and attention of the victims. One of the challenges regarding training is the continuity given the constant rotation in personnel. Likewise, there is a need to develop training with specific materials for personnel in each level and their respective responsibilities.

8. The efforts that the State has made for the integral attention of the victim of sexual and labor exploitation trafficking identified within the migrant population passing through or staying in Mexico, have been insufficient mainly due to the lack of comprehension of the responsibilities, powers, faculties and obligations of the migration agents when identifying (at the migration stations and in the migration filters) and protecting the victims. Combined with the lack of adequate and properly labeled human and financial resources for the protection and attention of the identified victims.

10. Childhood Protection Officers (CPIs) have the power to interview unaccompanied migrant boys and girls identified as possible People Trafficking victims, according with article 7 IV C of the *Bulletin through which the procedure for the attention of migrant unaccompanied Boys, Girls and Teenagers is instructed, published in the Official Journal on February 12, 2010 (Bulletin No. 001/2010)*. However the lack of training regarding the rights of boys, girls and teenagers contemplated in several instruments both international and national, as well as the little personnel destined to the attention of this population and the lack of resources destined to said purpose, have caused several migrant boys, girls and teenagers to be in situations of prolonged detention or in a constant exchange in guardianship between the different authorities linked to the subject, due to the lack in clarity of powers and attributions among said government institutions.

B. Part III of the Convention

Articles 10, 11 and 16. Humanitarian Visas

12. Regarding humanitarian visas mentioned in paragraph 172 of the report submitted by the Mexican government, it should be noted that the information has inaccuracies that must be clarified. Administrative Directive CRM/189/2007 only benefits witnesses or victims of

crimes and not migrants who are victims of human rights violations. Likewise, witnesses or victims of crimes are not granted a “humanitarian visa” but a Non-Migrant document (FM-3), under the “Administrative Directive CRM/189/2007”. On the other hand, humanitarian visas are granted under Administrative Directive CRM/04/07 prior written agreement based on humanitarian cause or public interest. Possibly this inaccuracy in Mexico’s report arises from the fact that both humanitarian visas as well as visas to victims or witnesses of a crime are contemplated in the same section (section I clause L) of the *Agreement through which the Migration Criteria and Procedures Guide of the National Migration Institute is issued*, published in the Official Registry of the Federation on January 29, 2010. However, it is important that in the information that the Mexican State provides, humanitarian visas and CRM/189/2007 visas are properly distinguished, otherwise the information shall be inaccurate.

Articles 10, 11 and 16. Conditions of the Detention Centers¹⁰

13. The “Agreement through which the operating standards of the detention centers are issued” (paragraph 157 of the report submitted by the Mexican government) contains some progress in respect to the conditions of the detention centers for migrants, however, it also contains stipulations that obstruct the access to information in respect to the operation of the Detention Centers on the part of the civil society and limits the legal defense of the detainees.

14. The physical conditions of the Detention Centers located in the Federal District and in Tenosique, Tabasco, are more or less acceptable. However, the recreation spaces are very limited, there are few recreation activities and there are no permanent medical services. There is access to communication but this is relative and discretionary. For example, only in some cases are detainees allowed to make a free phone call as a right. For detained migrants to be able to make a phone call they must have a phone card and it should be noted that the place where phone cards can be purchased is generally located outside the Detention Centers and, therefore, their purchase depends on a “favor” from one of the Center’s officials.

15. For its part, the conditions of the Detention Center located in Torreon do not comply with the international standards on the subject. It has been detected that in this center there is insufficient space and many times there are no individual beds, so migrants sleep on benches. There is no natural lighting or windows that allow ventilation. There is no medical service and access to information and communication is limited. There are no recreation areas and people are often not allowed to leave their cells.

16. Furthermore, it has been found that migrants are not frequently put in touch with their consular representative. In addition, people don’t have a lawyer or legal assistance to help them understand and receive support during their detention or deportation.

Article 16. Migration verification¹¹

17. Most migrants who are irregularly passing through Mexico ride on a cargo train, exposed to the sun, rain and cold. The vulnerable situation they are in while they travel, directly exposes them to organized crime, as well as to the migration enforcement operations of the Migration National Institute. These raids are carried out under conditions that place the migrants' integrity at risk given that they take place while the train is in movement, many times during the night, in places that cause people to be faced with high risk situations (for example, going into and running through wetlands, through mountain areas where organized crime groups are waiting to capture them or through train tunnels, among others).

18. It is important to point out that utilizing the appearance of people traveling through Mexican territory as criteria to request that they prove their legal status in the country is not reasonable. As the UN's Human Rights Committee pointed out, “(...) people's mere physical or ethnic characteristics that are subject to the same [controls] must not be taken into account as indication of their possible legal status in the country.”¹²

19. Due to the foregoing, it is clear that while the migration enforcement operations continue to have the purpose of detaining foreigners, without a prior investigation that establishes that they do not have the necessary documents to accredit their legal status in the country, these raids must be considered unconstitutional.

20. Furthermore, it should be noted that there are testimonies that credit that some operations have been carried out with guns or electric clubs, as well as with verbal and physical aggressions towards migrants and their defenders. There are cases in which the authorities in charge of the operations have arbitrarily entered private property and religious shelters.

21. A notorious characteristic of these risky enforcement operations is the fact that they are carried out, on many occasions, by agents who are unaware of the limits of their authority, as well as by police forces from different levels that do not have the authority to participate in such actions, without receiving any sanction for their actions. As immediate consequence of these operations, massive deportations are carried out, without the required procedures for each individual, thus violating due process guarantees or the right to request asylum.

22. As has been indicated in paragraph 5, “the operations contravene arts. 16.2 and .3. of the CMW, are unconstitutional and in practice put the lives and integrity of migrants at risk, foster corruption of public officials and generate conditions to stigmatize and discriminate persons. They lead to acts of disturbance to nationals and non-nationals, which contravenes national and international laws” We therefore demand their elimination, as well as a full indemnization on the part of the Mexican State, for the migrants and their families whose physical or psychological integrity has been affected as a result of these operations.¹³

Articles 22 and 23. Access to Justice and Due Process

23. The lack of access to justice is a systematic problem for migrant workers and their families. One of the barriers that migrant workers face in the access to justice is the scarce knowledge on the part of judges of this group's human rights. However, the Mexican State has not taken measures to train the judicial personnel on the content of the Convention or to guarantee the conditions for migrant workers to have effective access to justice. The procedure for damages for migrant workers in an irregular situation is not clear and to date there has only been one claim for damages against the Mexican State filed on November 16, 2010 by the Australian foreigner Stephen Compton. The Mexican State has not properly addressed this claim.¹⁴

24. On the other hand, the effective respect of due process in the deportation of migrant workers and their families is still a pending subject for the Mexican State. The declaration process is almost ceremonious. The information given to people who are subject to migration administrative procedures focuses on their obligations and the rules of residence and schedules allowed for activities. However, very few times are they effectively informed of their rights. For example, in general the administrative stipulations they have violated are not explained to them, and no migrant worker subject to a migration administrative procedure has access to legal aid and/or a public defender to assist them.

Article 29. Right to an Identity

25. Migrant workers in an irregular situation face difficulties when trying to register their Mexican children before the civil registry. Migrants who attempt to enforce this right without the aid of a non-governmental organization have little chance of success.

26. When a migrant worker wishing to register his Mexican children does not have the original birth certificate duly legalized and with an Apostille stamp, the minor's grandparent's personal data is omitted when registering the minor and only the parent's personal data is included.

27. Finally, there are few places in Mexico where the rights of minors to have a birth certificate, with the indispensable identity elements, are respected and guaranteed. For example, the State of Chiapas has carried out relevant reforms that should be replicated at a federal level and by each of the States in the Federation.

C. Part VI of the Convention

Article 68. Trafficking cases

28. The National Migration Institute (*INM Spanish acronym for Instituto Nacional de Migración*) has implemented new criteria through the Guide of Proceedings and Migration Criteria of 2010. People with a Non-Migrant and Migrants with work authorization status are no longer connected to a specific employer, but they receive authorization to work within a labor sector (as that of services for example). These new procedures can be interpreted as a way to prevent work exploitation and gives migrants the possibility to change employer without requesting permission and paying rights before the *INM*. It is important that this practice be reflected within the new migration legislation (which currently is a Bill of law). Also it would be important to carry out campaigns for migrants to know that they can change employers, especially among sectors with greater vulnerability to exploitation (domestic workers, entertainment sector, and agriculture).

29. The Special Prosecutor's Office for Violent Crimes against Women and Trafficking (FEVIMTRA *Spanish acronym for “Fiscalía Especial para los Delitos de Violencia contra las Mujeres y la Trata de Personas”*) has faced difficulties in exercising its jurisdiction due to the fact that the law, as well as the agreement through which FEVIMTRA was created, establishes jurisdiction among the different agencies within the General District Attorney's Office of the Republic is in an unclear manner, and in some cases jurisdiction is granted to two or more agencies. In practice FEVIMTRA has lost cases due to the fact that judges have declared lack of jurisdiction. For example, in a case that resulted in a recommendation from the Human Rights National Committee (CNDH *Spanish acronym for “Comisión Nacional de los Derechos Humanos”*) (20/2008, available at www.cndh.org.mx) the judge declared lack of jurisdiction and returned the case to the state level court without achieving a sentence or damages for the victim, a girl from Guatemala.

Conclusion

30. The situation of generalized violence in Mexico and the violence exercised by civilians and authorities against migrants in particular, marked by the impunity and corruption, require that Mexico review its international obligations and take action to comply with them in order to ensure that people in Mexican territory are able to fully enjoy their human rights regardless of their migration status.

¹ The members of the Work Group about Legislation and Migration Policy are: Alianza Nacional de Comunidades Caribeñas y Latinoamericanas (NALACC), Centro de Derechos Humanos Fray Matías de Córdova, Coalición Pro Defensa del Migrante de Baja California, Dimensión Pastoral de la Movilidad Humana, FUNDAR Centro de Análisis e Investigación, I(DH)EAS, Instituto de Estudios y Divulgación sobre Migración (INEDIM), Instituto para las Mujeres en la Migración (IMUMI), Red por los Derechos de la Infancia den México (REDIM), Servicio Jesuita a Migrantes México (SJM-MEX), Sin Fronteras, I.A.P., Gisele Lisa Bonnici, Consultant/Board of Directors INEDIM, José Antonio Guevara, Consultant, Karina Arias, Consultant, Leticia

Calderón, Instituto Mora, Manuel Angel Castillo García, Board of Directoris INEDIM/Grupo Guatemala – México Migration and Development.

² Article 94. - The Institute will receive and address the complaints made for the alleged commission of crimes described in this Law, which can be filled through any means.

³ Article 93. - The Institute shall carry out verification visits to prove that foreigners that are in national territory fulfill the obligations provided by this Law and its Regulation.

The hypothesis for the Institute to carry out a verification visit are the following:

- I. Confirm the veracity of the data provided in migration procedures;
- II. With reason of the reception and presentation of complaints regarding the alleged commission of crimes described in this Law.
- III. When there is a warning that the term of stay of foreigners in the country has expired, and
- IV. For the attainment of the necessary elements to apply this Law, its Regulation and other legal stipulations applicable, so long as their actions are founded and based.

The verification visits indicated based on the stipulations of fraction II of this article will be made by requesting the collaboration of the Federal Police force.

The power to carry out verification visits shall be exercised pursuant to law given that these are matters of public order.

The order providing for a migration verification shall be issued by the Institute and specify the person responsible for the proceeding and the personnel assign to carry it out, the place and area that shall be verified, the purpose of the verification, its scope and the legal stipulations applicable upon which it is based and justified. Article 95. - Foreigners, when are so required by the Institute shall prove their regular migration status in the country, under the terms indicated in this Law and its Regulation.

Article 98. - In addition to the established places destined for the international transit of people, the Institute may carry out migration reviews within national territory for the purpose of proving the migration status of foreigners. The order providing for the migration review shall be issued by the Institute and specify the one responsible for the proceeding and the personnel assigned to carry it out; the duration of the review and the geographical area or place where it shall be performed.

⁴ Article 100. - The detention of foreigners in migration station or places equipped for that purpose is of public order, while their migration status in national territory is determined.

The detention of foreigners is a measure issued by the Institute, through which the temporal lodgings of a foreigner is agreed, when one of the hypothesis stipulated in article 145 of this Law are incurred, with the purpose of solving its migration situation while in National Territory.

⁵ Article 112. - The Institute shall resolve the legal situation of foreigners who are being detained in a period no greater than 15 business days, counted from the time of the detention.

The lodging in the migration stations can only exceed the 15 business days referred to by the previous paragraph when any of the following hypothesis happen:

- I. There is no reliable information about his identity and/or nationality, or there is a difficulty in attaining the identity and travel documents;
- II. That consulates or consulate sections of the country of origin or residence request more time for the issuance of the identity and travel documents;
- III. That there is an transit impediment by third countries or an obstacle in establishing the travel schedule to the final destination;
- IV. That there is a physical or mental illness or disability medically proven which makes travel for the detainee impossible;
- V. That an administrative or judicial resource has been filled where issues inherent to the migration status in national territory are being claimed; or a proceeding for the protection of constitutional rights(*Amparo*) has been put forth and there is an express prohibition from a competent authority for a foreigner to be moved or for him to leave the country, and

In the hypothesis of fractions I, II, III and IV of this article the lodging of foreigners in migration stations cannot exceed of 60 business days.

Once said term has lapsed, the Institute shall grant them visitors status with permit to receive a compensation in the country, while the hypothesis for which said status was granted to them continues. Once the same has been exhausted, the Institute shall determine the migration status of the foreigner.

⁶ Article 11.- In any case, regardless of the migration status, migrants shall be entitled to the administration and enforcement of justice, at all times respecting the right to a due process, as well as filling complaints on human rights issues, in accordance with the stipulations of the Constitution and other applicable laws.

⁷ Article 110.- Every detainee, where applicable, shall have the following rights upon entering a migration station:

- I. Know the location of the migration station where he is being lodged, of the applicable rules and services to which he shall have access;
- II. Be informed of the reasons for entering the migration station; the migration proceeding; his right to request the acknowledgment of his refugee condition; of the right to regularize his stay under the terms of articles 133, 134 and 135 of this law, where applicable, of the possibility of voluntarily requesting the assisted return to his country of origin; as well as the right to file an effective resource against the Institute's resolutions;
- III. Receive protection from his consulate representation and communicate with it. In the event that a foreigner wishes to receive the protection of its consulate representation, the means to communicate with the same shall be provided as soon as possible;
- IV. Receive in writing his rights and obligations, as well as the instances where he can file his complaints and claims;
- V. That the procedure be founded by a competent authority and the right to receive legal assistance, offer proofs and argue what they deem appropriate, as well as to have access to the records in the administrative migration file;
- VI. Have a translator or interpreter to assist in the communications, in the event that he does not speak or does not understand Spanish;
- VII. Access to telephone communication;
- VIII. To receive during his stay a dignified space, food, basic needs articles for his personal grooming and medical attention in the event of being necessary;
- IX. Be visited by his family members and legal representative;
- X. Participate in recreation, educational and cultural activities organized within the facilities;
- XI. Not be discriminated by the authorities due to his ethnic or national origin, sex, gender, age, disability, social or financial status, health status, pregnancy, tongue, religion, opinion, sexual preferences, marital status or any other circumstance that has the purpose of hindering or annulling the acknowledgement or exercise of his rights and the real equality of opportunities;
- XII. Receive a dignified and humane treatment during his stay at the migration stations;
- XIII. That the Migration Stations have separate lodging areas for women and men, guaranteeing at all times the right to preserve the family unity, except for cases where the separation is considered by reason of the superior interest of the girl, boy or teenager;
- XIV. That Migration Stations have separate areas for unaccompanied migrant girls, boys and teenagers for their lodging while they are channeled to institutions where a proper attention can be provided, and
- XV. Others established in stipulations of general character issued by the Ministry.

⁸ Article 44.- Without prejudice to the stipulations of article 43 of this law, the migration authorities can deny the issuance of a visa, the legal entering into national territory or the stay of foreigners who are in one of the following hypothesis:

- I. Being subject to a criminal proceeding or having been convicted of a serious crime pursuant to national laws in criminal matters or the stipulations contained in the international treaties and conventions on which the Mexican State is a party, or that because of his background in Mexico or abroad might compromise national security or public security;
- II. When the requirements established in this Law, its Regulation and other applicable legal stipulations are not fulfilled;
- III. When the authenticity of the documents or the veracity of the elements submitted is doubtful;
- IV. Being subject to express prohibitions from the competent authority, or
- V. Other legal stipulations provide it.

The migration authorities, within the scope of their attributions, shall have the necessary means to verify the abovementioned hypothesis and to that end might request the foreigner for the information or data required.

The fact that the foreigner had complied with the stipulation of fraction II of this article, shall not impede the migration authority to analyze again his visa request, provided that the stipulations of this Law, its Regulations and other applicable legal stipulations are fulfilled.

In the cases where a foreigner has been convicted of a serious crime pursuant to national laws, the Institute shall asses his migration status taking into account the social readaptation principles, as well as those regarding family reunion.

⁹ Article 65.- The Institute shall cancel the temporal or permanent resident status, for the following reasons:

- I. The foreigner expresses that it will be his definite exit;
- II. A different status has been authorized to the foreigner;
- III. Providing false information or presenting before the Institute false official documentation or valid but that has been attained by fraud;
- IV. The foreigner looses his status for the other causes established in his Law;
- V. The foreigner looses the acknowledgement of his refugee status or complementary protection, pursuant to the applicable legal stipulations; and
- VI. Being subject to criminal procedure or having been convicted of a serious crime pursuant to national laws in criminal matters or the stipulations contained in the international treaties or agreements to which the Mexican State is a party or that due to his background in the country or abroad might compromise national or public security.

¹⁰ Here information is presented only of 3 out of 50 migration stations that exist in national territory.

¹¹ Although the issue of migration verification does not appear in the list of matters, the subscribing civil society organizations in this document consider of vital importance to introduce the subject given that the performance of operations constantly threatens the life and integrity of migrants, further incurring in several violations to human rights.

¹² United Nations Human Rights Committee (2009), Opinion. CCPR/C/96/D/1493/2006.

¹³ Migration verification operations notes:

a) Tultitlán, Mex, April 18, 2006. At least 70 State policemen armed with oarlocks attacked 60 neighbors, who blocked the highway that leads from Tultitlán to Cuautitlán for 5 hours demanding justice for the crime of Roberto Lugo Hernández, who was murdered during an operation from the Migration National Institute (INM *Spanish acronym for “Instituto Nacional de Migración”*) and the State police against migrants. There were 20 detainees and several injured.

b) Arriaga, Chiapas, November 17, 2006. The coordinator of the Shelter “Hogar de la Misericordia”, Heyman Vázquez, has constantly reported the excessive use of force during the operations, where a young woman from el Salvador of 28 years of age was beaten and lost conscience.

c) Santuario, Macuspana, Tabasco, March 16, 2010, an operation was carried out by the Migration National Institute with the support of the Federal Police and the Municipal Police of Macuspana. In the operation the authorities stopped the train that was coming from Apasco towards Coatzacoalcos, Veracruz. Migrants jumped before the train came to its final stop, after which they were chased by the officers of public security. Migrants heard the police firing weapons and beating some of those captured. Neighbors felt intimidated given that this happened while children were leaving school.

d) Ciudad Ixtepec, Oaxaca, January 22, 2011. In an operation from the Migration National Institute in wild land of Chahuites, Oaxaca, on January 22, around 8:30 hrs, a young Indian migrant, from Guatemala, trying to avoid being captured by a Migration agent, lost his foot when he fell among the rails.

¹⁴ Stephen Compton, an Australian foreigner, entered Mexico in a normal way, though later, after his migration documents expired, he stayed in national territory in an irregular way. On 2009, a migration verification visit was carried out in a hotel in Acapulco and when he failed to present a migration document in effect, the respective administrative proceeding initiated and he was detained. Stephen was placed at the disposal of the authorities of the Migration Station of the Federal District and these determined to expel him, thus a complaint for the protection of his constitutional rights (*Amparo*) was filed and was granted.

Stephen was presented before the sub-director of the Migration Station and he was advised that he had the right to regularize his migration status. Stephen expressed his wish to be regularized and the sub-director lifted the detention order issued against him and ordered that an exit document be prepared for his migration regularization.

Regardless of the initial decision to release him from the Migration Station, the sub-director ordered that Stephen remain in the Station arguing that he had received an official document informing him that the Attorney's

General Office Representative had filled a review resource against the final sentence (exit from the Migration Station and migration regularization).

Finally, a resource was again filled which confirmed the previous sentence, namely the release form the Migration Station and the regularization of this migration status.

Stephen demanded the full indemnity for the damaged suffered due to the irregular administrative action of the officials of the Migration National Institute (INAMI *Spanish acronym for “Instituto Nacional de Migración”*) which derived in violations to his human rights.

The arguments of the complaint were: (a) that he had no migration administrative proceeding where the essential formalities of the proceeding were complied with; (b) that the expulsion order, the fine and the prohibition to reenter the country were illegal given that Stephen adjusted to the hypothesis of the last paragraph of article 118 of the General Law of Population as to the regularization program of 2008, and (c) that Stephen's detention for the purpose of executing his deportation, was illegal.

Information provided by Sin Fronteras, I.A.P.