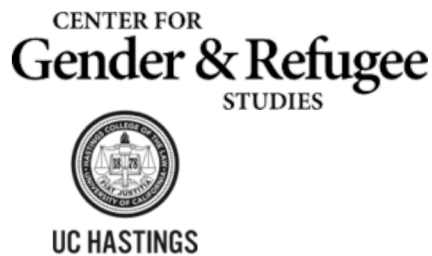


# Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges

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## Chapter 6 Mexico: Southern Border

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*This chapter is translated from the original Spanish version.*

### I. Introduction

This chapter refers to the different situations of children caught up in migration in one way or another at Mexico's southern border, specifically in the state of Chiapas bordering Guatemala. In particular, migration is forced by a variety of social, economic, cultural, and political reasons, which are generally and structurally interrelated.

The chapter analyzes the significant failings in the policies implemented by Mexico in relation to migrant children due mainly to the priority accorded migration control over and above protecting and ensuring the rights of children and adolescents in the context of migration. This entails violations of numerous human rights, including due process guarantees, the right to asylum, and the right to dignified human development without violence, among many others. The policies and programs for protecting children and adolescents, in addition to their weakness and their paternalistic approach stand out for the limited, if any, attention to children and adolescents affected by migration. This chapter also examines deficiencies in relation to the policies implemented by the state of Chiapas to protect migrant children and adolescents, and/or the children of migrants. The impairment of children's right to an adequate standard of living, to identity, and to access to health care are some of the deprivations of rights that stand out in this context.

To further describe this situation and to analyze the issues involved, we will first establish a typology of children and adolescents affected by migration and the policies in this respect in the context of Mexico's southern border. Some statistics—the few there are in this respect—illustrate this characterization, which is supplemented by the exposure of some tendencies observed regarding the social reality and the underlying causes of the various migrations.

Next the main categories of children caught up in migration are described, detailing the history, characteristics, and principal challenges and issues. The data are obtained from the limited public information as well as from other sources such as civil society organizations, especially those engaged in research and direct attention to migration that is carried out by the human rights organization Centro de Derechos Humanos Fray Matías de Córdova (CDH Fray Matías).

We describe in detail the various situations involving children in the context of migration in this border region: (1) Central American children in transit who are detained in southern Mexico, and, in most cases, are subsequently deported; (2) children who work in the street or work in

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<sup>1</sup> This chapter has been drafted with contributions from the entire staff of the CDH Fray Matías.

excluded economic sectors, in relation to how they do or do not have access to their basic rights, especially labor rights; (3) children who come in order to request asylum; and (4) children in Chiapas who were either left behind after the migration of one or both parents, or who have migrated and returned voluntarily or forcibly to their community. When it comes to analyzing these profiles, the study examines the current extent to which children and adolescents exercise their rights, and the main causes of their own migration and/or that of their family members.

## II. General characterization of children affected by migration along Mexico’s southern border

### A. Typology of children and adolescents affected by migration in Chiapas

Migration in relation to the rights of children and adolescents in the state of Chiapas—one of the four states of Mexico situated at its southern border—is truly wide-ranging and encompasses four basic aspects: (1) migration of Mexican children and adolescents from Chiapas northward; (2) migration of Central American children and adolescents to Chiapas; (3) children and adolescents from Central America in transit to the United States or another state of Mexico; and (4) children and adolescents who return to Chiapas voluntarily or forcibly from the United States.

The first category is made up of Mexican children and adolescents who migrate for any number of reasons. Within this group one finds those who, after having reached their destination and having lived in the North for a time, return voluntarily or forcibly (deported) to their place of origin.

The second category consists of flows of migrants from Guatemala and other Central American countries for whom Mexico is the destination. This group includes the cross-border migration of Guatemalan children and adolescents whose aim is to work or seek employment in one of the states along Mexico’s southern border, and/or to protect themselves from different forms of violence, and who do not necessarily intend to travel beyond the border strip. Their role is of special interest in the Soconusco region, bordering Guatemala, in the state of Chiapas, as it is a historical destination for children and adolescents who work, some subject to labor and sexual exploitation.

Map 1.  
Geographic location of Soconusco



The third category is made up of children and adolescents from Central American countries, and to a lesser extent from other countries, who are returned to their countries of origin by the Mexican migration authorities through deportations from the city of Tapachula. These children suffer deprivation of liberty during their stay in Mexico until they are deported, or until they are able to legalize their status in the country either to pass through it in transit or to remain. This is the case of children seeking asylum if their request is accepted and they are recognized as refugees. Within this category of children detained and deported we find more and more children who live and work in southern Mexico, due to increased enforcement operations by Mexican immigration authorities.

Next, to better understand the diversity of children one comes across on the southern border of Mexico—especially in the region of Soconusco in Chiapas—following is a summary of their categories that describes how their current migratory modality relates to the activity or role they perform. Table 1 illustrates how the work in which they are immersed is determined by the distance between origin and destination, the social networks constructed, type of work activity, and their socio-territorial membership (i.e., their cultural and social group membership in their places of origin). A given modality and form of work may be combined or occur simultaneously.<sup>2</sup>

Table 1. Modalities of migration by place of origin and destination, activity, and time of stay

<b>Migration modality</b>	<b>Place of origin</b>	<b>Where they are headed</b>	<b>Role they perform</b>	<b>Time of stay</b>
Cross-border migrant	Children and adolescents who are inhabitants of localities contiguous to Chiapas in Guatemala. They enter Mexico irregularly.	The border crossing of Talismán/El Carmen, Tuxtla Chico, and Ciudad Hidalgo/Tecún Umán. These are the routes with the greatest flow of persons and merchandise from Guatemala and other countries of Central America to Mexico and vice versa.	Handlers of merchandise, fuels, and clothes, for personal consumption or in bulk, of persons from Guatemala who cross the border. Some others work as assistants to an adult.	Hours, each time they cross the border.
Cross-border migrant	Children and adolescents from San Marcos, Quetzaltenango, Huehuetenango, and Escuintla, Guatemala. A minority from Honduras and El Salvador.	Urban areas: Tapachula, Mazatán, Huixtla, and others in the region.	Street vendors, female domestic workers and employees in bars, restaurants, eateries, and taverns, and sex workers.	Comes to work for weeks or months; may repeat the stay several times in the year, or over the years.

<sup>2</sup> This summary on modality of migration is taken from Carolina Rivera (2014), in press.

Seasonal migrant	Children and adolescents from San Marcos, Quetzaltenango, Huehuetenango, and Escuintla, Guatemala; Honduras, El Salvador.	Rural zones, on plantations in Tapachula, Suchiate, Cacahoatán, Mazatán, Huixtla, and Escuintla, and others in the region.	Plant, transplant, prune, trim, manage shade, remove suckers, clean, and pick. Or in jobs post-harvesting of fruit: washing, disinfecting, packing, and processing.	Regularity imposed by the productive cycles of coffee, papaya, banana, sugar cane, mango, rambutan, soybean.
Migrant in transit	Children and adolescents from Guatemala, El Salvador, Honduras, Nicaragua, other countries of Latin America and from other continents.	United States.	Passing through Mexico. Possible temporary work in the cities, mainly commerce and services.	Indefinite. Their stay in the country will depend on whether they are detained, suffer violence at the hands of the authorities, or become victims of crime, or if lucky and their presence is not detected.
Emigrant	Mexican children and adolescents	United States.	Family reunification and/or for work or study, or a combination of both motives such as description, forcibly evicted from their lands due to megaprojects, violence, and racism.	Indefinite.
Asylum seeker	Children and adolescents fleeing from family violence, gender violence, social violence, and/or political violence in Guatemala, Honduras, and El Salvador.	A place considered safe, outside of Central America.	Seeking protection for their lives and physical integrity.	Indefinite. Depends on outcome of asylum process. If accepted, remain for years in Mexico. If rejected, may continue the journey to another country or be deported.
Returnee	Mexican children and adolescents from the state of Chiapas.	Their community of origin, if they can reestablish themselves there.	Trying to reintegrate into the community or get back on their feet in order to migrate once again.	Indefinite. Depending on whether one can reestablish themselves, their

				stay lasts until they have conditions for leaving again.
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Source: Rivera (2014, in press).

*B. Some statistical data to determine the extent of the migration situation at the southern border and its impact on children*

In general, it is complicated to determine how many children and adolescents are in each of these categories. There is hardly any official information in this respect, and that which exists is scattered and incomplete, both for children and adolescents or adults. For example, determining how many foreign children and adolescents reside in Mexico is very difficult since there is data only when they are detained, and many of these arrests are made while treating the children or adolescents as adults.

In this regard, we only have the data from the 2000 census, which indicated that of the almost 500,000 persons born abroad counted as residents, 87.5% were from some country of the Americas, and the rest from other continents.<sup>3</sup> Ten years later, the National Institute of Statistics and Geography of Mexico (INEGI), in its 2010 census, indicates that this figure doubled, and counted a total of 961,121 persons born in another country living in Mexico.<sup>4</sup> Once again in this group the United States and Guatemala stand out as the two leading countries of origin (76.8% and 3.7% respectively).<sup>5</sup> Of the Central American population residing in Mexico, a large percentage (78.4%) is concentrated in the city of Tapachula, capital of the Soconusco region, Chiapas.<sup>6</sup> This indicates the significance of the number of persons from Guatemala who were on record in Mexico, and especially in Tapachula in 2010.

Caballero García argues that as of 2010, of the total 1,637,119 Guatemalans who had emigrated, the vast majority were in the United States (97.4%, i.e., about one-and-a-half million), but a large

<sup>3</sup> Of this figure, 8 of every 10 were born in the United States; one of every 10 was born in Europe. Spain stands out as the country of origin of most Europeans who reside in Mexico. Asia accounted for only 2.3% of the total. In relative terms, the same sources indicated that 69.7% were originally from the United States; of the Central American countries Guatemala stands out with 4.8% of all foreigners residing in Mexico; Honduras 0.8%, Nicaragua 0.5%, Costa Rica 0.4%, and Panamá 0.3%. INEGI. (2000). *Estados Unidos Mexicanos. XII Censo General de Población y Vivienda 2000*. Retrieved from <http://www3.inegi.org.mx/sistemas/productos/default.aspx?c=265&s=inegi&upc=702825493752&pf=Prod&ef=&f=2&cl=0&tg=0&pg=0&ct=101010103>.

<sup>4</sup> INEGI. (2011). Censo General de Poblacion y Vivienda 2010. *Conociendo nos todos. Informativo Oportuno*, 1(2). Retrieved from <http://www.inegi.org.mx/inegi/contenidos/espanol/prensa/contenidos/Articulos/sociodemograficas/nacidosenotropais.pdf>.

<sup>5</sup> INEGI. (2011). Censo General de Poblacion y Vivienda 2010. *Conociendo nos todos. Informativo Oportuno*, 1(2). Retrieved from <http://www.inegi.org.mx/inegi/contenidos/espanol/prensa/contenidos/Articulos/sociodemograficas/nacidosenotropais.pdf>.

<sup>6</sup> INEGI. (2007). *Los extranjeros en México*. Retrieved from <http://www3.inegi.org.mx/sistemas/productos/default.aspx?c=265&s=inegi&upc=702825006465&pf=Prod&ef=&f=2&cl=0&tg=0&pg=0&ct=101050200>.

number also emigrated to Mexico. Without having the exact number of those who emigrate to Mexico, and especially to the southeast, the author indicates that:

each year an undetermined number of undocumented workers moves temporarily to Mexico with the aim of getting a job and better life opportunities. The latest information available offered by the Ministry of Labor and Social Security of Guatemala indicates that in 2006 some 17,656 temporary migrant workers were registered at the borders of Tecún Umán and El Carmen (Guatemala) in 2006 who were headed to farms in Mexico.<sup>7</sup>

For 2011, the National Institute of Migration (*Instituto Nacional de Migración* or INM) of Mexico recorded a total of 27,640 persons of Guatemalan nationality documented with the Border Worker Migration Form (*Forma Migratoria de Trabajador Fronterizo* or FMTF), who entered the country to work in the agricultural sector in Chiapas and Tabasco (82.2% of them males).<sup>8</sup> The emigration of Guatemalans to Mexico occurs seasonally or permanently, with an ever greater trend to permanent emigration over the last 30 years (Caballero, 2013). Upon entry they are legally recorded as temporary cross-border workers, but an undetermined number enter by irregular means. Entering in this way, and the great difficulties they encounter in Mexico when it comes to legalizing their status,<sup>9</sup> make it impossible to determine the precise extent of that migration flow. To the contrary, the official data of the INM on the issuance of residence cards, temporary or permanent, could lead to errors in estimating their numbers. We only have the statistics of the INM in relation to applications, proceedings and detentions. The data kept by organizations such as ours that work with the population are always very limited, as well as that of some academic studies, which are also unable to take stock of the full scope of the situation.

For example, if we observe the official data<sup>10</sup> we see that in 2013, a total of 485 temporary residence cards were issued for the first time, 162 of which went to persons from the Northern Triangle of Central America (67 from Guatemala, 61 from Honduras, and 23 from El Salvador). Chiapas was the 21<sup>st</sup> state on the list of the number of residence permits granted by Mexican states, despite the significant scale of the Central American migration arriving in the area. This makes one think of the difficulties of the new immigration procedures and their costs, especially if we bear in mind that the country of nationality that received the largest number of permits in the state was the United States of America (100 permits). As we observe statistics, from the renewal of permits to the granting of permanent residence, the numbers increase but continue to be low and do not correlate with the historical and present-day importance of immigration in the area.

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<sup>7</sup> Caballero Garcia, María Ester. (2013). Estudio Migratorio de Guatemala. In Palma Calderon, I., Danilo Rivera, A., Pérez Garcia, N., & Meza Soto, K.S. (eds.). *Análisis de las migraciones laborales actuales y los procesos de armonización legislativa en Centro América, México y República Dominicana - Informe regional*. Mexico City: Sin Fronteras & Instituto Centroamericano de Estudios Sociales y Desarrollo (INCEDES).

<sup>8</sup> Statistics obtained at the official website of the Ministry of Interior (Secretaría de Gobernación), National Institute of Migration. Retrieved from <http://www.inm.gob.mx/>.

<sup>9</sup> Centro de Derechos Humanos Fray Matías de Córdova A.C., and MacArthur Foundation. (2014). *Impacto de la Ley de Migración y su Reglamento en la población inmigrante asentada en el Soconusco*. Tapachula. Retrieved from [http://cdhfraymatias.org/sitio/wp-content/uploads/2014/11/Informe-regularizacion\\_editado.pdf](http://cdhfraymatias.org/sitio/wp-content/uploads/2014/11/Informe-regularizacion_editado.pdf).

<sup>10</sup> Statistics obtained at the official website of the Ministry of Interior, National Institute of Migration. Retrieved from <http://www.inm.gob.mx/>.

Some 2,780 permits for permanent resident status were granted in Chiapas, making it fifth among the states of Mexico. Guatemala continues to lead the list with 1,183 nationals, followed by Honduras (609), and El Salvador (312). In all, these statistics reveal 5,292 different types of residence permits granted in Chiapas in all 2013, a figure very far below the actual scope of migration in the state, especially in the Soconusco region. As a result, one deduces—as documented in detail in the report published by CDH Fray Matías in August 2014<sup>11</sup>—that the current procedures for legalization are not working or, at least, do not adequately reflect the characteristics of the immigrant population of this region.

Thousands of children and adolescents who enter the country accompanying an adult relative, or on their own, at any of the border crossings along the 654 km border that divides Guatemala and Chiapas, find themselves in this situation of invisibility and undocumented status. Their stay may be for days, weeks, or months, or they may remain permanently. Due to the undocumented manner of their entry to Mexico and the lack of any interest on the part of the Mexican government in determining their numbers, just how many Guatemalan children are in Chiapas is not known.

### *C. Some trends and characteristics of child migration in southeast Mexico*

The following sections of this chapter analyze these trends in depth, looking at the different categories that have been studied. Nonetheless, we present, first, a description of some general trends and socio-demographic characteristics, so as to grasp the reality of children involved in migration at Mexico's southern border.

For example, classical studies on gender indicate that international labor migration has been an eminently male phenomenon. Nonetheless, this conception has been overtaken and other categories and modalities of migration have emerged: single women, women with their partners or accompanied by a child, and pregnant women; older adults; and the ever more accentuated movement of children and adolescents. Child and adolescent migration is not new in this border area, but the patterns have changed.

There is not a common sociodemographic trait that identifies both the children and adolescents in transit and those who are headed to work in southern Mexico (Chiapas). A report by the International Organization for Migration (IOM)<sup>12</sup> highlights that they are mostly from the departments of San Marcos, Huehuetenango, and Quetzaltenango. According to another source, in 2011 more than half (53%) intended to migrate to border municipalities in Mexico, and the rest (47%) to the United States.<sup>13</sup>

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<sup>11</sup> CDH Fray Matías and MacArthur Foundation. (2014). *Impacto de la Ley de Migración*. Retrieved from [http://cdhfraymatias.org/sitio/wp-content/uploads/2014/11/Informe-regularizacion\\_editado.pdf](http://cdhfraymatias.org/sitio/wp-content/uploads/2014/11/Informe-regularizacion_editado.pdf).

<sup>12</sup> International Organization for Migration (IOM), United Nations Children Fund (UNICEF), and the International Labor Organization (ILO). (2013). *Niños, Niñas y Adolescentes Migrantes América Central y México*. Retrieved from [http://white.lim.ilo.org/ipecc/documentos/america\\_central\\_y\\_mexico\\_ninos\\_migrantes.pdf](http://white.lim.ilo.org/ipecc/documentos/america_central_y_mexico_ninos_migrantes.pdf).

<sup>13</sup> Ministry of Social Welfare. (2010). *Casa Nuestras Raíces. Informe de labores 2010*. Unpublished (cited by Caballeros, A. (2013)). *Perfil Migratorio de Guatemala 2012*, p. 84. Retrieved from [http://costarica.iom.int/public/pdf/Perfil\\_Migratorio\\_Guatemala\\_2012.pdf](http://costarica.iom.int/public/pdf/Perfil_Migratorio_Guatemala_2012.pdf).



Historically, the largest-scale migratory movements at the Mexico-Guatemala border have occurred mainly in the following stages, each with its corresponding motives:

1. Since the mid-19th century, hundreds of day laborer families from the departments of Guatemala that border Chiapas have been contracted to work on the coffee farms in the Soconusco region, given that large expanses were planted with coffee during that period. This flow of Guatemalan laborers to Soconusco was not only maintained, but increased in the last 30 years due to the introduction of other export crops. The growth of cities demanding services played a key role in this transformation, as did the impetus of commerce, which offered work opportunities to both Mexicans and Guatemalans, especially in the border departments such as San Marcos and Huehuetenango.
2. Also for decades, but even more so in the 1980s due to the internal armed conflicts in Central America, and in the 1990s, Mexicans and Central Americans were forced to migrate to the North to improve their life expectancy or to save their lives, as occurred during the internal wars in Guatemala and El Salvador. The impacts of these conflicts, the deterioration of the sources of employment generated by the free trade agreements, and in general by neoliberal political and economic decisions—as analyzed in more detail in the chapter on bilateral and regional agreements (chapter 13)—forced many individuals and families to have to seek opportunities in the United States and to a lesser extent in Canada.
3. This flow has continued to become more intense due to the ever greater deterioration in social and economic conditions suffered by poor families throughout the region as a result of these policies. Natural disasters such as Hurricanes Mitch (1998) and Stan (2005) made many families' need to migrate all the more pressing.
4. Today, persistence of an inequitable economic and social policy, together with the policy of natural resource extraction and dispossession of land taking place throughout Mesoamerica, strips families of their traditional way of life and leaves them without any option other than to migrate. To this scenario is added the increase in different forms of violence—particularly gender and family violence, and violence by organized crime—which has an especially strong impact on women and on children and adolescents.

In this historical and social context, child mobility has its own diverse set of causes: it is associated with family reunification, the search for better life opportunities through study and/or work, but also with the desire to get to know other places. This latter cause is observed mainly in adolescents and youths who feel the need to experience the trip or trips as a rite of passage for emerging from childhood. Interrelated with the foregoing reasons is the ever more common effort to seek security due to the various forms of violence in their countries.

This mobility is part of current migration processes, among which the following stand out, based on official data and the observation efforts of social organizations: (1) the movement of children and adolescents, with an adult or unaccompanied; and (2) the larger share of females and larger numbers of persons leaving. This threefold process influences and impacts family structures. When the mother migrates, other domestic arrangements are put in place that one does not

necessarily find after emigration of the father or the breadwinner in the home. The children come to be cared for by the grandmother, almost always the maternal grandmother, or some aunts, cousins, and family friends or godparents which will bring about changes in the forms of social reproduction that had been maintained up until the departure of the mother or father. One must always see this multidimensional aspect of migration, which consists of a series of negotiations, strategies, arrangements, and changes in family roles that involve various interrelated actors.

The causes of the migration of children, based on the observation and documentation done by the CDH Fray Matías of the reality of migrants at the southern border, are many, complex, and interrelated, but are generally grouped under four main headings: economic, social, political, and personal:

1. Among the *socioeconomic causes*, the following stand out: the need to work or seek employment that makes it possible to endure poverty/extreme poverty, contributing to the family economy, unemployment/searching for employment, and seeking better living conditions. Particularly vulnerable are the indigenous populations, both children and adults, who experience social exclusion.
2. Of the *social causes*, mention should be made of reunification with families already established in their places of destination, family breakdown, mistreatment, physical and psychological abuse in their homes, abandonment, and attacks on physical integrity, among others.
3. The *political causes* include those related to inadequate instruments for handling the gang problem, the lack of policies for children and adolescents, the lack of policies to prevent natural disasters, the establishment of neoliberal policies, the effects of internal armed conflict, the absence of development policies for the marginalized population, as well as the corruption and impunity prevailing in the political systems of the region, among others. For some children and youth, and men and women, there is an ever greater need to escape the threats of criminal groups, which we could think of as a migration or forced displacement meriting international protection.
4. The *personal motivations* are related to the rise or consolidation of social support networks, especially those that are strengthened by religion, age, gender, or country of origin.<sup>14</sup> Another factor to consider is related to the perception that is constructed around Mexico as to the possibility of better life opportunities: fashionable clothes and shoes, money, cell phones, etc., as well as the possibility of early independence from the home, which bolsters one's status in the community of origin.

We reiterate that different causes can coexist and in practically every case they are interrelated. Bearing in mind all these causes that we find in the region generally, at the Guatemala-Chiapas border one detects, thus far, *three differentiated patterns of migration of children and adolescents*: (1) cross-border migrants to regions of Chiapas that border Guatemala; (2)

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<sup>14</sup> Girón, C. (2010). "Migrantes" Mam entre San Marcos (Guatemala) y Chiapas (México); cited in FLACSO, AECID, and UNICEF (2010) *Niñez indígena en migración. Derechos en riesgo y tramas culturales*, 227-305. Quito, Ecuador: Torres P. (ed.). Retrieved from [http://www.unicef.org/lac/Ninez\\_Indigena\\_en\\_migracion.pdf](http://www.unicef.org/lac/Ninez_Indigena_en_migracion.pdf).

migration in irregular transit of Central American children and adolescents who seek to enter Mexican territory so as to then cross it to get to the United States; and (3) emigration of Mexican children and adolescents headed to the United States.

Having presented in general terms the main characteristics of migration at the border of Mexico and Guatemala, in particular in the state of Chiapas, and where children and adolescents stand in this context, next is a more in-depth analysis of the migration categories mentioned for which the most information is available.

### **III. Migrant and refugee children in transit: between control and expulsion**

#### *A. Quantitative information on migrant children and adolescents in transit*

It has already been noted that the profile of children and adolescents in accompanied and unaccompanied migration in southern Mexico is highly varied. Nonetheless, one can clearly identify that many of these children and adolescents who cross the Mexico-Guatemala border are in transit to the United States or to some other state in Mexico.

Even though child migration to North America is not such a recent phenomenon, the increase of this migratory flow in the last two years has caught the attention of the international community. And that is not surprising: according to official statistics from the United States Border Patrol, in fiscal year 2014, as of July 31<sup>15</sup> it was reported that 61,581 children and adolescents from El Salvador, Guatemala, Honduras, and Mexico had been detained. In Mexico, that same year, according to official statistics from the National Institute of Migration, 22,654 children and adolescents from the first three countries were detained.<sup>16</sup>

Nonetheless, there is very little reliable and up-to-date quantitative information on this category of migrant children. The only statistics are the data produced by the INM on detentions and returns, some already indicated, where one can find data such as sex, age group, travel conditions, and nationality. Only for 2014 are there statistics on age group and nationality of the children and adolescents detained; previously, there was only data on the number of children and adolescents deported.

Other data are obtained from the Temporary Shelter for Migrant Minors of the National System for Integral Family Development (*Sistema de Desarrollo Integral de la Familia* or DIF) of Tapachula (Chiapas), known as the “Albergue Viva México” (“The Viva México Shelter”). Some of the children detained are held there, but the information collected is insufficient to analyze the categories of migrant children, since they receive a small number of all of the children and adolescents migrating. In addition, several data were obtained from information

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<sup>15</sup> U.S. Customs and Border Protection. (2014). *Southwest Border Unaccompanied Alien Children*. Retrieved from <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>.

<sup>16</sup> Ministry of Interior (2014). *Eventos de menores presentados ante la autoridad migratoria, según continente, país de nacionalidad, grupos de edad, condición de viaje y entidad federativa, enero-mayo de 2014*.

requests by CDH Fray Matías in the INFOMEX System,<sup>17</sup> and from reviewing requests made by other civil society organizations.

Despite the absence of qualitative data on child migration, the INM statistics<sup>18</sup> are useful for showing the increase in this migratory flow in recent years. For example, in 2013, at all the migration stations throughout Mexico 9,893 accompanied and unaccompanied children and adolescents were detained—62% more than the previous year—and 8,350 children and adolescents were deported. In 2014, a total of 23,096 children and adolescents were detained, more than double the previous year, and more than three times the number of children and adolescents detained two years earlier. Of these, 99% were children from Honduras, Guatemala, and El Salvador and, of these, nearly 45% were of Honduran nationality, an even larger percentage than the Guatemalans, bearing in mind that Guatemala shares a border with Mexico.

These figures are not dramatic because of their magnitude and the fact that they continue to increase but, in particular, as will be explained in the following sections, because of the diversity of practices that violate the most fundamental rights of all these children and adolescents.

*B. Principal violations, abuses, and risks to which children and adolescents in transit are exposed*

*1. The response: control*

Several reports by civil society organizations, international organizations, and regional bodies entrusted with the promotion and protection of human rights in the Americas (such as the Inter-American Commission on Human Rights) describe many situations involving human rights violations experienced by thousands of persons who migrate to Mexico. Human rights violations occur because the national security perspective has been maintained and reinforced when it comes to addressing the children in transit; managing and controlling migratory flows is accorded priority over and above the children's human security and their rights.<sup>19</sup>

One parameter for gauging the increase in migration controls, abuses, and violations suffered by migrants can be found in the monitoring work done by civil society organizations that have access to some migrant detention centers in Mexico.<sup>20</sup> These organizations have monitored the conditions of migrants at migration stations of the INM for years.<sup>21</sup>

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<sup>17</sup> Electronic system created by Mexico's Federal Institute for Access to Public Information (IFAI: *Instituto Federal de Acceso a la Información Pública*).

<sup>18</sup> Retrieved from [www.inm.gob.mx](http://www.inm.gob.mx).

<sup>19</sup> Grupo de Trabajo sobre Política Migratoria GTPM. (July 11, 2014). *Programa Frontera Sur, reflejo de una política migratoria desarticulada*. Retrieved from [http://www.sjmmexico.org/uploads/TBL\\_COMUNICADOS\\_130\\_1\\_14.pdf](http://www.sjmmexico.org/uploads/TBL_COMUNICADOS_130_1_14.pdf).

<sup>20</sup> Of the 31 states and the Federal District, where the INM records detentions and deportations of migrants, only five civil society organizations have permanent access to the migration stations that are found in the cities of Tapachula, Chiapas; Federal District, Mexico City; Puebla, Puebla; Tlaxcala, Tlaxcala; and Saltillo, Coahuila.

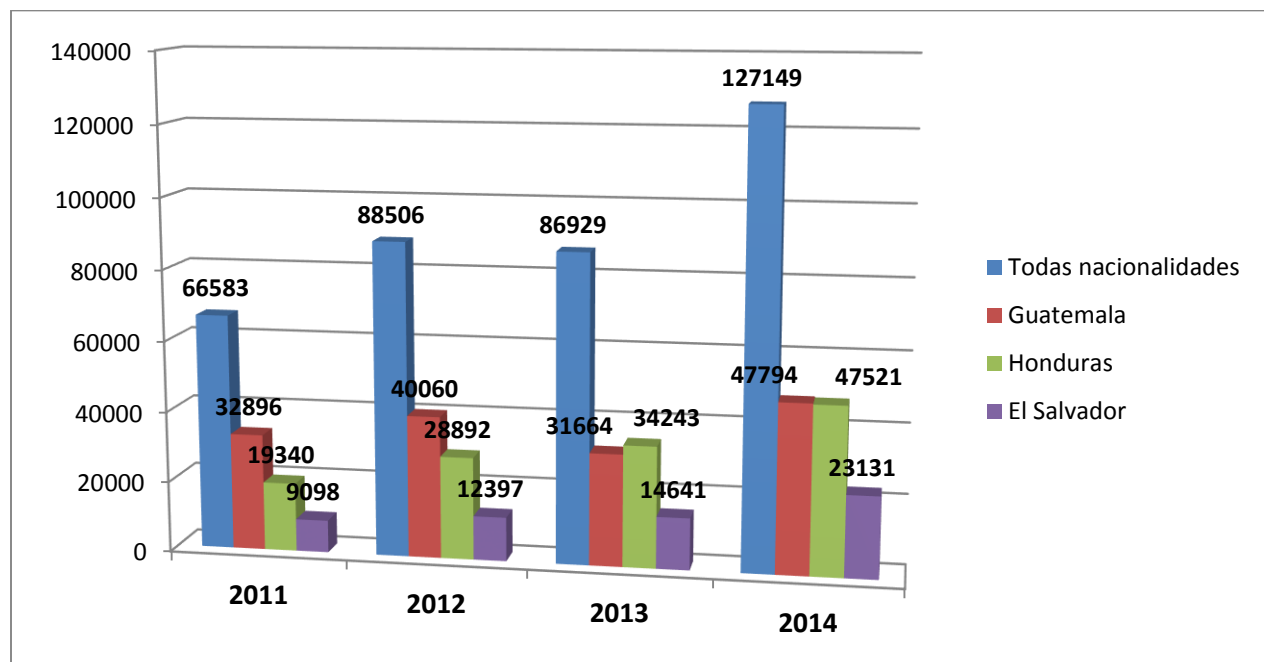
<sup>21</sup> Centro de Derechos Humanos Fray Matías de Córdova A.C. (2013). *Segundo informe sobre derechos humanos y condiciones de vida de las personas migrantes en el centro de detención de la Ciudad de Tapachula*, Chiapas. Retrieved from

[http://www.cdfraymatias.org/sites/default/files/segundo\\_informe\\_sobre\\_derechos\\_humanos\\_y\\_condiciones\\_de\\_vida\\_de\\_las\\_personas\\_migrantes\\_en\\_el\\_centro\\_de\\_detencion\\_de\\_la\\_cil.pdf](http://www.cdfraymatias.org/sites/default/files/segundo_informe_sobre_derechos_humanos_y_condiciones_de_vida_de_las_personas_migrantes_en_el_centro_de_detencion_de_la_cil.pdf); Sin Fronteras-México. (2013). *Ser*

For years there has been documentation of the most recurrent violations of the rights to due process, access to justice, and dignified living conditions for persons during transit. In addition, there has been increased documentation of the problems they face during migration checks and detention. All these violations are aggravated in the case of children and adolescents.

In addition, along the southern border of Mexico one sees signs at this time of an increase in border security with the deployment of security bodies, the increase in migration controls, and other measures that keep persons from transiting freely through Mexico. According to the statistics of the INM for 2013 and 2014,<sup>22</sup> the states of southern Mexico continue to account for the largest number of detained migrants in the country, especially Chiapas. In 2013, Chiapas accounted for 40.7% of detentions and 42.7% of deportations, of all of Mexico’s 31 states plus the Federal District. The Century XXI Migration Station (*Estación Migratoria Modelo Siglo XXI*) is located in Tapachula (Chiapas). It is known as the largest detention center in Mexico and indeed in Latin America; most of those who are detained are held there before they are deported.

Graph 1. Total persons detained in Mexico (2011-2014).



Source. By authors, based on data from the INM.

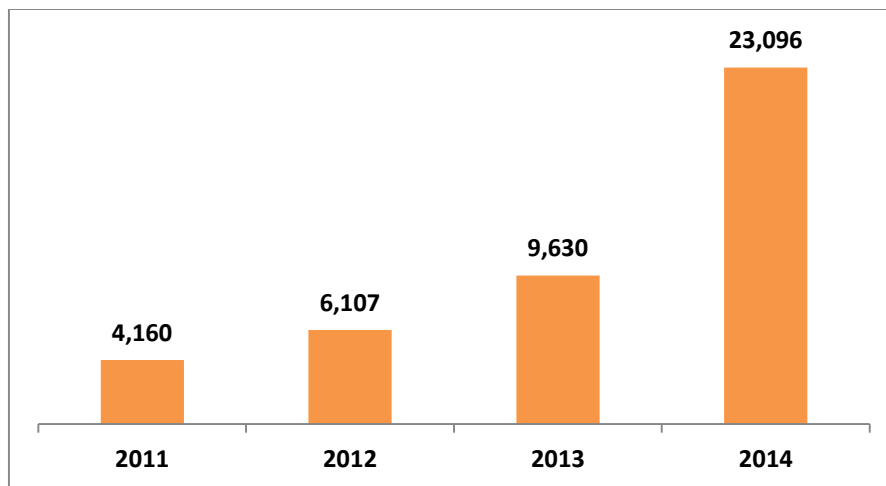
The foregoing table highlights that of the total number of persons detained in Mexican territory from 2011 to 2013, 92.2% were persons from the Northern Triangle of Central America, where

*Migrante No me hace Delincuente: Situación de las personas en detención en las estaciones migratorias de Iztapalapa, Distrito Federal y Villahermosa, Tabasco 2011-2012.* Retrieved from [http://sinfronteras.org.mx/attachments/article/1432/INFORME\\_EM\\_2013.pdf](http://sinfronteras.org.mx/attachments/article/1432/INFORME_EM_2013.pdf).

<sup>22</sup> Centro de Estudios Migratorios, Unidad de Política Migratoria, Subsecretaría de Población, Migración y Asuntos Religiosos, and SEGOB Boletines Estadísticos. (2013). *Boletín estadístico mensual*. Retrieved from [http://www.gobernacion.gob.mx/es\\_mx/SEGOB/Boletines\\_Estadisticos](http://www.gobernacion.gob.mx/es_mx/SEGOB/Boletines_Estadisticos).

in late 2013 there had been almost 15,000 murders. This represents an overall rate of 49.5 homicides per 100,000 population—slightly less than that for 2012—but which makes it difficult for the United Nations to cease referring to it as the most violent subregion in the world.<sup>23</sup> As of late fiscal year 2014 (August), the number of persons detained in all of 2013 had already been surpassed; the figure reached 127,149 in detention by year’s end. In the case of accompanied and unaccompanied children and adolescents, one notes a 60% increase from 2012 to 2013, and an almost 140% increase in 2014, with a total of 23,096 children and adolescents.

Graph 2. Children and adolescents detained in Mexico (2011-2014).



Source. By authors, based on data from the INM.

The foregoing figure is representative in terms of the implications of a policy focused on controlling migratory flows that has a direct negative impact on children and adolescents who are deprived of liberty while in transit through Mexico. This increase is also directly related to what is mislabeled a “humanitarian crisis”—as we noted in the introduction to this book—and the measures that the Mexican government took to reduce the arrival of children and adolescents to the United States.

Members of a United States Conference of Catholic Bishops mission to Central America in 2013 recall: “The delegation found that in each country—particularly Honduras and El Salvador—well-organized gangs have replaced the local authorities in rural areas and small towns of the interior. In many cases, the government is incapable of preventing the violence between gangs and the harassment of the general population, especially the youth.”<sup>24</sup> Indeed, the chapters of this book (chapters 2 to 4) that refer to the situation of the countries of Central America’s Northern Triangle describe the context in those countries and how it is related to the increase in the forced migration of children and adolescents.

<sup>23</sup> Valencia, R. (January 3, 2014). El Triángulo Norte seguirá siendo la región más violenta del mundo, *El Faro*, Centroamérica. Retrieved from <http://www.elfaro.net/es/201401/internacionales/14364/>.

<sup>24</sup> United States Conference of Catholic Bishops. (2013). *Mission to Central America: The Flight of Unaccompanied Children to the United States*, p. 5. Retrieved from [www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-Spanish.pdf](http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-Spanish.pdf).

## 2. *Deprivation of liberty of children and adolescents*

The 2011 Migration Act (Ley de Migración) establishes criteria for attributing institutional competencies that do not respect the best interest of the child with regards to the guarantees of full protection for migrant children. The law, at Articles 29 and 112, accords priority to the capacity of the INM to guide the procedure in matters involving children and adolescents and to supervise their interests, and relegates a secondary role to the DIF System in this regard, such that the migration status of children and adolescents—which should be merely a circumstantial factor—becomes the core question for determining the measures to be applied.

The Act leaves the door open for migrant children and adolescents to be treated like adults with regards to their deprivation of liberty, common in the various migration stations or at DIF shelters. Accordingly, it does not respect the *principle of not detaining* migrant and asylum-seeking children and adolescents that has been incorporated by international standards, and which was recently reaffirmed by the Inter-American Court of Human Rights in its Advisory Opinion 21 of 2014.

The law not only fails to establish the prohibition on detention, but at Article 112 it explicitly cites the possibility of unaccompanied children and adolescents being detained at the detention centers known as migration stations. In practice, this measure is being applied systematically if we look at the known figures on detentions of migrant children. The Act and its regulation mention, at Article 176, that it is up to the DIF System to provide facilities for stays at its shelters; nonetheless, it states that “If for any exceptional circumstance the migrant children and adolescents are housed in a migration station they should be assigned a space other than that used to hold adults in an effort to ensure that their stay be for the shortest time possible.”

The ambiguity and vagueness of the Act and of its regulation when it comes to establishing criteria for sending children and adolescents to the INM’s migration stations or to the DIF System’s shelters—which, in any case, in practice also constitute detention centers—includes among its consequences the breakdown of family unity. In this respect, in 2014 an initiative was introduced in the Senate under the rubric Initiative with Draft Decree that Reforms, Adds, and Repeals Various Articles of the Migration Act and the Act on Refugees and Complementary Protection in the Matter of Unaccompanied and Separated Foreign Children and Adolescents.<sup>25</sup> That initiative establishes the principle of not detaining migrant children and adolescents. Nonetheless, this proposal, as of yearend 2014, had not yet been subject to legislative debate.

Clearly, Mexico is depriving migrant children and adolescents of liberty, both those accompanied by their families and those who are not, at migration stations of the INM and at DIF shelters. This is not only a violation of international human rights law, but also involves other irregularities that include serious violations of other fundamental rights, as the social organizations have pointed out.

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<sup>25</sup> See in this respect the presentation of the Initiative at <https://www.youtube.com/watch?v=MvXCxCHWePY>; See the complete text of the Initiative Retrieved from <http://www.senado.gob.mx/sgsp/gaceta/62/2/2014-04-03-1/assets/documentos/migrantes.pdf>.

The organization Sin Fronteras, in its most recent report on 2013,<sup>26</sup> has found that the children and adolescents deprived of liberty at migration stations are not guaranteed access to due process or the right to information regarding the immigration proceeding to which they are subjected. Since 2004 the Centro de Derechos Humanos Fray Matías has been observing and documenting the deprivation of liberty of children and adolescents at the migration station of Tapachula (Chiapas).

The Inter-American Commission on Human Rights (IACHR) Special Rapporteur on Migrant Workers and Members of their Families noted the existence or the risk of situations of aggression or abuse during the apprehension, detention, confinement and deportation of children and adolescents, to which are added the irregularities in the failure to recognize their status as children.<sup>27</sup> The IACHR, in its most recent report on the situation of children and adolescents detained at migration stations, repeatedly notes shortcomings in the classification of minors, the break-up of family unity, and the failings of due process,<sup>28</sup> in addition to deficient conditions in terms of infrastructure and habitability of the detention centers. The most serious problems, in addition to detention itself, have to do with effective access to medical care, food, conditions of hygiene and comfort, and the absence of spaces for outside visits or for visits among members of the same family being detained.<sup>29</sup>

### *3. Violations of due process*

One of the principal human rights violations during the deprivation of liberty concerns due process. Because it is the National Institute of Migration that receives the cases and rules on them, the persons involved have no access to a legitimate defense.

Article 70 of the Migration Act guarantees that one can have a legal representative, and the Regulation at Article 228 establishes the terms of gaining access to legal representation:

Every detainee may designate or revoke a legal representative or person of his or her trust at any moment. The legal representatives, consular authorities, and public servants commissioned by the National Commission on Human Rights may visit the foreign detainees for the time necessary, except in the case of a contingency that implies a risk to the security of the visitors. The duly accredited legal representative may visit his or her client, during the established hours, every day of the week. When a detainee states his or her interest in being recognized as

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<sup>26</sup> Sin Fronteras IAP. (2013). *La ruta del encierro – Situación de las personas en detención en estaciones migratorias y estancias provisionales*. Mexico City. Retrieved from <http://sinfronteras.org.mx/attachments/informe-2014.pdf>.

<sup>27</sup> Inter-American Commission on Human Rights (IACHR) (2011). *Report on the General Situation of Human Rights of Migrants and their Families*. Mexico. Retrieved from [http://www.fundacionjusticia.org/wp-content/uploads/2013/06/Informe\\_Final\\_Relator\\_Migrantes\\_CIDHI.pdf](http://www.fundacionjusticia.org/wp-content/uploads/2013/06/Informe_Final_Relator_Migrantes_CIDHI.pdf).

<sup>28</sup> IACHR (2013). *The Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico*. Washington, D.C. Retrieved from <http://www.oas.org/es/cidh/migrantes/docs/pdf/Informe-Migrantes-Mexico-2013.pdf>

<sup>29</sup> CDH Fray Matías de Córdoba. (2013). *Segundo Informe sobre Derechos Humanos y condiciones de vida en el Centro de Detención de Migrantes de Tapachula*. Retrieved from [http://www.cdhfraymatias.org/sites/default/files/segundo\\_informe\\_sobre\\_derechos\\_humanos\\_y\\_condiciones\\_de\\_vida\\_de\\_las\\_personas\\_migrantes\\_en\\_el\\_centro\\_de\\_detencion\\_de\\_la\\_cil.pdf](http://www.cdhfraymatias.org/sites/default/files/segundo_informe_sobre_derechos_humanos_y_condiciones_de_vida_de_las_personas_migrantes_en_el_centro_de_detencion_de_la_cil.pdf).



a refugee, that request should be taken down in writing and notice is to be given to the General Coordinator of the Mexican Commission for Refugee Assistance within 72 hours, counted from the time the immigration authority learns of the request.

The foregoing article has various restrictions, for the authority determines that in a period not to exceed three days the migrant must ratify the name of the person who will serve as his or her legal representative by appearing before the Department of Legal Affairs at the Estación Migratoria Siglo XXI (Siglo XXI).<sup>30</sup> In the event that individuals do not have the name of a representative and do not ratify their designation, they are left without legal representation. In addition, the vast majority of migrants do not know that they have this right, they are given no explanation of how to exercise it, and the institution of *pro bono* attorneys does not exist.

As to unaccompanied migrant children, the guarantees provided for in international treaties require that one ensure the right to a guardian and to legal representation. In practice, this does not happen because in Mexico there is no such thing as a guardian, there is only a counselor (*procurador* or *procuradora*) of the DIF, who acts only in very specific cases of children and adolescents at the Temporary Shelter for Minor Migrants.

Examining the legal status, rights and guarantees of children and adolescents, the Inter-American Court of Human Rights (I/A Court HR) affirmed that the application of due process guarantees in the case of migrant children and adolescents should include special mechanisms that take into account their specific needs and rights.<sup>31</sup> In the proceedings in which the rights of children and adolescents are at stake, not only is it essential to ensure all guarantees and rules of due process, but it is also essential that those guarantees be designed and implemented from a child-based perspective.<sup>32</sup>

Other limitations are associated with those restrictions that deter migrants, both children and adults, from exercising their rights. In the event that any adult or minor wishes to pursue a judicial or administrative remedy to challenge a deportation order, this action is penalized by indefinite deprivation of liberty until the ruling on the challenge (Article 111 of the Migration Act). Accordingly, it violates the right to a prompt and effective remedy, another pillar of due process.

*Indefinite deprivation of liberty for exercising the right to appeal*

*B.J.A.A., an asylum-seeker of Honduran nationality, 17 years of age, had to flee when threatened by a cartel. After crossing into Mexico he approached the*

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<sup>30</sup> Ministry of Interior, National Institute of Migration, Federal Delegation Chiapas (2013). (OFFICIAL NOTE NO: DFCHIS/JUR/4973/2013). Mexico City.

<sup>31</sup> I/A Court H.R. (2014).

<sup>32</sup> CDH Fray Matías de Córdoba A.C., and Centro de Derechos Humanos de la Universidad Nacional de Lanús. (2013). *Niñez detenida. Los derechos de los niños, niñas y adolescentes migrantes en la frontera México-Guatemala. Diagnóstico y propuestas para pasar del control migratorio a la protección integral de la niñez*, p. 307. Ceriani, P. (ed.). Retrieved from [http://biblioteca.iiec.unam.mx/index.php?option=com\\_content&task=view&id=19117&Itemid=111](http://biblioteca.iiec.unam.mx/index.php?option=com_content&task=view&id=19117&Itemid=111).

*migration authorities in El Ceibo (state of Tabasco); from there he was transferred to the detention center at Tenosique, and then spent two weeks at the Tapachula detention center. The day he was contacted he had been at the Temporary Shelter for four weeks.*

*Since he was denied asylum, CDH Fray Matías assumed his representation and went directly to a judicial court. Accordingly, an amparo action was filed against the denial of asylum, drawing on Article 8 of the Law on Amparo: “If the minor has turned 14 years of age, he or she may designate a representative in the complaint brief.” In this case, the judge appointed the attorneys from CDH Fray Matías as intervenors in support of the children in the case and designated as representative the guardian from the DIF System, who was not aware of the matter. The counselor (procuradora) of the DIF suggested to B.J.A.A. that as there was no response from the judge, it would be best to talk with his consulate about deporting him soon, but B.J.A.A. refused to do so.*

*The designation of a representative is at the discretion of the judge. The time it takes before a hearing in front of the judge is indeterminate. In addition there is no guarantee to the right to be heard, as the child or adolescent is never brought before the judge. In this context, the wait for a resolution ended up being quite lengthy, and B.J.A.A. could not leave the shelter.*

*As of mid-2014, B.J.A.A. had completed an eight-month stay at the temporary shelter where, as we will see below, conditions violate rights and endanger a person’s physical and psychological integrity.*

#### *4. Deficient consular assistance*

Just as it is important to implement laws for protecting the best interest of the child and to guarantee the rights of children in the countries of transit and destination, it is fundamental for the country of origin to also implement policies in different government posts, including consular assistance. According to the Vienna Convention, any adult, adolescent, or child detained in a foreign country has the right to consular assistance by an official of his or her country of birth, and the authorities have the obligation to inform the person detained of this right. This right includes, first, that the state in which the migrant is located should inform him or her of the right to consular protection, and then the person decides whether or not to exercise it. The right to turn down such a possibility vests only in the person himself or herself, and is particularly important in the case of children and adolescents seeking asylum.

In the case of children and adolescents, the Vienna Convention must be read with the Convention on the Rights of the Child. The role of consular assistance in the country of origin is to protect the nationals in the country of transit or destination, and this should be done from a rights-based perspective. In the Mexican context, having an effective consular service that meets the needs and ensures the rights of children and adolescents detained or in the process of being repatriated is vital, just as it is vital to monitor and ensure that the necessary and adequate procedures are followed based on the best interest of the child or adolescent in each specific case.

As such, if Mexico implements a best interest determination (BID) procedure, pursuant to the Migration Law, the country of origin should collaborate with it on a case-by-case basis, to examine the specific situation of children and adolescents in the case of return or some other solution—temporary or lasting—that is more appropriate to their situation and their rights.

On numerous occasions, as shown through regular visits to the Migration Station Siglo XXI (Siglo XXI) and dialogue with the children and adolescents who are detained there,<sup>33</sup> no investigation is done to determine whether the child who will be repatriated has some family member who can take care of or receive the child when he or she reaches the country of origin. In any event, the country of origin should design policies so that the child can become reintegrated in case return is the measure most in keeping with the best interest of the child or adolescent. As explained in the chapters on El Salvador, Guatemala, and Honduras (chapters 2 to 4), there are still major challenges in each of these countries that must be surmounted for that to become a reality.

During the work documented from November 2011 to June 2014 on consular assistance at Siglo XXI in Tapachula, the children and adolescents continue to state that in many cases they have had no contact with the consular representative until they reach Tapachula. Even when they had already been detained for several days at other detention centers, upon their arrival at Siglo XXI the consular representatives take a long time before actually going to the detention center. And when they do so they spend their time in interviews that are basically for the purpose of verifying the nationality of the child or adolescent and doing the paperwork required for effectuating the deportation, without taking into account the particularities of each case.

The work of the consulates in Tapachula<sup>34</sup> continues to be plagued by shortcomings in consular action in relation to the administrative migration proceedings and legal proceedings that the children and adolescents detained find themselves caught up in. That is the situation of the Honduran consulate in Tapachula: on repeated occasions, as we have verified in the interviews with children and adolescents during the weekly visits to the Siglo XXI, the children and adolescents said that they had no information about consular protection, that it takes a long time for consulate personnel to come to see them, or that they do not receive adequate information about the deportation process. This situation has been found and documented in the country of origin by organizations such as Casa Alianza Honduras.<sup>35</sup>

From July to October 2014, CDH Fray Matías did not have access to the Siglo XXI detention center. Thus it was unable to verify the situation there during the months in which there was the greatest amount of public attention and media in the region. At the same time, the relationship with the consulates has been very weak since 2013 despite efforts to incorporate their participation in different forums for education and exchange with civil society. We believe that

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<sup>33</sup> This is also corroborated with the information obtained by the organizations that work in the countries of origin monitoring the practices of reception and reintegration, as stated in the chapters of this book on El Salvador, Guatemala, and Honduras (2-4).

<sup>34</sup> In Tapachula, Chiapas, one finds the consulates of Honduras, Guatemala, El Salvador, Nicaragua, and Ecuador.

<sup>35</sup> Casa Alianza. (2012). *Análisis de la situación de Derechos de la Infancia Migrante No Acompañada en el marco de los procedimientos de deportación y retorno a Honduras*. Tegucigalpa. Retrieved from <http://www.casa-alianza.org.hn/images/documentos/Observatorio/migrante12.pdf>. See, in this book, in the chapter on Honduras (chapter 2), for information on the continuation of these practices.

this is due to the lack of direction from the country of origin and an effort to maintain “good relations” with the Mexican authorities.

The media covered the different meetings and visits among representatives of Central America and Mexico, as well as the meetings of the ministers of foreign relations whose objective was to address the issue. At the meeting of the High-Level Group on Child Migration held in El Salvador, the three countries of the Northern Triangle of Central America (Honduras, El Salvador, and Guatemala) reached agreement on a plan of action focused on four specific dimensions: humanitarian, migration, security and justice, and social and economic development. At the same time, another short-term agreement addresses awareness-raising campaigns to discourage the undocumented migration of unaccompanied children and adolescents to the United States due to the dangers they would face along the route;<sup>36</sup> this measure is specifically criticized in the Introduction of this book as well as in the chapters on Guatemala and El Salvador (chapters 3 and 4).

Nonetheless, in public statements, the presidents of Mexico, the United States, and the Central American countries referenced the issue only from the security perspective, discussing reinforcing the borders and promoting campaigns to discourage the migration of children and adolescents, using an alarmist approach even blaming the parents.<sup>37</sup> In so doing they once again leave aside the structural and underlying causes that have led to the migration of children and adolescents, also trying to resolve the situation with short-term measures.

### 5. *Conditions of detention*

According to the section on the southern border in the General Framework of Operation of the National DIF 2013 (hereinafter, Framework 2013),<sup>38</sup> there is a willingness to channel migrant children and adolescents to the Temporary Shelters of the Network (Tapachula, Oaxaca, and Xalapa), or to arrange spaces for receiving them as per Article 112 of the Migration Act. Accordingly, in the state of Chiapas four shelters have been put in place: Tapachula, Comitán de Domínguez, Frontera Comalapa, and Arriaga.<sup>39</sup> They have been operating since 2013. Yet the statistics clearly show that they receive very few of the children and adolescents who are detained at the detention centers (see table). In addition, insofar as there is still no BID it is still unclear what the criterion would be for the child or adolescent to be channeled to a shelter, or what procedure should be adhered to for receiving and assisting him or her. As of the date of this study, only those children and adolescents who seek asylum—the minority—are channeled from the Siglo XXI to the “The Viva México Shelter” in Tapachula.

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<sup>36</sup> Prensa Libre (July 5, 2014). Cancilleres acuerdan plan de acción sobre situación de niños migrantes. *Prensa Libre*. Retrieved from [http://www.prensalibre.com/noticias/migrantes/cancilleres-acuerdan-plan-accion-situacion-ninos-migrantes\\_0\\_1169283210.html](http://www.prensalibre.com/noticias/migrantes/cancilleres-acuerdan-plan-accion-situacion-ninos-migrantes_0_1169283210.html).

<sup>37</sup> IOM Migration. (July 14, 2014). *El Salvador: No pongas en riesgos sus vidas* [video]. El Salvador. Retrieved from <http://www.youtube.com/watch?v=Cw8kQWLR-s>.

<sup>38</sup> DIF National Government of Mexico. (2012). *Estrategia de prevención y Atención a Niñas, Niños y Adolescentes Migrantes y Repatriados No Acompañados*. Retrieved from [http://www.infoninez.mx/busqueda-por-institucion/osc/item/estrategia-de-prevencion-y-atencion-de-ninas-ninos-y-adolescentes-migrantes-y-repatriados-no-acompanados?category\\_id=146](http://www.infoninez.mx/busqueda-por-institucion/osc/item/estrategia-de-prevencion-y-atencion-de-ninas-ninos-y-adolescentes-migrantes-y-repatriados-no-acompanados?category_id=146).

<sup>39</sup> Gutierrez, O. (February 19, 2014). Chiapas habilita 4 albergues para niños migrantes. *El Universal*. Available at <http://www.eluniversal.com.mx/estados/2014/cuatro-nuevos-albergues-para-migrantes-en-chiapas-988754.html>.

Table 2. Total children and adolescents detained at a detention center, a temporary shelter, or channeled to the DIF system (Tapachula, Chiapas, 2011-2013)

Year	Total children and adolescents detained at the Siglo XXI detention center in Tapachula	Total children and adolescents channeled to the federal delegation of the INM/Chiapas to shelters of the DIF System in Chiapas	Total children and adolescents detained at the Temporary Shelter for Minor Migrants, Tapachula <sup>40</sup>
2011	3,036	0	131
2012	4,212	54	60
2013	6,723	190	232

Source: By authors based on official data from the INM and the DIF System in the state of Chiapas.

Of the 13 children and adolescents interviewed at the Viva México Shelter eight first spent time at the Siglo XXI. The interviews note that while in the first days at the Shelter they said they felt better—the facilities are not like a prison—with the passage of time that perception changed, and their mood deteriorated. Confinement produces a series of situations that affect their mood. In addition, when asked about their activities during the day, they noted activities such as “cleaning the corridors or cleaning the rooms.”

In the shelter’s work plan the activities proposed are: manual skills, educational activities, sports, play, cognitive skills training, early mental stimulation, and showing films.<sup>41</sup> The planning does not include psychological support (even though the shelter has psychologists), legal counsel, or outdoor activities that do not entail total confinement. These become crucial in light of the fact that there are children and adolescents seeking asylum or who are before the courts, which implies that they spend several months confined.

The CDH Fray Matías provided support in two cases of children/adolescents who spent more than 11 months at the shelter. In that context several situations of abuse and human rights violations were documented. For this reason, non-judicial actions were taken, such as filing a complaint with the State Council for Human Rights for various abuses of children and adolescents and violations of their rights.<sup>42</sup> The adolescents repeatedly said they were quite desperate after the first few weeks; they want to leave, go to school, work, and their mood begins to change. Accordingly, situations may arise such as that recently documented by one media outlet about an adolescent who attempted suicide.<sup>43</sup>

<sup>40</sup> The Shelter receives minors channeled by other institutions such as the municipal DIF System and the Office of the Special Prosecutor for Crimes against Migrants.

<sup>41</sup> Request for public information, folio number 8476, case file number 004/2014, directed to the System for the Integral Development of the Family (DIF) Chiapas.

<sup>42</sup> Interview with Ms. Marina Cruz Cruz, General Inspector of the State Council for Human Rights in Tapachula, Chiapas (June 18, 2012).

<sup>43</sup> Castellanos Enviada, L. (July 28, 2014), México niega asilo a niños migrantes. *El Universal*. Retrieved from <http://www.eluniversal.com.mx/nacion-mexico/2014/mexico-niega-asilo-a-ninos-migrantes-1026219.html>.

Some of the shortcomings of the shelter are related to the lack of training of its staff in the protection of human rights, issues of migration and asylum, and knowledge of the situation in the countries of origin. In addition, the paternalistic nature of the system for protecting children and adolescents at the national, state, and municipal levels does not make up for those shortcomings in training. Even the rules on social assistance that regulate the shelters' operations are inadequate for the current context. The regulation makes no reference to a situation of rights, to the point that section 10 of the regulation states: "This Provision is not consistent with international or Mexican standards."<sup>44</sup>

At this time the INM—not the child protection system—continues to make decisions regarding the future of these children and adolescents. Indeed, although children and adolescents are at the shelter, they continue under the custody of the INM. In fact, the coordinator of the shelter has to seek authorization from the INM in the event that there is an activity outside the institution.

Over the last three years, CDH Fray Matías has been engaged in ongoing monitoring of the conditions of children and adolescents detained at the Siglo XXI and the Shelter for Minor Migrants of the DIF System for Chiapas, known as "Viva México."<sup>45</sup> Since late 2011, at the Siglo XXI no access is allowed to the areas where the population is, nor to the Module of the DIF System that operates there. On several occasions—including during several months in 2014—permission was not even given to enter the facility at all.<sup>46</sup>

As a result, contact with the children and adolescents has been limited, even though on several occasions we have asked the head of the detention center to provide us an appropriate space for holding activities with the children and adolescents. Consequently, the monitoring has had to be done from offices with a capacity for only two people, which are sometimes occupied by other agencies.

The adolescents ages 12 to 17 years who are detained—in a specific module of Siglo XXI—refer to the poor quality of conditions during their detention, especially in the case of the right to food, health, and a place to sleep, among others. These conditions are no different for girls and female adolescents who are detained along with the adult women. In many cases they have no access to phone calls, and in general they are not informed about their migration proceedings. Under no circumstances are they given the services of a legal representative. There is no support when legal remedies are pursued or in any other administrative or judicial proceeding to which they may be a party, even if they are asylum seekers or have been the victim of a crime. All this information surfaced during the course of the two weekly visits to the Siglo XXI detention center by representatives of the CDH Fray Matías.

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<sup>44</sup> See Ministry of Health (1997), *Norma oficial mexicana (NOM-167-SSA1-1997)*, for the provision of social assistance services for children and older adults.

<sup>45</sup> For the drafting of this section we relied on 40 interviews with children and adolescents at the Siglo XXI, the "Viva México" Shelter, and the facilities of the Centro de Derechos Humanos Fray Matías de Córdoba A.C.

<sup>46</sup> See *Escrito dirigido a Raúl Plascencia Villanueva, Presidente de la Comisión Nacional de Derechos Humanos, sobre la negativa de acceso a la Estación Migratoria de Tapachula, Siglo XXI*. (August 11, 2014).

In 2014, a document from the General Consulate of El Salvador in Tapachula, Chiapas, came to light that sets forth testimony from children and adolescents describing abusive treatment. From interviews of 54 minors detained at the Siglo XXI detention center conducted June 18 to 21, 2014, they documented mainly various violations of their rights and abuses that they suffer at the hands of the migration agents: “The Salvadoran migrant children detained at Siglo XXI state their discontent with poor conditions because, among other things, they have to sleep on the floor, several children have to share a single cot, and they have to eat food that tastes bad. They also complain of humiliating treatment and verbal violence to which they are subjected by the custodians at the center.”<sup>47</sup>

With respect to the activities of the DIF Module within Siglo XXI, the 2013 National DIF Framework describes as part of its activities at the southern border: “Provide services in the Modules located within the INM Migration Stations in Tapachula, Chiapas, Juchitán, Oaxaca, Tenosique, Tabasco, Acayucan, and Veracruz to the foreign children and adolescents who are being held in those spaces.” Nonetheless, it does not specify what type of services should be provided, its responsibilities, the actions to be taken to safeguard the rights of each child and adolescent, or the course of action to follow if one detects a victim of crime, human trafficking, or any other situation that requires specific measures of protection.

With respect to the quality of the work of the federal immigration agents (*agentes federales migratorios*) known as Child Protection Officers (*Oficiales de Protección a la Infancia* or OPI), in the interviews the minors note that there is little interaction with the Child Protection Officers and that it is security agents who supervise the children and adolescents 24 hours a day. According to the distribution of Child Protection Officers in the 32 state offices of the INM, out of a total 437, 28 are in the state of Chiapas, which is where the largest number of children and adolescents are detained. States such as Tabasco and the Federal District have more than 30 child protection officers.<sup>48</sup>

There are documented cases showing that it is the child protection officers who impose disciplinary measures and have even used force. On repeated occasions international organizations such as UNICEF have declared that the child protection officers should not be part of the INM, but rather part of the DIF System; and that they should be specialists in the rights of the child. According to data from the National Commission on Human Rights (*Comisión Nacional de Derechos Humanos*), in migration-related complaints filed from 2010 to 2013, 839 of the victims were children and adolescents, and the INM was the principal authority responsible.<sup>49</sup> Six recommendations were issued in that same period.<sup>50</sup>

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<sup>47</sup> Saldaña, I. (June 28, 2014). “Niños se quejan del maltrato”: Cónsul de El Salvador. *Excelsior*. Retrieved from <http://www.excelsior.com.mx/nacional/2014/06/28/967833>.

<sup>48</sup> Request for public information, folio number 3314, directed to the National Institute of Migration.

<sup>49</sup> Interview by Gabriela Morales with Jiménez Fernando Batista, Fifth General Inspector of the National Commission on Human Rights (2014). *Proyecto internacional: “Derechos Humanos, Niñez y Migración en Centro y Norte América: Causas, Políticas, Prácticas y Retos.*

<sup>50</sup> One of the powers of the CNDH is to issue recommendations. See Recomendaciones sobre menores de edad (Recommendations on Minors) 2011/23; 2012/54; 2012/77; 2013/31; 2013/36; and 2013/63. Retrieved from <http://www.cndh.org.mx/Recomendaciones>.

Below we examine the case of M.L.G., whose situation is not isolated. It is common for children and adolescents to be separated from their family, to be transferred from one place to another, and to make reference to punishments imposed on them, such as being placed in solitary confinement in a cell they call “*el calabozo*,” or dungeon.<sup>51</sup>

*Case: Example of the treatment of children and adolescents at the migration station*

*M.L.G., 15 years old, of Honduran nationality, and accompanied by his father, said that during their transit through Mexico they went before the INM to seek asylum. Both were transferred to the Siglo XXI detention center and on arriving were separated into different modules. They could see one another once every three days and on weekends, always for just a few short minutes. Subsequently, M.L.G. was transferred to the “Viva México Shelter,” where he was held for more than a month, and where his father could visit him twice a week. During the monitoring at that shelter M.L.G. said he needed to see his father more and that he did not feel well.*

*In another visit to the shelter, the psychologist on duty commented that “due to his conduct” M.L.G. had been returned to Siglo XXI. After three months of waiting, the father and son were denied asylum and were deported. At both Siglo XXI and the Shelter they did not have the right to an attorney or access to their case file. M.L.G. did not receive adequate psychological care nor did he have the means to access justice and denounce the agents who attacked him in the situation described below.*

*M.L.G. was in line to be taken to the DIF Module at Siglo XXI when a child hit him in the face. Before the argument between the two children could begin, a child protection officer arrived, took him by the arm, and told him he was going to punish him. M.L.G. told the child protection officer “let me go chief, I can walk.” The officer, however, in a commanding manner and this officer forcibly took him to the “calabozo,” or dungeon, where he left him for three hours.*

*The conditions were unhealthy, with fetid odors, water on the floor, and no light. They brought him food in those conditions, without leaving him any space for receiving his food. M.L.G. shouted desperately to be taken from there. Then a security agent approached him along with another “very tall and large guy” and M.L.G., crying, asked for them to please take him out of there, that he did not want to be there, and the officer said “shut up, you’re nobody here.” Then he opened the door and the child thought he was going to take him out, but the officer stood in front of him saying, “where are you going? It’s best you shut up because right now I’m going to beat you.” M.L.G. answered that he was not going to shut up, to which the security agent answered “don’t [profanity] cross*

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<sup>51</sup> According to the testimony of the minors, “the dungeon” (“*el calabozo*”) is a cell isolated from the rest of the children. It is generally very dirty, it is dark, they are not allowed to leave, and they are taken there when the migration agent considers that they engaged in undisciplined conduct.



*the line, if you want to get out of here you have to fight me.” M.L.G. did not do anything and the officer pushed him to the ground; he was soaked entirely, stayed there crying, and answered that he was going to speak of human rights, because he had rights.*

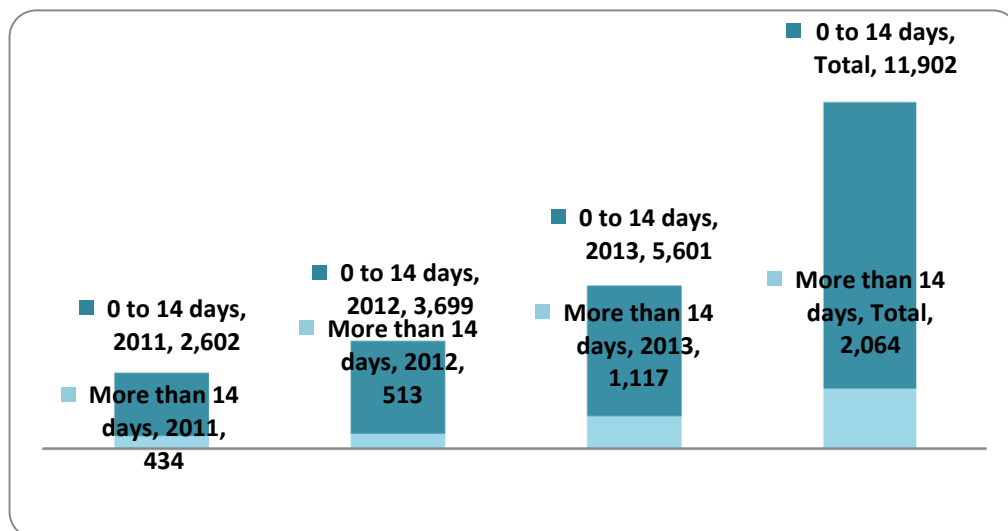
Another determining factor that affects the whole process of detention of children and adolescents is the physical and psychological sequelae they may suffer during prolonged confinement, and in particular, how that episode affects them in the present moment and in the future. In the case of children and adolescents seeking asylum, this also aggravates mental deterioration caused by their previous experiences and the risk of being returned to their country of origin.

To better analyze the amount of time a child or adolescent may be deprived of liberty at an INM migration station (i.e., detention center) we prepared the following tables:

Table 3. Number of days that a child or adolescent is detained at Siglo XXI (Tapachula). Distribution by days of detention.

Days	0-14	15-60	61-120	121-200	201-300	>300	Total
Year							
2011	2,602	370	39	16	9	0	3,036
2012	3,699	472	31	5	4	1	4,212
2013	5,601	1,032	68	17	4	0	6,718

Number of days for children and adolescents detained at Siglo XXI in Tapachula. Distribution by days of detention (Up to 14 days, and more than 14 days).



Source: By authors based on the request for public information, folio number 3614, case number 162/2014, directed to the National Institute of Migration.

The psychological harm that can be caused by confinement may be irreversible. Indeed, there are adolescents who have reached the point of considering suicide, as two adolescents with whom we worked at Siglo XXI noted:

*“If I could choose between remaining confined and dying, I’d rather die.”*  
*“It is the ugliest prison I’ve ever been in my whole life; I’ve never been in one, but surely this is the ugliest.”*

(Honduran adolescent asylum seeker, after 120 days at Siglo XXI)

*“If I spend more days locked up I’m going to go crazy.”*  
*“I really think I’m never going to get out of here, I feel that here I’m going to live and here I’m going to die.”*

(Salvadoran adolescent awaiting deportation who had been at Siglo XXI for 40 days)

Migrant children and adolescents detained are at high risk of suffering depression and anxiety, and, they often show symptoms of post-traumatic stress disorder (PTSD), such as insomnia, nightmares, and enuresis. Feelings of desperation and frustration may manifest as acts of violence against themselves or others. Studies on the effects of immigration detention on children and adolescents have found high rates of suicide, attempted suicide, self-inflicted harm, mental disorders, and developmental problems, including severe sociability disorders.<sup>52</sup>

As for the psychological and emotional impact of migration-based detentions on children and adolescents, it has “profound and long-term implications for their development and their physical and psychological health,” according to a study by the International Detention Coalition.<sup>53</sup> The detention may precipitate delays or even regression in development, may exacerbate existing problems of mental and physical health and create new ones. Even a short-term detention may have a negative impact on children, but in the long run it has an impact on the personality of the minor and his or her self-perception.

This has serious consequences for the children, independent of whether they are allowed to remain in the country in which they are detained or forced to return to their countries of origin.<sup>54</sup> Regarding the application of measures other than detention for migrant children and adolescents, in the words of the Special Rapporteur for Migrant Workers and the Families of the I/A Court HR, “México has not established real and effective mechanisms that serve as alternatives to detention in this area. Established agreements exist between the National DIF System, INM and COMAR [Mexican Commission for Aid to Refugees] which establish performance criteria but

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<sup>52</sup> International Detention Coalition. (2013). *La niñez migrante detenida. Hoja de datos*. Retrieved from [http://endchilddetention.org/wp-content/uploads/2014/11/IDC\\_Hoja\\_de-Datos\\_NNA\\_dic-2013.pdf](http://endchilddetention.org/wp-content/uploads/2014/11/IDC_Hoja_de-Datos_NNA_dic-2013.pdf).

<sup>53</sup> International Detention Coalition. (2012). *Infancia Cautiva*, 57. Melbourne, Corlett, D., with Mitchell. G. Van Hove, J. Bowring. L., & Wright, K. Retrieved from [http://www.acnur.es/PDF/infancia\\_cautiva\\_20130129205414.pdf](http://www.acnur.es/PDF/infancia_cautiva_20130129205414.pdf).

<sup>54</sup> IDC. (2012). *Infancia Cautiva*.

do not serve the children's greater needs. The detention of children and adolescents in migration stations stand in direct contravention of international standards of human rights."<sup>55</sup>

#### 6. *Lack of alternatives to detention*

In the face of the possible consequences of the detention of children and adolescents, it is necessary to rethink profoundly the detention measures that the Mexican State continues to implement. The treatment of children and adolescents according to international standards should not be punitive or sanction-imposing, but rather has to ensure their protection. The Committee on the Rights of the Child has indicated as much when describing that children and adolescents should not be deprived of their liberty based on migratory status.<sup>56</sup> This encompasses all the situations of children in the context of migration, including children and adolescents who are asylum seekers.

In early 2014, civil society organizations held several meetings around the issue of alternatives to detention. The Working Group on Migration Policy (*Grupo de Trabajo sobre Política Migratoria* or GTPM) considered the possibility of working with technical staff of the Senate and some executive branch agencies, such as the DIF. Yet, as of this writing, there is no progress to report. In addition, the Special Migration Program 2014-2018 identifies as its third objective: "To consolidate an effective management of migration, based on criteria of facilitation, international co-responsibility, border security, and human security."<sup>57</sup> In one of the lines of action it states: "To strengthen alternatives to housing foreign persons at migration stations, in particular for persons in vulnerable circumstances." This point is one of the issues on which the Citizen Council of the INM has worked.<sup>58</sup>

In this respect UNICEF has noted some alternatives to detention, such as housing children and adolescents at social protection centers that are not closed, housing them in social services institutions that provide integral protection from a rights-based perspective, or putting measures in place to ensure their presence at the administrative and judicial proceedings that have to do with their admission to or residence in the country, or better yet putting in place a best interest determination procedure. In any event, it has been noted that the residential centers should have

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<sup>55</sup> IACHR. (2011). *Informe sobre la situación general de los derechos de sus migrantes y sus familias*. Mexico. Retrieved from [http://www.fundacionjusticia.org/wp-content/uploads/2013/06/Informe\\_Final\\_Relator\\_Migrantes\\_CIDH1.pdf](http://www.fundacionjusticia.org/wp-content/uploads/2013/06/Informe_Final_Relator_Migrantes_CIDH1.pdf).

<sup>56</sup> Committee on the Rights of the Child. (2012). *The Rights of All Children in the Context of International Migration*, Background Paper. Geneva. Retrieved from <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/2012DGDBackgroundPaper.pdf>.

<sup>57</sup> Ministry of Interior. (2014). Decree approving the Special Migration Program (Third Section - Extraordinary), Strategy 3.3. Standardize the mechanisms and make the migration control protocols efficient with respect to human rights and incorporating differentiated criteria, p. 87. Retrieved from <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2014/9976.pdf?view=1>.

<sup>58</sup> According to Article 59 of the Internal Regulation of the Ministry of Interior, the National Institute of Migration will have a Citizen Council in charge of making proposals; exchanging opinions; proposing actions for cooperation, coordination, and monitoring by civil society of the activities undertaken by the National Institute of Migration; and that the creation of a Citizen Council in the National Institute of Migration will facilitate the participation of organized civil society, academics, and others interested such that they may give an opinion and make proposals to improve implementation of migration policy.

as their objective providing services to the children and adolescents, not depriving them of their liberty.<sup>59</sup>

The initiative presented to the Senate, to which we made reference above, proposes that children and adolescents not be deprived of liberty at migration stations or any other place set up by the INM, and that instead it house them in institutions regulated and covered by a public institution for the protection of children, not engaged in migration enforcement, in line with the obligations that emanate from the Convention on the Rights of the Child. For this reason, it proposes the creation of a “Center for Comprehensive Care and Protection for Children and Adolescents,” (*Centros de Atención y Protección Integral para Niños, Niñas y Adolescentes*) under the state DIFs, and whose objective would be for the children and adolescents to enjoy, at every moment, the rights to health, medical care, and public assistance.<sup>60</sup>

Various human rights organizations, organizations of migrants and refugees, and organizations of children and adolescents have proposed projects for implementing measures as an alternative to detention in the face of evidence that the deprivation of children and adolescents’ liberty on the grounds of irregular migration status is a flagrant violation of the legal principles of necessity and proportionality. Nonetheless, to date such proposals have not resonated in the legislative arena, and much less as a practical matter. It could be said that the opposite has happened—in violation of the Migration Act itself—as the statistics show.

#### **IV. No recognition of children and adolescent asylum seekers**

Through monitoring and documenting detention conditions of adults and minors, we have identified violence in different areas is a determining factor of migration, especially when it comes to safeguarding the lives of children and adolescents. For example, more and more cases have been documented of adolescents for whom migrating was not in their life plan, but who, because of the risk of living in neighborhoods taken over by gang members, find themselves in such vulnerable conditions that they have been forced to leave the country. In other cases, the father or mother migrates due to the constant direct and indirect threats to the children, or the mother returns from the United States in search of her children with the objective of taking them back, thus saving their lives.<sup>61</sup>

The risk of any of these forms of flight, which turns all these children and adolescents into persons in need of international protection, is tied to the vulnerable conditions and dangers they

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<sup>59</sup> UNICEF. (2011). *Observación escrita de UNICEF sobre Niñez Migrante en América Latina y el Caribe. Solicitud de Opinión consultiva sobre Niñez migrante presentada por Argentina, Brasil, Paraguay y Uruguay ante la Corte Interamericana de Derechos Humanos*, Buenos Aires. Retrieved from [http://www.unicef.org/argentina/spanish/Amicus\\_Curiae\\_COMPLETO.pdf](http://www.unicef.org/argentina/spanish/Amicus_Curiae_COMPLETO.pdf).

<sup>60</sup> Senate of the Republic. (April 1, 2014). *Iniciativa con Proyecto de Decreto que Reforma, Adiciona y Deroga Diversos Artículos de la Ley de Migración y de la Ley sobre Refugiados y Protección Complementaria, en Materia de Niñas, Niños y Adolescentes Extranjeros no Acompañados y Separados*, p. 9. Retrieved from <http://www.senado.gob.mx/sgsp/gaceta/62/2/2014-04-03-1/assets/documentos/migrantes.pdf>.

<sup>61</sup> CDH Fray Matías. (2013). *Acción Urgente. Detención Prolongada de la Sra. Marina del Carmen Cortez Peña Migrante Salvadoreña en la Estación Migratoria Siglo XXI*. (CDHFRAYMACO/1401/2013). Retrieved from <https://fronterasurmx.wordpress.com/2013/01/14/accion-urgente-detencion-prolongada-en-estacion-migratoria-de-la-sra-marina-del-carmen-cortez/>.

experience during transit. These risks increase in the case of unaccompanied children and adolescents. They are exposed to sexual abuse, robbery, extortion, and other serious crimes, as well as to measures of detention and deportation without consideration of their rights, even if it might result in detriment to their physical integrity or life upon being returned to their country of origin.

*Case of a female asylum applicant*

*C.F.L., a Honduran adolescent female, 17 years of age, left Honduras after suffering harassment by a drug trafficker who on one occasion attempted unsuccessfully to force her into his car to take her away to have two children (sic). After receiving a call in which he threatened to kill her and her family if she did not go off with him and if they turned him in, she had to make the decision to leave her country with her family.*

Cases such as that of C.F.L., involving social violence, and, associated with it, gender violence, illustrate one of the reasons why adolescent females and young women flee their countries where there is a climate of generalized violence, where they are rendered invisible, and where all the contributing factors to this violence directed at them are ignored. Another grave danger suffered by women and children occurs during transit, when they are even more vulnerable, therefore reaffirming the duty to respond with adequate and comprehensive measures of protection.

The Inter-American Commission on Human Rights has taken account of these cases: “The discrimination toward migrant women and girls by reason of their gender greatly increases the likelihood that they will be victimized on the journey through Mexico. The Commission has received abundant information about the sexual abuse to which migrant women and girls are subjected in Mexico. In its report titled ‘Invisible Victims: Migrants on the Move in Mexico,’ Amnesty International pointed out that “women and children—particularly unaccompanied children—are especially vulnerable. They face serious risks of trafficking and sexual assault by criminals, other migrants and corrupt public officials.”<sup>62</sup>

It is also ever more common to document cases in which violence due to sexual orientation or gender identity represents a risk to the lives of persons who in many of their countries of origin are persecuted and discriminated against if they do not adjust to the sexual orientation accepted by the majority in society. On many occasions they do not have protection from their state, thus they are forced to flee to seek a safe country. This dynamic has been documented by the CDH Fray Matías in its day-to-day work of accompaniment and representation of asylum petitions by Central American children and adolescents.

Nonetheless, it is common for them to also suffer discrimination and exclusion in the countries where they arrive, and they do not have the means for accessing justice and safeguarding their fundamental rights. This affects, in particular, children and adolescents who in many cases encounter difficulties being accepted at shelters, or they must face being held at the detention

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<sup>62</sup> IACHR. (2013). *Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México*. Washington D.C, p. 95. Retrieved from <http://www.oas.org/es/cidh/migrantes/docs/pdf/Informe-Migrantes-Mexico-2013.pdf>.

centers where they do not have a designated space in which they can escape feeling attacked because of their gender identity.

In general, based on the cases that the CDH Fray Matías has accompanied and documented, members of the LGBTTI<sup>63</sup> community must experience, every day, the situations in which they have been victimized rendered invisible by governments, by the media, and even by sectors of organized civil society. The consequence has been to leave them at the mercy of greater risks and discrimination, which often results in violations of the right to life, equality, liberty, and dignity.

*A. Mexican policy of not recognizing asylum seekers*

In the official statistics of the INM, of the Mexican Commission for Aid to Refugees (COMAR), and of the “Viva México Shelter” as well as in the cases that the CDH Fray Matías has documented and accompanied, the number of Hondurans and Salvadorans (adults and minors) who are leaving their country because of violence stands out. We refer to violence broadly, both that which within the nuclear family such as gender violence, sexual violence, physical and psychological abuse, and total abandonment, as well as social and political violence (for example the violence of the *maras* or the security forces) that is explained at the beginning of this study and in the chapters referring to the countries of the Northern Triangle of Central America. At present we are facing a context that requires taking measures to adequately address, in a framework of human rights and the right to asylum, the thousands of children and adolescents who are being forced to leave their countries.

The current response of the Mexican government in the face of this need for international protection consists, in most cases, of detaining children and adolescents for migration-related reasons. This cannot be allowed in any case. And, in the case of asylum seekers, the deprivation of liberty has a particular impact given the traumatic situation that children and adolescents may be facing, and their needs for international protection, which may require immediate measures of protection. Even the Migration Act now in force, at Article 52(V), reinforces the prohibition on migratory detention, and notes that while their status as refugees is being resolved they should be authorized to stay on humanitarian grounds. Nonetheless, this provision is not enforced. The COMAR has the obligation to guarantee protection, particularly in the case of children and adolescents, pursuant to Article 20 of the Law on Refugees and Complementary Protection.

Nowadays the sluggishness of the Mexican Commission for Aid to Refugees (COMAR) in resolving cases, together with their deprivation of liberty, aggravates the uncertainty with which the refugee procedure is experienced by children seeking asylum, which also causes, in such cases, a high level of abandonment in the face of the precarious response by the Mexican state to the requests for international protection. An urgent need to consider due to the increase that is now happening in Mexico in the number of persons applying for refugee status, both adults and minors, due to the situation in Central America.<sup>64</sup>

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<sup>63</sup> Lesbian, gay, bisexual, transgender, transsexual, and intersexual community.

<sup>64</sup> Centro de Justicia y Derechos Humanos de la Universidad Nacional de Lanús, and CDH Fray Matías de Córdova. (2013). *Excerpt of the oral argument in the public hearing issued by the IACHR in response to the Request for Advisory Opinion presented by the states of Argentina, Brazil, Paraguay, and Uruguay on the rights of migrant*

COMAR statistics indicate that few persons are recognized as refugees in Mexico. In 2013, of the 1,164 persons on record as requesting refugee status, 245 were recognized as refugees and 35 were given complementary protection.<sup>65</sup> There is no public official statistic on how many of the persons recognized as refugees were children or adolescents. It is known, however, that of the total seeking such recognition, 455 were from Honduras and 285 from El Salvador, accounting for 63.5% of all the requests – the other 36.5% came from 41 countries.<sup>66</sup>

At a recent conference, a staff member of UNHCR Mexico provided revealing data that shows the asylum policy in Mexico does not guarantee the best interest of the child, and does not have an accessible mechanism for children and adolescents to have access to the process, and if they do gain access, there is little likelihood that their right to international protection will be respected. From 2008 to 2013, according to official statistics, a total of 191 children and adolescents approached the COMAR to request asylum; of these, 150 are from the Northern Triangle of Central America, which is clearly where the needs are.... Of those 191 requests, 50 children were granted asylum. In 2013 alone 50 requests for asylum were filed, 37 of which were Hondurans; children and adolescents leave all three countries, but Honduras today has the highest crime and insecurity indicators, the highest rates of insecurity in the world.... Of the 50 children and adolescents accorded asylum, 86% are children from the Northern Triangle of Central America. In 2013, of the 37 Honduran children and adolescents who requested asylum, only 10 children were granted asylum; it is possible that a certain percentage abandoned their application or withdrew from the proceedings.<sup>67</sup>

Even though the Law on refugees and complementary protection was published in 2011, it contains articles that require review because they go against international provisions on asylum, such as Article 18: “A foreigner who asks to be recognized as a refugee must submit his or her application with the Secretariat within 30 working days from the date he or she entered the country or, as the case may be, from that on which it has been materially possible to file it in the terms defined by the regulation.” This provision limits many people from seeking asylum, since they do not find out about this right, or are not in a position to request it until much later.

Difficulties obtaining recognition as a refugee occur not only at the moment of accessing the process. While the time frame for the first ruling from the interview, which triggers the process, is 45 working days—which comes to about three months—for persons who are in detention that wait may be traumatic, especially in the case of a child. This is why there is a very high level of abandonment by asylum-seekers, coupled with due process violations, such as the lack of a legal representative, interpreter, or guardian, the denial of the chance to present evidence to verify the

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*children*. Retrieved from <http://www.ipdh.mercosur.int/audiencia-ante-la-corte-idh-por-la-solicitud-de-opinion-consultiva-sobre-ninez-migrante-presentada-por-los-estados-firmantes-del-mercosur/> and <https://www.youtube.com/watch?v=Ozw5ekV2ruA> (video).

<sup>65</sup> Chamber of Deputies of the Congress of the Union. (2011). *Ley sobre Refugiados y Protección Complementaria y Asilo Político*, Artículo 2. Fracción VII Protección Complementaria. Retrieved from <http://www.sre.gob.mx/images/stories/marconormativodoc/leyes/dof270111.pdf>.

<sup>66</sup> Comisión Mexicana de Ayuda a Refugiados. (2013). *Estadísticas*. Retrieved from [http://www.comar.gob.mx/es/COMAR/Estadisticas\\_COMAR](http://www.comar.gob.mx/es/COMAR/Estadisticas_COMAR).

<sup>67</sup> Delgado, A. V. (2014, august 25). *Niños refugiados centroamericanos: desafíos en materia de protección internacional*. Paper presented at conference: El Colegio de la Frontera Norte, Matamoros.

narration of the facts, the lack of age-appropriate information, the impossibility of working while the application is pending, and the limited education of the staff regarding the countries of origin.

In the case of detained children and adolescents, they may or may not learn of the right to asylum depending on the information the migration agent gives them. They fill out the first application form by themselves, and then the COMAR officer steps in to notify them that their application has been submitted. From that moment the 45-working-day period begins to run, and a few days before the period runs out, without a preset date, they are interviewed (the interview is recorded) and then they wait for the ruling. In the meantime they are not informed of how their process is going, and they do not see the COMAR officer again until the day they are notified whether they were accorded refugee status.

The number of denials is high. This is due to the poor analysis of the cases, which stems from lack of knowledge of the Central American context.<sup>68</sup> The existence of detention during the duration of the process does not help in any way nor does the general sensation of lack of protection and indifference towards their situation that results from the Mexican government's current policy towards asylum-seekers. In our view, many of these abandoned applications are induced by this policy and are not, therefore, voluntary. This, together with the refusals, allows us to speak of an even greater level of failure to recognize asylum in Mexico.

*B. The destination: the expulsion of migrant and asylum-seeking children and adolescents*

From a core principle—the best interest of the child—are derived specific and complementary obligations for the States, whose objective is to ensure each and every one of the rights recognized to vest in the children under their jurisdiction, with no discrimination whatsoever. In terms of immigration policy, the best interest of the child is very important on issues such as not holding children and adolescents in detention, not deporting them for migration-related reasons, protection of the family unit, due process guarantees, consular assistance, and inclusion of a short, medium, and long-term outlook.<sup>69</sup>

At present there is no genuine best interest determination procedure that makes it possible to specifically assess the situation of each child, and for each child to express his or her opinion with full knowledge of his or her rights, even though both the Migration Act and its Regulation (Articles 69-74) make reference to the duty to assess and determine the best interest of the child. The regulations confuse the assessment and the DIF procedure, for it establishes that the INM shall supervise this procedure, not the system for the protection of children, which should really be the one to do it. This is at odds with standards of protection and the obligation of the State, where it is required that in order to conduct an adequate best interest determination, different institutions and persons specialized in children's rights should participate, and not immigration authorities, as is currently the case.

The Committee on the Rights of the Child and the United Nations Special Rapporteur on the Human Rights of Migrants have indicated that in the context of the best interest determination, a

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<sup>68</sup> COMAR. (2013). *Estadísticas*. <http://www.comar.gob.mx/es/COMAR/Estadisticas> COMAR.

<sup>69</sup> Ceriani, P. (June 23, 2014). *Derechos humanos y Niñez Migrantes: Principios Internacionales*. Paper presented at the International Meeting on Unaccompanied Child Migrants, El Colegio de la Frontera Norte. Tijuana.



clear and detailed evaluation of the identity of the child or adolescent is required. It should be done by qualified professionals in a language the children can understand and it must include an adequate gender perspective, with the aim of addressing each specific situation, the particular condition of vulnerability—especially in relation to physical, psychosocial, and material health—and of other urgent protection needs migrants may have.<sup>70</sup> This duty is reinforced by the advisory opinion issued by the Inter-American Court (2014) in which it establishes in precise terms the obligation of states to establish a best interest determination procedure and to refrain from returning or repatriating children based on their migratory status.

As we can see in the flow chart below from the INM, and as noted in other sections of this study, several aspects are at odds with human rights standards for the protection of children. At no time is any reference made to a best interest determination mechanism, nor is any consideration given to alternatives to detention. The children and adolescents continue to be held at a detention center; notice to the DIF System does not refer to its obligation to shelter them; nor is it clear what form legal assistance will take.

See Figure 3 in the appendix for information regarding the procedure for attending to unaccompanied foreign minors (INM).

Nonetheless, the reality is very different from what the INM seeks to reflect:

*Case concerning failure to observe the best interests of the child*

*O.A.P.M., a Honduran national, migrated for the first time to Mexico when he was 11 years old. When we had contact with him, in January 2012 at the Siglo XXI detention center in Tapachula, it was the third time that he had been through that place. He said that the first time he migrated he had travelled by train, and that he had boarded it in Arriaga, Chiapas, to Nuevo Laredo, Tamaulipas, at the border with the United States. Once he was detained, he spent seven days at Siglo XXI—though he probably spent more days at other detention centers before reaching Tapachula—and he was deported, like the previous times, by migration authorities and taken to the border with Corinto, Honduras.*

*The second migration happened that same month. He also travelled by train, but this time he took it in Tenosique (Tabasco), where he was detained. He does not remember how long he spent at the first migration station, and then he was sent once again to Siglo XXI. Like the other times, he was deported to Honduras at the border at Corinto, where his mother received him.*

*The third time he was detained in Tapachula and taken directly to Siglo XXI. That time he was also deported.*

*Nonetheless, despite the other bad experiences, he decided to migrate once again and that was when in June 2014, now 14 years old, he was found again at Siglo XXI. Previously, the objective of his trips was always to escape poverty and look*

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<sup>70</sup> Committee on the Rights of the Child. (2005); Rapporteur on the Rights of Migrants. (2009).

*for a job to help his mother and siblings. But this fourth time the component of violence in the neighborhood where he lived was the determining factor. On the prior occasions he escaped from his house, and on this occasion he had his mother's consent, as she feared that something would happen to him if he stayed in Honduras.*

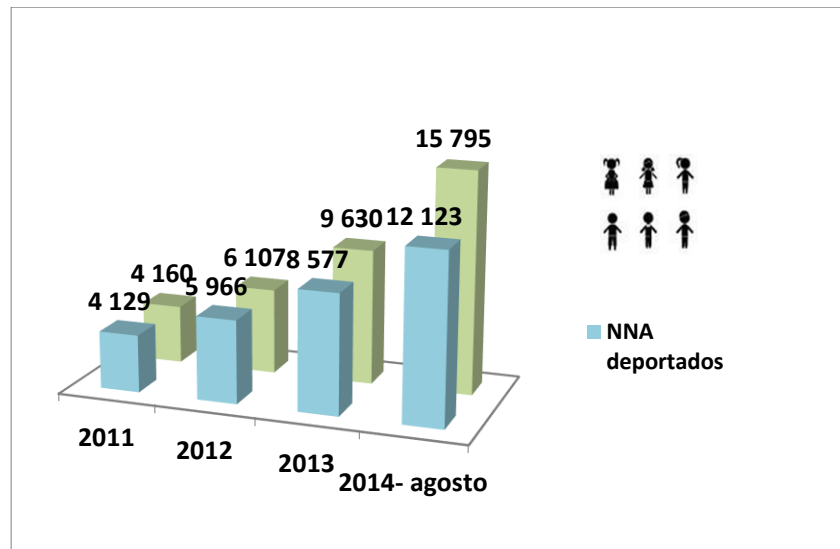
*Every time O.A.P.M. transited through Mexico, the only thing he found was deprivation of liberty in a detention center. He was never in a shelter, he never came across any other alternative for his protection, nor did he have any contact with officials from any government offices other than the migration authorities.*

*The CDH Fray Matías informed him of the right to asylum, explained the process, but he didn't see it as an option for himself, he just wanted to be released from confinement soon, like so many other times. He knew that his best option was to leave and then return as soon as he reached the border.*

As Ceriani explains (2014), “the movement of a child or adolescent from one country to another has to be exclusively the result of a measure of protection. If there is not a best interest determination procedure in place, there is no way to know whether the child or adolescent is subject to a measure of protection and not a measure imposing a sanction.” This case serves as an example of what is the fate of most of the migrant children detained in Mexico: deportation to their country of origin without having observed their best interest, and without having evaluated whether such a return is the most appropriate course of action in light of the child or adolescent's situation and conditions.

The official statistics of Mexico’s INM are clear in this respect:

Figure 4. Difference between detained and deported children and adolescents.



*Explanation/Translation of Graphic*

Color-coded key:  
DEPORTED CHILDREN AND ADOLESCENTS  
DETAINED CHILDREN AND ADOLESCENTS

Source: By authors based on data from the INM.

There has been a considerable increase in the number of minors undergoing a process of verification, detention, and deportation. The percentages that are observed in the table and the case described above indicate that detention and deportation follow almost automatically, as the quintessential response that Mexican migration policy continues to provide to children, without considering the main causes or consequences of their forced migration.

Deportation and the return to their communities of origin do not meet the appropriate conditions, given the lack of reintegration programs which puts their life at risk and jepordizes their security, which then leads to the decision to migrate once again, even right after they reach the border. The result is circular migration in which, on each attempt, their lives and other rights are endangered. The chapters of this book concerning the situation in Honduras, Guatemala, and El Salvador (chapters 2 to 4) describe the conditions of this return.

## V. The immigrant community in Soconusco: living the Mexican dream?

### A. The situation of children of immigrants established in Soconusco

In this chapter we describe the situation of Mexican children of a foreign father and/or foreign mother as well as those children and adolescents who came very young, almost as newborns, to live in Soconusco, Chiapas. We consider it necessary to shed light on their living conditions and those of their families, since inserting, settling, and assimilating in a new land and social composition, as one finds in Soconusco is no easy task. Most, regardless of their nationality, face discrimination and stigmatization in the local population. The main challenges are obtaining the migration document or renewing it, as well as accessing education, health, and social integration in the country of destination.

The lack of statistics on migration, and specifically on children and adolescents, is a constant, which for the case of immigration is even more complex. There is not even recognition of Central American immigrants who remain definitively in Mexico – especially in the state of Chiapas, mainly in the region of Soconusco, and more recently in the state of Tabasco, which is a point of entry for thousands of Hondurans. Nonetheless, thanks to research conducted on the immigrant population in the region,<sup>71</sup> and to studies on workers, in recent years we have attained a certain visibility and characterization of this population.<sup>72</sup>

As for the government, under former governor Juan Sabines Guerrero, in the context of the 2007-2012 Chiapas State Solidarity Plan a major campaign was carried out aimed at migrants as part of the strategy to improve his political image internationally.<sup>73</sup> Due to that, some programs were established that we will discuss below, some changes were made to the local normative framework, and agreements were signed with international organizations and local shelters. In addition, the Secretariat for Development of the Southern Border and International Cooperation Liasion was formed, along with the Office of the Special Prosecutor for Crimes against Immigrants and the Office of Attention to Migrants of City Hall. In addition, these entities organized inter-institutional spaces.

While many of these state of Chiapas public policy actions have addressed some needs, the reality is that migrants remain without full access to their rights. Some of the institutions continue to exist, as well as some of the programs that were implemented, but function with fewer resources and without any interest on the part of the current local and state governments. Despite the research studies and government programs, which continue to be few and far between, little has been done on children and adolescents, especially those born in the national

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<sup>71</sup> Fernández Casanueva, C. (2012). Tan lejos y tan cerca: Involucramientos transnacionales de inmigrantes hondureños/as en la ciudad fronteriza de Tapachula, Chiapas. *Migraciones Internacionales*, vol. 6 (4); Fernández Casanueva, C. (2009). Experiencias de mujeres migrantes que trabajan en bares de la frontera Chiapas-Guatemala. *Papeles de Población*. 15(59): 173-192.

<sup>72</sup> Ángeles Cruz, H. and Luz Rojas Wiesner, M. (2009). Temas pendientes sobre la migración internacional en la frontera sur de México. CONAPO (2009). *Memorias del Foro Nacional. Las políticas de población en México. Debates y propuestas para el Programa Nacional de Población, 2008-2012*. pp. 145-150. Retrieved from <http://www.portal.conapo.gob.mx/publicaciones/foronacional/foronacionalcompleto.pdf>.

<sup>73</sup> Ministry of Finance, Government of the State of Chiapas. (2011). *Plan de Desarrollo Chiapas Solidario 2007-2012*. Retrieved from [http://www.haciendachiapas.gob.mx/planeacion/pdchs\\_2007\\_2012.asp](http://www.haciendachiapas.gob.mx/planeacion/pdchs_2007_2012.asp).

territory but one or both of whose parents are foreigners, or those who arrived in Soconusco with their parents at a very young age. The only information is that of local organizations such as the CDH Fray Matías, shelters, and the research center Colegio de la Frontera Sur,<sup>74</sup> who have worked with and researched the immigrant population in the region for years.

### *B. Immigration in Soconusco*

The city of Tapachula, the administrative center of the municipality with the same name, and the main urban center in the Soconusco region (Chiapas), is not exactly at the border, but it is the social and commercial center of the region that borders Guatemala. It is a city with profound ties to migration, from its very origins. Its existence could not be understood without the presence and work of immigrants from Germany, Italy, Spain, Oaxaca, China, Japan, Guatemala and Central America in general, who came to the region in different circumstances and with various objectives.<sup>75</sup>

The agricultural and commercial wealth of Tapachula and environs attracts these people, which makes Soconusco one of the main destinations of migration in Mexico. This breaks the paradigm that the Mexican Republic's relation to migration is in relation to transit, or as a point of origin and return of migrants. Today, after a careful analysis by the CDH Fray Matías, there is information on the individuals who turn to the Center to request some type of assistance, which is useful for characterizing a part of the immigrant population settled in the area. For example, as of July 2014, the number of cases handled was 482; of all of them, the social integration area, which the migration management team handled, served 327 persons, i.e., 67.84% of the total, which shows how important it is to have orientation on legalization of migratory status. Indeed, these are 327 people who generally represent larger family groups, for they seek information on behalf of every member of the family.

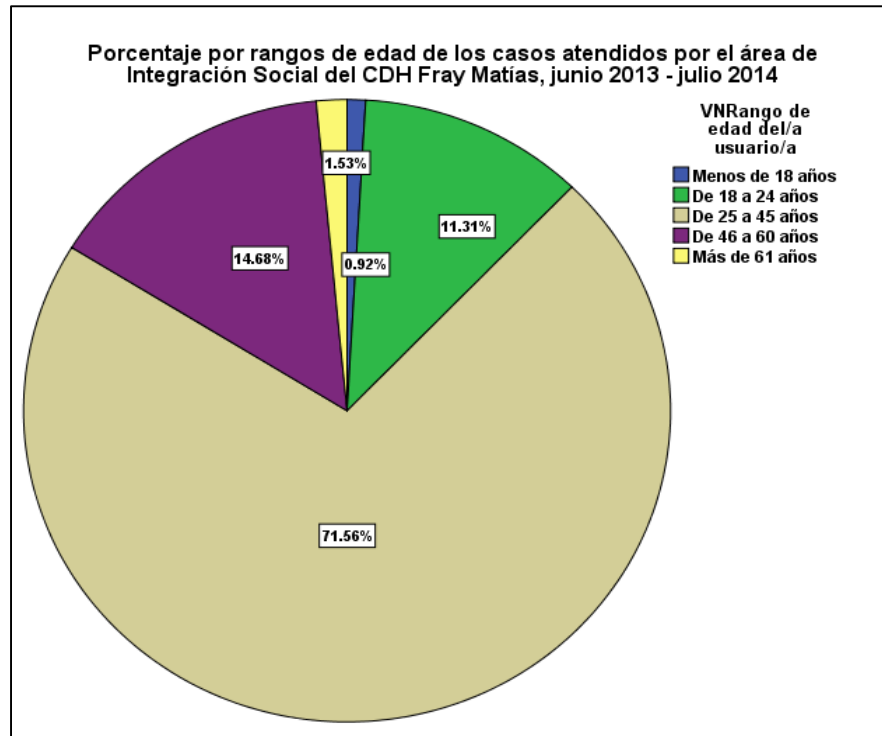
The statistics generated based on the information obtained from these people shows the socio-demographic characteristics of the immigrant population that has settled in the region. Most of those who sought some type of advice are in the 25 to 45 year-old bracket, are in the economically active population, and have children.

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<sup>74</sup> Albergue Belén, Albergue Jesús El Buen Pastor del Pobre y del Migrante A.C., Una Mano Amiga en la Lucha contra el SIDA, Por la Superación de la Mujer A.C., Médicos del Mundo, Todo por ellos A.C., Centro de Derechos Humanos Fray Matías de Córdoba A.C., and Médicos del Mundo (France).

<sup>75</sup> IOM, UNHCR, UNDP, UNFPA, UNODC, and CDH Fray Matías de Córdoba A.C. (2014). *MUMISOC: La oportunidad de un museo memorial de las migraciones en el Soconusco*.

Figure 5. Percentages by age ranges of the cases served by the social integration area of the CDH Fray Matías, June 2013-July 2014.



*Explanation/Translation of Graphic*

Age Range

**LESS THAN 18 YEARS**

**18 TO 24 YEARS**

**25 TO 45 YEARS**

**46 TO 60 YEARS**

**OLDER THAN 61 YEARS**

Source: By authors based on statistics generated by the CDH Fray Matías, from June 2013 to July 2014.

The average person who receives assistance has children, indicating that we are talking about large family groups, which makes legalization of migratory status more complex due to the high costs of obtaining the document for a legal stay for each person, which has to be assumed by the parents.

Table 4. Number of children of migrants, per family.

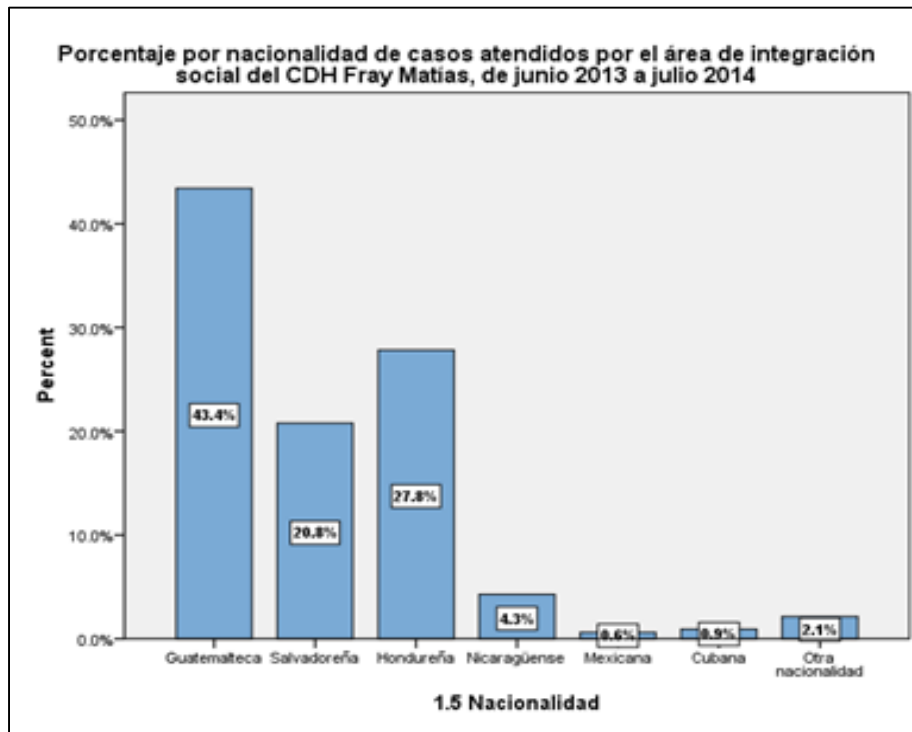
Range of Number of Children

	Frequency	Percentage
0 children	58	17.7
1 to 3 children	206	63.0
4 to 6 children	50	15.3
7 or more children	13	4.0
Total	327	100.0

Source: By authors based on the statistics generated by the CDH Fray Matía, June 2013-July 2014.

The most common nationality among these persons is Guatemalan, which reflects the history of cross-border migration to Tapachula that dates back decades. Next comes persons from Honduras, and in third place are persons from El Salvador, followed by lower number of persons from Nicaragua and other nationalities.

Graph 6. Percentage of cases handled by the social integration area of the CDH Fray Matías, by nationality, June 2013-July 2014.



Source: By authors based on the statistics generated by the CDH Fray Matías, June 2013-July 2014.

While it is true immigration to Soconusco is not recent,<sup>76</sup> it has been increased by natural phenomena such as Hurricane Mitch (1998), the earthquakes in El Salvador (2001), and Hurricane Stan (2005). All of these natural events had an impact on the flow of Central American immigrants to the region. For example, with Hurricane Stan<sup>77</sup> there was a direct impact on the increase of Central American migrants in Soconusco.

### *C. Access to documentation for a legal stay*

The reality of the exercise of rights by all migrants and refugees who live in or transit through Tapachula is not easy. Several reports by civil society organizations and United Nations agencies have described the situations of human rights violations in this region, by act or omission of the authorities, who have the duty to protect the immigrant and transmigrant population in the country. These violations are widespread and occur regularly in the zone to the present day.

It can be said that the situation worsened in 2014 as Mexico's new federal administration adopted measures aimed at bolstering border control and criminalizing migration, both in transit and as residents. The perspective of associating migration with a national security threat has been reinforced by the presence among the decision-makers and operators of Mexican migration policy of individuals with a police and military profile largely unfamiliar with migration and its causes.

The reinforcement, in January 2014, of the Federal Police base in Tapachula, with the arrival of 400 new agents—200 of whom the authorities said would be assigned to border control—increases the risk that this control perspective will result in more human rights violations affecting migrants, immigrants, and asylum seekers in coming months.<sup>78</sup> This reality, more apparent in Soconusco than anywhere else, shows Mexico continues to lack a comprehensive migration policy, lacks a human rights perspective in its approach to migration, and continues to have a policy based on the control of migratory flows focused on national security.

The recent “crisis of migrant children” (whose characteristics and magnitude are described in the introduction to this book) has reinforced the approach to migration merely from a security perspective due to the pressure from the government of the United States, as well as the

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<sup>76</sup> Rivas Castillo, J. (2013). *Los que se quedan en el camino. Inmigrantes salvadoreños en Puerto Madero, Chiapas*. Ciesas-West (doctoral thesis). Retrieved from <http://ciesasdocencia.mx/Tesis/PDF/164.pdf>; Blanco Abellán, B. (2012). *No puedo dejar: Negociación y resistencia en el empleo doméstico. Aproximación a la capacidad de agencia de las empleadas domésticas guatemaltecas en Tapachula, Chiapas*. Ciesas-Southeast (doctoral thesis). Retrieved from <http://ciesasdocencia.mx/Tesis/PDF/721.pdf>; Wilson González, J. (2012). *Entre la plebe: patojos cortando caña. Adolescentes guatemaltecos cortadores de caña en la agroindustria azucarera en Huixtla, Chiapas: Tácticas y vida cotidiana*, Ciesas-Southeast (doctoral thesis). Retrieved from <http://repositorio.ciesas.edu.mx/handle/123456789/177>.

<sup>77</sup> In Guatemala the official data reported by the National Coordinating Body for Disaster Reduction (CORRED: Coordinadora Nacional para la Reducción de desastres) include the following figures: 1,158 communities of 15 departments harmed; 669 persons deceased and 844 disappeared; it is estimated that the total number of disaster victims comes to approximately 500,000 people; 31,971 persons were given shelter; 9,136 homes destroyed; 25,832 homes damaged.

<sup>78</sup> Institute Social Communication of the State of Chiapas (January 19, 2014). *200 policías de elite vigilan la zona fronteriza*. Retrieved from <http://www.icosochiapas.gob.mx/2014/01/19/200-policias-de-elite-vigilan-la-zona-fronteriza/>.



acquiescence and complicity of the Mexican federal government and the Central American governments.

In this context, the Southern Border Program (*Programa Frontera Sur*) announced and decreed by the federal government of Mexico, raises many questions. If we review the recent statements by the President of the Republic of Mexico and the Minister of Interior regarding that Program we encounter more of the same: anachronistic policies and proposals and a list of “good intentions” that do not work in the face of the complex causes of massive migration and forced displacement.<sup>79</sup> And then actions are unveiled that are based on migration control. With this initiative, Mexico is showing the world that it is a country that is indeed doing something in this complex scenario about migrant children and adolescents, although the specific measures and statistics reveal that, by way of contrast, it is prioritizing the reinforcement of migration control with the objective of satisfying, in particular, the objectives of the U.S. government.<sup>80</sup>

It is striking that one of the lines of action of the Southern Border Program refers to protection and social action on behalf of migrants. Reference is made to medical units that already exist in Chiapas and to improving the conditions in which the shelters and detention centers are operated, in addition to supporting the DIF shelters. This setup, once again, is focused on consequences without addressing causes, and the reality is very different: the precarious situation at the DIF shelters in the southern states is alarming and the living conditions and lack of due process at the detention centers have been denounced repeatedly by social organizations and independent observers.<sup>81</sup>

What continues to be observed and documented is that the whole security approach violates migrants’ rights. But in the day-to-day reality, one of the main obstacles immigrants face is obtaining immigration papers for a legal stay. The current legal framework governing migration in Mexico, made up of the Migration Act of May 2011 and its Regulation of September 2012, does not consider regions such as Soconusco, where thousands of migrants have been living for many years, who have raised families or brought their children. Not having legal status has a direct negative impact on children and adolescents because they cannot access fundamental rights such as health and education.

For many persons who seek to obtain their “papers”<sup>82</sup> for the first time and are single, are not scientists, academics, students, artists, or businesspersons, and who do not have any children born in Mexico or do not have an offer of skilled employment, it is impossible to obtain a temporary or permanent residence visa that allows them to work.

*Since 2012 much has changed with respect to the requirement of documents. Now it is very difficult to obtain immigration papers, the administrative transactions*

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<sup>79</sup> Boggs, C. (August 25, 2014). Cinco preguntas sobre el nuevo programa de frontera sur. *WOLA*. Retrieved from [http://www.wola.org/es/comentario/cinco\\_preguntas\\_sobre\\_el\\_nuevo\\_programa\\_de\\_frontera\\_sur\\_del\\_gobierno\\_mexicano](http://www.wola.org/es/comentario/cinco_preguntas_sobre_el_nuevo_programa_de_frontera_sur_del_gobierno_mexicano); Knippen, J. (September 8, 2014). Las incoherencias del programa frontera sur. *FUNDAR*. Retrieved from <http://fundar.org.mx/las-incoherencias-del-programa-frontera-sur/>.

<sup>80</sup> Boggs, C. (2014). Cinco preguntas sobre el nuevo programa de frontera sur.

<sup>81</sup> CDH Fray Matías de Córdova. (2014).

<sup>82</sup> Migrants call the Visas Permitting Temporary or Definitive Residence, or in general any procedures before the INM, “papeles” (“papers”).

*are very expensive, but they need the migration papers to register their children for school and to obtain health insurance coverage through the Seguro Popular program.*<sup>83</sup>

*In many cases the families are very large and the steps for obtaining the Migration Form are very expensive: the cost is \$3,900 [Mexican pesos] per person, the fine is \$1,346, and when receiving it one must pay another \$1,036.*<sup>84</sup> *As these are families with limited resources they may only register the father, for the insurance, then the mother, and the children end up without any insurance.*<sup>85</sup>

The figures clearly indicate that the number of applications and permits granted do not match the total foreign population living in the area. With respect to obtaining permanent permits, of the total 54,440 permanent resident cards issued nationwide in 2013, some 2,660 were issued in the state of Chiapas; of these 296 persons were from El Salvador, 1,149 from Guatemala, and 575 from Honduras, which accounts for 75.8% of the total.<sup>86</sup>

This chapter is not aimed at setting forth in detail the procedure for legalizing migratory status, but the obstacles mentioned make it clear that despite pressures from organizations the programs implemented by the INM and the current legal framework for migration have left out thousands of people living in the region.

*D. We are already here: what about my birth certificate? My health? My school?*

*1. Access to rights: The right to health*

The first step in gaining access to rights such as the right to health is when the father or mother or a migrant child or adolescent obtains the migration document. The right to health is defined as “the right to ensure the highest level of physical, mental, and social well-being, to assure the full exercise of the capacities of the human being, which makes it possible to have a dignified quality of life.”<sup>87</sup> However, obtaining legal status should not be a requirement, for several international treaties provide that the fact that a parent is undocumented should not be grounds of denying the parent or the children their rights.

In Mexico, specifically in the state of Chiapas, “the Ministry of Health is the coordinator of the National Health System and the federal public health authority: it decentralized the operation of its services on behalf of the government of the state of Chiapas, in the matter of public health in terms of medical care and social assistance, reproductive health and family planning, health

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<sup>83</sup> Interview by MiriamWirsing with Rodríguez, N. (2014). *Proyecto internacional: Derechos Humanos, Niñez y Migración en Centro y Norte América: Causas, Políticas, Prácticas y Retos*.

<sup>84</sup> These sums in Mexican pesos are equivalent to approximately US\$ 480 for the migration documents of each person.

<sup>85</sup> Interview by MiriamWirsing of Leonarda L Vilaltoro (interviewee) (2014). *Proyecto internacional: Derechos Humanos, Niñez y Migración en Centro y Norte América: Causas, Políticas, Prácticas y Retos*.

<sup>86</sup> Information obtained with data from the Centro de Estudios Migratorios de la Unidad de Política Migratoria, SEGOB, based on information recorded in the offices of permits of the INM.

<sup>87</sup> Human Rights Commission of the Federal District (2008). *Catálogo para la calificación e investigación de violaciones a derechos humanos de la Comisión de Derechos Humanos del Distrito Federal*. Mexico City. p. 152.

promotion, preventive medicine, and within the area of sanitary regulation and control in goods and services, health supplies, environmental health, and public health oversight of advertising.”<sup>88</sup>

In December 2008, “the Ministry of Health of the state of Chiapas, through Health Ministry No. VII, which covers the Soconusco region, carried out an important action for attending to the health of migrants by implementing the Health Passport.”<sup>89</sup> After several modifications, in 2010 it came to be called the “Migrant Health Passbook,” and it consists of a document that allows one to keep track of medical visits to health services, from vaccination and control of congenital-degenerative diseases to other basic services. The mental health area implemented talks, courses, and workshops that were given for migrants inside the INM detention centers, the Centers for Social Readaptation, and some shelters.

The health centers also work with children and adolescents of foreign origin, or who have a foreign mother or father. Before 2008 the established migrants and their family members could turn to health centers without any need for migration documents or special programs. As of 2008 the centers began to keep statistics on the number of times medical or health services were provided by nationality of origin, and when specific lines of action were implemented for the established migrants and their family members.

As has already been pointed out, today there are numerous obstacles in terms of the requirements and costs that make it difficult if not impossible for persons to obtain or renew their migration papers. This makes it almost impossible for a foreign laborer to be able to obtain papers and therefore the affiliation to the health care system. Accordingly, foreigners enjoy no official protection, and have to turn to private physicians and/or pharmacies that have a general practitioner.<sup>90</sup> In this context, turning to the service provided by pharmacies becomes an economic strategy, for if some member of the family falls ill, goes to the health center, and is not affiliated with the insurance program Seguro Popular, they would pay an average of 41 pesos, approximately US\$3.00,<sup>91</sup> and they would have to purchase the drugs prescribed by the physician. At the same time, at pharmacies the consultation is free or has a low cost—approximately 25 pesos (about US\$1.90)—and one would have to purchase the medicine at that pharmacy. In these places, the medicines prescribed are generic with prices accessible for the family budget.

At present there continues to be discretion in the charges and discrimination in health care in Soconusco. For example, foreign children, or Mexican children who are the children of migrants, find themselves in a sort of limbo when it comes to getting health care, where having or not

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<sup>88</sup> Moctezuma Barragán, G. (2000). *Derechos de los usuarios de los servicios de salud*. Chamber of Deputies. 57<sup>th</sup> Legislature. Universidad Nacional Autónoma de México. Mexico City, p. 81.

<sup>89</sup> Martínez-Junco (2011). p. 83.

<sup>90</sup> The migrants turn to Farmacias Similares or Farmacias del Ahorro. Option documented in De Lachica Huerta, F. (2011). *Experiencias de las Mujeres Inmigrantes en los servicios de Salud*. in Pérez García, N., and Roldán Dávila, G. (eds.) *Mujeres Migrantes en el Soconusco. Situación de su derecho a la salud, a la identidad y al trabajo. Incide Social*. pp. 91-109.

<sup>91</sup> De Lachica Huerta, Fabiola (2011). While it is true that the Ministry of Health says that services such as outside consultations are free, in field observations and through surveys given to immigrants to turn to health centers in Soconusco, the average payment per consultation was 41 pesos.

having migration papers, the economic situation, and their mothers' and fathers' job benefits in Mexico all have a cross-cutting impact.

In this regard, it is an obligation of the Mexican state to ensure that all migrants, and especially children, independent of their migration status, have access to preventive, curative, and palliative health services addressing all kinds of diseases, based on equal treatment with nationals, eliminating all the formal and informal obstacles that currently restrict the exercise of the right to health for this group, which is in a vulnerable situation.<sup>92</sup>

## 2. *Right to identity*

In Chiapas, before the reform of Article 56 of the Civil Code,<sup>93</sup> the civil registries would block access to identity by arguing, for example, that if the child was already six months old, the father or mother had to present migration papers. Otherwise, the option at those offices was for only the name of the parent of Mexican origin to appear. Therefore, in Soconusco there are cases in which only the father appears on the birth certificate, because it is very likely that the mother is a foreigner.

In the case of minors whose mother and father are both foreigners, the possibility of accessing identification was even more difficult. If both parents did not show that they were in the country legally, it was not possible to register the child. Even in those cases, some in-law, neighbor, or friend of the foreigners would appear as parents of those children, given that the biological parents found it impossible to register them as their own children.

In response to this situation, and as a result of pressure brought to bear by organizations such as CDH Fray Matías, Sin Fronteras, and international organizations, among others, on May 13, 2009, the Official Gazette (Diario Oficial) of the state of Chiapas published the amendment to Article 56 of the Civil Code of the state of Chiapas,<sup>94</sup> which prescribes that “under no circumstance shall the registration of minors born in the state be denied even when one or both parents are of foreign origin and do not have the accreditation for legal stay in the national

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<sup>92</sup> Centro de Derechos Humanos de la Universidad de Lanús, UNICEF, and TACRO. (2009). *Estudio sobre los estándares jurídicos básicos aplicables a niños y niñas migrantes en situación migratoria irregular en América Latina y el Caribe*. Province of Buenos Aires, Argentina. Retrieved from [http://www.unicef.org/lac/MIGRACION\\_UNICEF.pdf](http://www.unicef.org/lac/MIGRACION_UNICEF.pdf).

<sup>93</sup> As amended in P.O. No. 051 of October 3, 2007, Article 56: “The state shall guarantee the right to identity through the universal, free, and obligatory birth record, in the terms of this code. Declarations of birth shall be made presenting the minor [sic] to the civil registry officer or requesting that the officer appear at the place where the child is.” As amended in P.O. No. 164) of May 13, 2009. “Under no circumstances shall registration of the birth of the minor child born in the territory of the state of Chiapas be denied, when the child of a father and/or mother of foreign nationality who lacks a document accrediting their legal stay in the national territory. In addition, one cannot limit the right of the foreign father, mother, or both to note his, her or their name(s) in the birth record of the minor [sic] due to that circumstance, for which the authority of the registry should provide the information and documentation needed to reliably accredit the identity of the parents, and that the minor was born in the territory of the state.” More information Retrieved from <http://www.pgje.chiapas.gob.mx/informacion/marcojuridico/Leyes/Estatales/Codigo%20Civil/Codigo%20Civil.pdf>.

<sup>94</sup> See the requirements for registering a child in the state of Chiapas <http://www.registrocivil.chiapas.gob.mx/faqs.html#faq6>.

territory.” Ever since, the right of every child to have a birth certificate, without regard to the migration status of the parents, has been recognized.

Even though identity is a right that should be guaranteed for every child born in the territory, there is still misinformation in this regard. Beyond the amendments to the state codes, the violation of children’s right to identity continues to occur, as well as prejudices when it comes to the documentation of the children of migrants with the Civil Registry. The misinformation or denial of right sometimes occurs at the window where services are provided by administrative staff, not necessarily by the judge of the Civil Registry.

Migrants with legal status obtained in the programs for legalization, with a child born in Mexico prior to the amendment of the Civil Code in Chiapas, were able to obtain their birth certificates through campaigns for extemporaneous certificates (*actas extemporáneas*).<sup>95</sup>

Nonetheless, even in such cases these families continue to face discrimination. Upon turning 18 years of age, when the adolescent turns to the Federal Electoral Institute (IFE: Instituto Federal Electoral) for a voter credential<sup>96</sup>—which in Mexico is the principal identity document—the extemporaneous certificates are not accepted, because the staff of the IFE “think” that the document is false or that the adolescent was born abroad and that, by corrupt acts, the mother or father obtained the identity papers for their child. This has been found by the CDH Fray Matías in several cases in which it has provided support in the city of Tapachula.

The main obstacles in the Soconusco region due to not having the credential from the IFE come up in connection with obtaining other services, such as opening a bank account or collecting money that has been sent, as well as access to loans and to rights as a worker, being able to exercise one’s political rights (vote in elections), apply for a passport, etc. For this reason organizations have demanded of the IFE that it set requirements based on the reality of migration at Mexico’s southern border, mindful of the difficulty that foreign parents have when it comes to obtaining their child’s birth certificate.

In view of all these factors, although there is no longer any obstacle in the state and federal legal framework, in reality there are still public servants who deny the right or who provide misinformation to foreigners seeking information.

### 3. *The right to education*

In Mexico, Article 3 of the Constitution states: “Every person has a right to receive education. The State—Federal Government, States, Federal District, and Municipalities—shall impart preschool, primary, secondary and higher middle education. Preschool, primary, and secondary education constitute basic education; this and higher middle education shall be compulsory.”

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<sup>95</sup> Generally in the month of April, considered children’s month in Mexico, campaigns are organized to obtain birth certificates. Those documents are known as extemporaneous certificates (*actas extemporáneas*), i.e., they are cases of children entered in the registry more than six months after they were born, and registration is free of any charge.

<sup>96</sup> See requirements to apply for the voter ID card for the first time

[http://www.ife.org.mx/portal/site/ifev2/Detalle\\_Credencial\\_para\\_Votar/?vgnextoid=a7e237b5af4dd110VgnVCM100000c68000aRCRD#nacionalidad](http://www.ife.org.mx/portal/site/ifev2/Detalle_Credencial_para_Votar/?vgnextoid=a7e237b5af4dd110VgnVCM100000c68000aRCRD#nacionalidad).

Therefore, access to education constitutes a key aspect in the process of settling migrants in the place of destination.<sup>97</sup> In Mexico, the lead education institution is the Ministry of Public Education (SEP: Secretaría de Educación Pública): “the school zones of the federal system are those attended by the largest number of students in the region. With regards to migrant students in municipalities that border Central America, the municipality of Tapachula serves the largest number.”<sup>98</sup>

In Chiapas policies were implemented in favor of access to education and universal primary schooling, “hence one might think that the migrants are included, since it is a matter of incorporating the millennium development goals of the United Nations to achieve development in a given state.” One example of these efforts for migrant children to have access to education is the implementation, in 2008, of the Preschool and Primary School Education Program for Children of Migrant Agricultural Day-laborer Families (*Programa de Educación Preescolar y Primaria para Niños y Niñas de Familias Jornaleras Agrícolas Migrantes* or PRONIM). These programs served eight schools and had 158 students enrolled.<sup>99</sup>

Nonetheless, the children of day laborer families that went to the PRONIM schools did not have access to education with a multicultural perspective or their ethnic origins were not respected. For example, at the PRONIM schools the instructors speak Spanish, whereas the children of the agricultural laborers at the coffee farms who come from Guatemala speak primarily Mam or Kaqchiquel.<sup>100</sup> They receive classes in Spanish, thus their rights to identity and to the use of the mother tongue are not respected. With respect to the plan of studies, the history of the children’s country of origin is not taken into account. The instructors who teach classes at the coffee farms do not have training in intercultural education; they are multi-grade professors and not exactly pedagogues.<sup>101</sup>

Even so, the basic education curriculum of the Ministry of Public Education has an intercultural education approach with a constructivist pedagogical approach. In its introduction it notes:

The *2011 Plan of Studies, Basic Education* is the guiding document that defines the life skills, graduate profile, the curricular standards, and the expected learning that constitute the formative trajectory of the students, and is proposed be contributing to the formation of a democratic, critical-minded, and creative citizen that Mexican society needs in the 21<sup>st</sup> century, from national and global

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<sup>97</sup> Choy Gómez, J. (March 13,14, 15, 2012). *El acceso a la educación primaria para hijos e hijas de migrantes hondureños (as) en Tapachula, Chiapas. Una experiencia*. Paper presented at the South-Southeast Regional Meeting of the Education of Young Persons and Adults Network. UPN 072. Tapachula, Chiapas.

<sup>98</sup> Zacarías Gutierrez, M. (2014). *Experiencia docente en los procesos de inclusión de niños y niñas inmigrantes Centroamericanos en escuelas primarias ubicadas en Tapachula, Chiapas*. Chiapas, Mexico City, p. 9.

<sup>99</sup> Ministry of Public Education. (2008). *Informe de Evaluación Externa del Programa de Educación Preescolar y Primaria para Niños y Niñas de Familias Jornaleras Agrícolas Migrantes (PRONIM)* Pachuca, Hidalgo, Rodríguez Solera, C.R. (ed.), p. 230. Retrieved from <http://basica.sep.gob.mx/dgei/pdf/inicio/pronim/evalext/EvaluacionExterna2008.pdf>.

<sup>100</sup> Mother tongues widely used by persons from areas with a high density of indigenous communities, such as the departments of San Marcos and Quetzaltenango, from which most of the Guatemalan agricultural day-laborers who work on the coffee farms in Soconusco, Chiapas, come.

<sup>101</sup> Choy Gómez, J. (2012). pp. 17-51.

dimensions that consider the human being and the universal being.”<sup>102</sup> In addition, it explicitly addresses the issue of diversification and contextualization of the curriculum—that is, adapting the purposes of education to the particular needs, expectations, and cultural orientations of the students—committing to providing a relevant education to minorities, whether indigenous persons or migrants, based on the development of curricular frameworks. In this regard, “the Curricular Frameworks address diversity as policy, pedagogic, and didactic devices and tools that include and connect the scholastic lessons that Mexican society of the 21<sup>st</sup> century needs with that which the indigenous and migrant peoples and communities sustain to develop educationally, from their representation of the world and their specific material contexts.”<sup>103</sup>

Nonetheless, in reality we find a failure to develop those curricular frameworks and, consequently, teaching materials, so that the textbooks and teaching materials that are being used tend to be homogenous throughout Mexico, without addressing the various forms of diversity of the indigenous and migrant students. This translates into educational inequalities, which have an especially profound negative impact on the indigenous population with respect to the rest of the population.<sup>104</sup>

In the case of migrant children, barriers to education extend beyond the gaps in school curriculum and resources; as cases have been documented of families that have difficulties for their children even accessing school because they do not have the documents requested. For example, they may enter basic education, but their mother, father, or both must sign a letter of commitment in which they undertake to submit the proof of lawful immigration status by the end of primary school so that the child can get his or her certificate and continue on to the next level. If as of that moment the parents have not been able to regularize his or her status, the child will not get his or her certificate of studies.

Therefore, although the right to education is not openly denied—since in principle foreign children are guaranteed this right under current law—one sees the abuse of discretion by the school authorities when it comes to admitting or not admitting foreign children. In addition, a number of requirements are asked and required of foreign children, such as validation of studies, endorsement, etc.; these are transactions done in the state capital of Chiapas, which is 400 km from Tapachula, entailing a very high cost and the risk of being detained at a migration checkpoint.

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<sup>102</sup> Ministry of Public Education. (2011). *Plan de Estudios 2011. Educación Básica (2011)*. Mexico City: SEP.

<sup>103</sup> Ministry of Public Education. (2011). *Plan de Estudios 2011. Educación Básica (2011)*. Mexico City: SEP.

<sup>104</sup> National Institute of Educational Evaluation. (2007). *La educación para poblaciones en contextos vulnerables*. México: INEE.

As we can see in the following statistics, the number of foreign children in school is minimal compared to the number of foreigners living in the area:

Information about numbers of Central American migrant students in primary education, by municipality, 2012-2013 school year.

Municipality	System	School Zones	Schools	Total Students	Migrant Students	% Migrant Students
Cacahoatán	State	1	1	117	0	0
	Federal	5	29	5,553	64	0.01
Frontera Hidalgo	State	0	0	0	0	0
	Federal	1	10	1,765	40	0.02
Metapa	State	0	0	0	0	0
	Federal	1	5	802	28	0.03
Suchiate	State	1	1	137	1	0.007
	Federal	1	29	5,313	175	0.03
Tapachula	State	6	58	13,700	82	0.005
	Federal	14	165	26,829	496	0.01
Tuxtla Chico	State	1	5	876	15	0.01
	Federal	2	29	4,571	123	0.02
Unión Juárez	State	1	2	275	0	0
	Federal	3	13	1,524	11	0.007

Source: Table prepared by teacher Mauricio Zacarías Gutiérrez, based on information obtained in the statistics area of the Office of the Undersecretary for State Planning, Chiapas, 2014.

#### 4. *Children and adolescents who live in shelters in Tapachula*

The situation of migrant children and adolescents who live in shelters operated either by civil society organizations or by the municipality of Tapachula requires considerable attention. Most of the children are channeled through the DIF System and not all are migrants in transit through Mexico. Among them are many children and adolescents who have lived and worked in Soconusco for a long time, as we saw above.

Each shelter has its own rules and programs established according to its jurisdiction; some are religious and open-door, others are closed-door institutions, and others have both alternatives. These shelters receive primarily Mexican children and adolescents who were abandoned or have been the victims of some crime, and who are channeled by the DIF System, though they also receive foreign children and adolescents. There are few foreigners, as the admission process is more complex, and even when a lasting solution is not found, they may still end up deported to their country of origin.

Nonetheless, the existing shelters are not sufficient for addressing the realities of these children and adolescents, and above all there is no follow-up by the DIF System concerning



the treatment they receive. The conditions in which they live and the access to their rights are mentioned in an earlier section in which we examined the living conditions of children and adolescents in transit at a shelter of the DIF System.

In Mexico there is a big problem concerning how shelters operate, who regulates them, and how they are regulated. It is common to hear news about abuses and violations of the rights of children and adolescents in the shelters. The Latin American Network of Family Reception (*Red Latinoamericana de Acogimiento Familiar* or RELAF) reports that in Mexico approximately 412,456 children have been identified as lacking parental care, of whom nearly 29,310 are in the 703 institutions focused on serving and caring for minors. Nonetheless, the exact number, their legal situation, and the conditions of security of children in the shelters are unknown (legal and unregistered, such as annexes and rehabilitation farms).<sup>105</sup>

In Tapachula there are several civil society shelters such as Misión México, El Albergue Esperanza, Albergue Todo por Ellos AC, el Buen Pastor, Albergue Belén, Ejército de Salvación (Salvation Army), and the Albergue Niños del Futuro “El Buen Samaritano” A.C.<sup>106</sup> Some receive children who have been totally abandoned, as well as the children of Central American mothers and fathers who are serving sentences in prison or children removed from the family due to violence in the home or other situations.

In an interview with the head of the shelter known as Albergue Niños del Futuro “El Buen Samaritano” A.C.<sup>107</sup> She commented that most of the children they receive do not have any family members, do not have identification papers, are discriminated against in the schools because of their nationality, and have been sexually abused or have suffered labor exploitation and child abuse. It is difficult for them to be accepted in the schools and many suffer from the lack of affective maternal ties. Many of the mothers, she says, were sex workers who have already suffered violence and who have had several children.

In the case of the children who live in the Temporary Shelter for Migrant Minors Tapachula, once they are recognized as refugees they are sent to shelters in Mexico City such as Casa Alianza. Nonetheless, there is no follow-up from the shelter, even though some end up living there for up to a year. It is difficult to have contact with the children again once they leave Tapachula. What is known is from testimonies of children and adolescents who after being at Casa Alianza escaped and returned to Tapachula. They report that, there too, they suffered abuse and discrimination based on their status as sexual abuse victims.

One case that exemplifies this situation is that of L.V.L.C, of Guatemalan nationality, with whom CDH Fray Matías has worked since 2010, when s/he was detained at the Siglo XXI

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<sup>105</sup> REDIM. *Boletín. Urgente que el Estado Mexicano garantice la seguridad de cerca de 30 mil niñas y niños que se encuentran en albergues*. Retrieved from [http://derechosinfancia.org.mx/index.php?contenido=boletin&id=50&id\\_opcion=73](http://derechosinfancia.org.mx/index.php?contenido=boletin&id=50&id_opcion=73).

<sup>106</sup> Founded in April 1996, it receives children who due to especially difficult situations have had to suffer abandonment. They take a comprehensive approach from the moment they arrive at the home until they conclude their studies.

<sup>107</sup> Interview by María de Lourdes Rosas Aguilar with Teresa Lean Hernández.(2014). *Proyecto internacional: Derechos Humanos, Niñez y Migración en Centro y Norte América: Causas, Políticas, Prácticas y Retos*.

detention center; three years later s/he returned to Tapachula and narrated what s/he experienced at a shelter in Mexico City:

*During the time I was at Casa Alianza I realized that people were classified based on their case, F1 (for those youths who had come in recently from the street), F2 (depending on their behavior), and F3 (they could leave the houses unaccompanied); the F1 and F2 kids were not allowed to go out unaccompanied. When I arrived I was classified as F3, it was a closed-door shelter.*

*At the house, every night they would give us a pill, which according to them had been prescribed for us by the psychiatrist; the counselors (the persons who took care of us) said they were tranquilizers.*

*During my stay at Casa Alianza I was subjected to discrimination by other children and the counselors; on several occasions they insulted me because of my sexual preferences, as they did others.*

*As a result of this violence and discrimination my friend and I decided to escape for the first time, and we sought out a female friend of my friend who helped us out; we stayed in their houses for a week....<sup>108</sup>*

## **VI. Invisibility of Central American migrant children and adolescents who work in Soconusco<sup>109</sup>**

### *A. Migrant children and adolescents working in Soconusco*

The vast majority of the children mentioned in the previous section, who live periodically or permanently in the Soconusco region, are working in the formal and informal economy in the region. In this cross-border area exists a population, commercial, and labor exchange of Guatemalans who head to the municipalities of the region to work or seek employment. But the fact that there are also those who see Soconusco not just as a temporary destination is especially noteworthy. There is a predominance of Guatemalans residing in the region, a large percentage of whom (78.4%) are in the city of Tapachula.

The number of Guatemalans who head to Mexico to work is significant, though the actual figure is unknown since many enter by irregular means. The methodological difference between different sources that keep records on the entry of Central Americans does not make it possible to determine a more precise figure. For example, the INM recorded, for 2011, 29,953 persons of Guatemalan nationality (82.2% men) documented with the Cross-Border Worker Migration Form (FMTF: Forma Migratoria de Trabajador Fronterizo) to work in the agricultural sector in Chiapas and Tabasco; 60,896 did so with the Local Visitor Migration Form in Chiapas.<sup>110</sup> Yet the the Survey on Migration at the Southern Border of Mexico (EMIF Sur: Encuesta sobre

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<sup>108</sup> Updated testimony of L.V.L.C. to CDH Fray Matías. (February 25, 2013).

<sup>109</sup> Section written and based on the research by Dr. Carolina Rivera Farfán, lead researcher at CIESAS southeast.

<sup>110</sup> INM. (2012).

Migración en la Frontera Sur de México)<sup>111</sup> recorded, from 2006 to 2009, an average of 291,000 annual crossings of Guatemalan workers to Chiapas.

Another source is Mexico's National Occupation and Employment Survey (2007). According to this survey, for 2007 the state of Chiapas had a total population of 1,424,036, of whom 52,445 were child workers ages 5 to 13 years; and 147,753 were 14 to 17 years of age engaged in economic activities. In other words, in Chiapas, in the year of the survey, 200,198 children and adolescents were working, accounting for 14.1% of the total population. All together they constitute the child worker population.

Nonetheless, two major gaps stand out in this survey: (1) children and adolescents who are pursuing "marginal" activities such as looking after cars, cleaning windshields, shoe-shiners, those selling candy and chewing gum, singing on public buses, or offering entertainment such as "fire-swallowers," "clowns," comics, or those who lie down on broken glass; (2) foreign children and adolescents who live and work in Chiapas are not included in the survey.

Quantifying the number of children and adolescents and their movements in search of work is no easy task in view of the wide array of variables to consider: origin-destination, the repetition of the movements, time of stay in the places of reference, and, above all, the many different types of migration.<sup>112</sup>

Nor are records kept by employers that would make it possible to convey information as to how much of the population is contracted annually; the numbers of people involved; the socio-demographic characteristics; as well as the social and labor conditions in the place. It means that we encounter major information gaps in this respect, and this is a problem to consider when it comes to proposing actions and public policies for working children and adolescents coming from Central America to Mexico's southern border.

### *B. Identification and characterization of working children and adolescents*

Despite the lack of data, one can note some characteristics of these working children. For example, the migration of children and adolescents to Mexico is seasonal and permanent, and during the last three decades an increasing flow has been observed (IOM, 2010, DIF Day Center).<sup>113</sup> Most children engage in pendular movements, characterized by border crossings daily, weekly, or every month or two months. Although there are also those who work only during the months of school vacation (mid-October to mid-January), whose length of stay

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<sup>111</sup> El Colegio de la Frontera Norte, et al. (2009). *Encuesta sobre Migración en la Frontera Guatemala-México (EMIF GUAMEX)*. Retrieved from <http://www.colef.mx/emif/resultados/publicaciones/publicacionessur/pubsur/Emif%20Sur%202006.pdf>. This survey that has been conducted since 2004 by El Colegio de la Frontera Norte, the National Institute on Migration, the Ministry of Labor, the National Population Council, and the Ministry of Foreign Affairs of Mexico. Up until 2007 it was called Survey on Migration at the Guatemala-Mexico Border (EMIF GUAMEX: Encuesta sobre Migración en la Frontera Guatemala-México). The objective is to quantify and characterize the flow of labor migration of persons of Guatemalan origin over 15 years of age who reside in Guatemala and work in Chiapas in one or another economic sector. It highlights data on their socio-demographic, labor, and migratory characteristics.

<sup>112</sup> Corona. (2008).

<sup>113</sup> Information provided by Day House, DIF, Tapachula, Chiapas. (August, 2013).

depends on various factors. These are the distance from their place of residence to the workplace, and the type of activity, which determines rhythms and time of stay; as well as other personal factors associated with family composition, economic responsibility, and the sending of remittances, to name a few.

When such workers enter Mexico they are recorded as temporary workers if they are at least 16 years old and are accompanying a group of temporary day laborers who already have a job offer. But as mentioned, an undetermined number of minors do so irregularly. And there are also those children and adolescents who enter the country accompanying an adult relative or those who enter on their own account by any of the border crossings.

Another option is that reported by Girón<sup>114</sup> in which many indigenous children and adolescents seek out private operators known as “tramitadores” who help fill out and submit forms required to obtain a legal document that states that they have their parents’ authorization. There are also those who cross without the border agents from the National Institute of Migration blocking their entry. The agents note that they give their consent because they have “learned to recognize them,” making an effort to distinguish the cross-border migrant from those in transit who intend to travel to the United States.

The work of Guatemalans in Soconusco, which dates back to the 19<sup>th</sup> century, has not only been maintained but also increased during the last 30 years. This is due mainly, as we saw, to Guatemala’s structural poverty, to which are added other transformations in the economy of the receiving society, such as the introduction of new export crops; the growth of cities demanding services; commerce; and construction. The breadth of the economy represents an opportunity for employment for both Mexican nationals and Guatemalans from departments that border Mexico such as San Marcos and Huehuetenango, among others. To this has been added, increasingly in recent years, compounded conditions of insecurity and violence in the communities of origin, as can be seen in more detail in the chapter of this book on Guatemala (3).

The dynamic of intra-regional migratory flows in Central America has a relationship with and an impact on the labor market in the cross-border strip between Guatemala and Mexico. And, as is the case among other Central American countries, the intensification of the intra-regional flows of workers has several explanations: as a complement to national labor; as a replacement for national labor that migrates; or as a survival strategy for Guatemalan families. Labor migration is part of the structural regional circumstance between Guatemala and Chiapas, for there are sectors and economic activities that historically depend on the availability of a seasonal or permanent migrant labor force in the areas of agriculture, construction of real estate, services, and commerce.<sup>115</sup>

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<sup>114</sup> Girón, C. (2010). Migrantes Mam entre San Marcos (Guatemala) y Chiapas (México). In Torres, A. (ed.). *Niñez indígena en migración. Derechos en riesgo y tramas culturales*, Quito, Ecuador: FLACSO, AECID, UNICEF, pp. 227-305. Retrieved from [http://www.unicef.org/lac/Ninez\\_Indigena\\_en\\_migracion%281%29.pdf](http://www.unicef.org/lac/Ninez_Indigena_en_migracion%281%29.pdf).

<sup>115</sup> Bernal Cosío, A., Aguilar, G., & Durán, P. (2013). *Informe Regional* in Instituto Centroamericano de Estudios Sociales y Desarrollo (INCEDES) and Sin Fronteras IAP. (2013). *Análisis de las migraciones laborales actuales y los procesos de armonización legislativa en Centroamérica, México y República Dominicana*, Mexico City: Palma, I., & Pérez Garcia, N. (eds.), pp. 8-31. Retrieved from [http://www.sinfronteras.org.mx/attachments/EstudioRegional\\_Coparaem2013\\_VF.pdf](http://www.sinfronteras.org.mx/attachments/EstudioRegional_Coparaem2013_VF.pdf).

Recognizing this structural reality makes it possible to characterize child labor in terms of transnational migration. In particular, their situation as irregular laborers in principle needs to be recognized as such so as to lay the foundation for their human rights and, depending on their age, their labor rights.

But in what areas do Central American children work in Soconusco? The few studies indicate that they are mainly work in the agricultural sector, followed by services, commerce, and, on a smaller scale, construction.<sup>116</sup> They are also engaged in activities not considered to involve the production of goods or services in a market economy, such as informal commerce and marginal work performed in the street (windshield cleaner, car washer, clowns at stoplights, loaders/carriers in the markets, errand-runners, garbage collection, and beggars). Other types of work for which they receive informal and sporadic payment include housekeeping; guarding construction sites; cleaning rubble and garbage.

In each sector they become involved in different ways and at different levels depending on shifts in the economic cycle, the productive chain, the capital tied to transnational agroexport companies in the context of globalization, as well as those situated in the informal branch of the economy. The conditions of labor insertion vary by branch and sociological profile, where laborers are coming from, prior labor experience, forms of hiring, seasonality of hiring, working conditions, labor relations, wage, and living conditions outside the work site (housing, social networks, health care).<sup>117</sup>

Data from a late 2010 survey by Dr. Carolina Rivera of CIESAS Southeast yielded the following information regarding nationality of origin, sex, age, civil status, type of locality of origin, schooling, and indigenous language.<sup>118</sup> Of the 220 children and adolescents surveyed, most are male (94%), only 6% are female; 88% are from the department of San Marcos, municipality of Concepción Tutuapa, followed by the municipality of Totonicapán (4%); and also 4% from Choluteca and Siguatepeque, both in Honduras. Of those surveyed, 72% are from peasant families based in rural villages and hamlets (*rancherías*, *caseríos*, or *cantón*); only 28% reside in an urban center (municipal seat or town that they themselves considered an urban area).

A large percentage are 15 to 18 years of age (81%); this age group is followed by those aged 9 to 14 (16%). With regards to schooling, a significant percentage has some level of primary schooling: 48% completed up to fourth to sixth grade; 30% completed first to third grade. In other words, nearly 80% studied some grade of primary school, although those who were just in the first three years have many difficulties when it comes to reading and writing; they do so with

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<sup>116</sup> Like those of Girón, Carol (2010); that of the IOM, Mission in Mexico. (2010); Rivera, Carolina (2011); Ayala-Carrillo et al. (2013) and that of Wilson, Jania (2012), cited above.

<sup>117</sup> Bernal Cosío et al. (2013), pp. 8-31.

<sup>118</sup> As indicated above, we do not have official data quantifying and socio-demographically characterizing the migrant working children and adolescents. As a result, we turn to the few studies that address the issue and to the data that arose from 220 surveys of children and adolescents during the second half of 2010. These were completed at the office of Migratory Regularization of the National Institute of Migration (INM), the Center for Attention to Migrant Children and Adolescents–Day House, DIF Chiapas, and in the city streets near the “San Juan” market and “Miguel Hidalgo” central park in the city of Tapachula. Others were completed in Puerto Madero, at the Casa Roja of the INM situated in Talismán, and at the office of the INM in Ciudad Hidalgo (Rivera, 2011).

great difficulty, as was verified in the exercises done at the DIF Day Center. Of the total surveyed, 5% had some level of basic (i.e., secondary) schooling.

Given their young age, the majority is single (76.4%) though a significant number live in consensual unions (16.8%); the rest are married. The young people who are married or living in consensual unions (51 individuals in all, i.e., 23% of the total) have acquired responsibilities by having one or two children. A considerable number belong to some ethnic minority. Almost one-third (30.5%) are from Mayan localities where the language spoken is primarily *Mam*, *Q'eqchi'*, or *Q'anjobal*. Nonetheless, we consider that their presence is greater, as indicated by the specific data on the youths and children who work as shoe shiners (*boleros*) and selling candy and cigarettes (*cangurito*), and who have turned to the DIF Day Center. With regards to the labor activity, the data yield the following information:

Table 5. Sectors of the economy in which children from Central America are engaged in Soconusco, Chiapas, Mexico. 2010.

Agricultural sector		Construction		Services		Street vendor		Marginal activities		Other activity	
	%		%		%		%		%		%
Coffee	15.9	Mason's helper	4.1	Domestic employee	10.0	Candies ( <i>canguro</i> )	10.5	Shoe shiner ( <i>bolero</i> )	1.8	House work	4.5
Papaya	13.6			Waitress	3.2	Clothes	3.6	Loader/cARRIER	1.4	Not working currently	2.7
Banana	2.3			Table dance dancer	1.4	Sandwiches	2.3	Juggler	0.5	Student	2.3
Sorghum	1.4			Ranch hand	1.4	Ice cream	0.5			Other	15.9
Sugar cane	0.5					Flowers	0.5				
<b>Total</b>	<b>33.7</b>		<b>4.1</b>		<b>16.0</b>		<b>17.4</b>		<b>3.7</b>		<b>25.4</b>

Source: Rivera (2011) based on a survey applied to 220 children and adolescents during the second half of 2010.<sup>119</sup>

The data obtained confirm that the largest number of Central American children and adolescents, especially Guatemalans, work in the agricultural sector (33.7%). Indigenous and non-indigenous peasant children and adolescents engaged in work in the rural area have low levels of schooling and job training, and so have few opportunities to find work in other sectors.

<sup>119</sup> Rivera, C. (2011). El trabajo de niñas, niños y adolescentes guatemaltecos en el Soconusco, Chiapas. In Villafuerte, D. and García, M. (eds.) *Migración, seguridad, violencia y derechos humanos en el sur de México y Centroamérica*. Mexico City: Miguel Ángel Porrúa, UNICACH, BUAP, pp. 257-290.

The precarious situation and scant skills for working in another type of employment subjects these workers to low-skilled activities, such as the services sector (16%), employment in the informal sector, as a street vendor (17.4%) of candies and cigarettes, clothes, ice cream, snacks, and flowers. A large percentage of the sample is in “Other activity” (25%), which includes those who perform marginal work: windshield cleaner, car washer, clowns at stoplights, loaders/carriers in the markets, errand-runners, garbage collectors, pickers and beggars, as well as others for which they receive informal and sporadic payment for housekeeping, guarding construction sites, and cleaning rubble and garbage.

After agricultural activities, work at home stands out (10%), employing a significant number of female Guatemalans, both adult women and girls. Domestic work, food and beverage service at restaurants and eateries, and sale of food at street stands and bars all indicate that gender is a crucial factor in the work done by girls and young women. Indeed, in Guatemala, for example, the number of boys and adolescent males who work is double the number of girls who work, but more than 90% of domestic employees are girls.<sup>120</sup> This also explains the high presence of Guatemalan girls and adolescent females in domestic work in Tapachula.

### C. The case of migrant girls and women who work in homes in Soconusco

Domestic work of Guatemalan girls and women in Tapachula homes is an activity that dates back a long time, at least to the 19<sup>th</sup> century. Initially it was associated with agricultural work in the context of family migration. While the men worked on the coffee farms, the women—wife and daughters—would go to Tapachula and other cities in the Soconusco region for employment in homes.<sup>121</sup> At present, it is a more individual experience and women, adolescent females, and even girls rely on family and social networks, mostly female, to migrate and find work.

Most enter Mexico irregularly, or with a visitor’s permit if of age.<sup>122</sup> They are from indigenous localities in the departments of San Marcos, Huehuetenango, Quetzaltenango, and Retalhuleu, and a few are from El Salvador and Honduras. Those from El Salvador and Honduras almost always turn to such employment temporarily while they pull together resources to continue their travel to the United States.

<sup>120</sup> UNICEF. (2007). *Estado Mundial de la Infancia. La mujer y la infancia. El doble dividendo de la igualdad de género*. New York, USA. p. 48.

<sup>121</sup> Fernández-Casanueva, C. (2009). Experiencias de mujeres migrantes que trabajan en bares de la frontera Chiapas-Guatemala. *Papeles de población*. 15(59), 172-192. Retrieved from [http://www.scielo.org.mx/scielo.php?script=sci\\_arttext&pid=S1405-74252009000500005&lng=es&tlng=es](http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1405-74252009000500005&lng=es&tlng=es).

<sup>122</sup> Rojas Weisner, M. (2002). Mujeres y menores migrantes. *Migración: México entre sus dos fronteras, 2000-2001*, Foro de Migraciones. Mexico City; Rojas, M., Ángeles, H., and Fernández, C. (2008). *Trabajo y migración femenina en la frontera sur de México* in Herrera, G. and Ramírez, J. (eds.) *América Latina migrante: estado, familias, identidades*, Quito: FLACSO Ecuador; Retrieved from <http://www.flacsoandes.edu.ec/libros/digital/40811.pdf>; Casillas, R. (2006). *La trata de mujeres, adolescentes, niñas y niños en México. Un estudio exploratorio en Tapachula*, Chiapas, Mexico, Mexico City. Retrieved from <http://www.oas.org/atip/Reports/Estudio.Exploratorio.en.Tapachula.pdf>.

In late 2012, the CDH Fray Matías de Córdoba published a report on the situation of domestic workers in the city of Tapachula.<sup>123</sup> The average age of those interviewed to prepare the report was 22 years, yet 51% were minors, ages 13 to 17, which indicates a significant percentage of child and adolescent workers in this labor sector.

The fact that the workers are children and adolescents may in many cases result in increased vulnerability, both in contracting and in working conditions. Among other things, this is due to the false conception that children are not competent or that they are considered an object accompanying the adults and, as such, lack autonomy in their actions and in their capacity to make decisions, including in the exercise of their rights.

It is striking that, when the adult women (49%) state how old they were when they first migrated, 15 of 52 women said they left their place of origin when they were under 18 years of age, and all were accompanied by some family member to a house already known by another family member or friend. On that first migration only three had to seek employment in public spaces (the central park in Tapachula, Chiapas, known as Parque Central Miguel Hidalgo). Another factor to note is the strategy developed to appear to be of age. Some girls use makeup with the idea of “passing as an adult” and thus having more opportunities to find employment, but also to be paid as women of age with work experience.

From 2011 to early 2014, Doctors of the World France-Mission in Chiapas developed—in conjunction with the CDH Fray Matías as of early 2013—a project for assistance and advisory services for domestic employees in a space situated across from the Parque Miguel Hidalgo.<sup>124</sup> During those years, Doctors of the World provided services to 1,883 domestic employees, most of whom (99%) were of Guatemalan nationality; just a small share (1%) were of a different nationality, whether Mexican, Salvadoran, Honduran, or other. The Guatemalans are mainly girls and women of the Mam ethnicity. Of these, 67% have had primary schooling and 93% answered that they emigrated from their community to seek work in Tapachula:<sup>125</sup>

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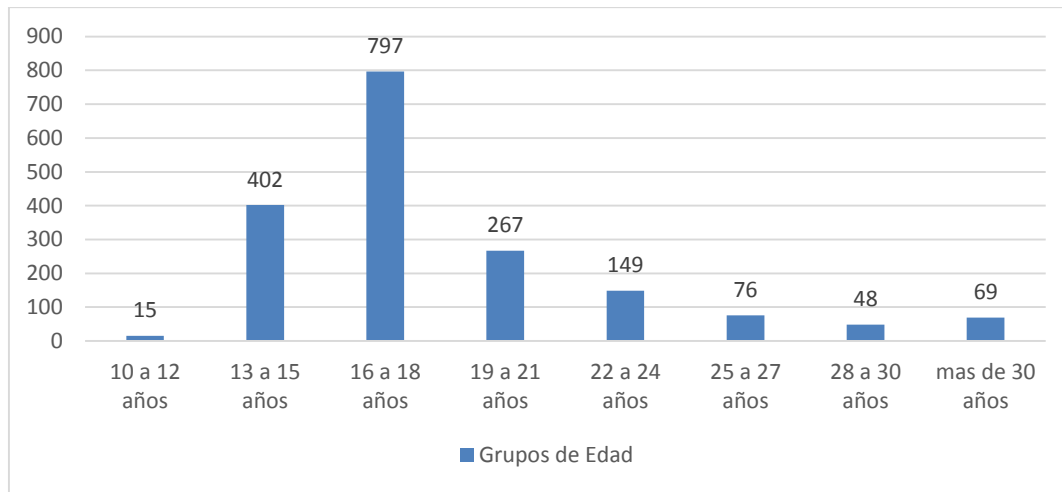
<sup>123</sup> CDH Fray Matías de Córdoba. (2013). *Por el reconocimiento a la contribución significativa de las trabajadoras del hogar en la economía global. Situación de las y los trabajadores del hogar en la ciudad de Tapachula, Chiapas, Tapachula, México*. Tapachula. Retrieved from [http://www.cdhfraymatias.org/sites/default/files/situacion\\_de\\_las\\_y\\_los\\_trabajadores\\_del\\_hogar\\_en\\_la\\_ciudad\\_de\\_tapachula\\_chiapas.pdf](http://www.cdhfraymatias.org/sites/default/files/situacion_de_las_y_los_trabajadores_del_hogar_en_la_ciudad_de_tapachula_chiapas.pdf).

<sup>124</sup> The Parque Miguel Hidalgo is a strategic place where on Sundays employers come to hire, by verbal contract, female domestic employees. That day is the rest day, which is why the plaza becomes a place for recreation and getting together with friends and family.

<sup>125</sup> Doctors of the World France - Chiapas Mission and CDH Fray Matías. (2011-2014). (Specifically, 19% of domestic employees had only abbreviated primary schooling, 48% had fully completed primary school, 26% had secondary schooling, and 7% had upper secondary schooling).



Graph 7. Household employees included in the program for assistance and advisory services of Doctors of the World and CDH Fray Matías. Distribution by age bracket.



Source: Database of Doctors of the World France-Mexico Mission, 2011-2014.

During the process of accompanying these girls and women, observations include dynamics of labor exploitation, lack of access to basic labor rights such as not having a single contract in any case, and not having legal status, something practically impossible for these girls and women due to the cost, time, and interests of the employer, to apply for and obtain a temporary or permanent residence card.

#### D. Migrant children working in the street

Informal street work, such as that done by children and adolescents who sell candies and cigarettes (called *canguros* or *chicleritos*), as well as those who clean shoes (shoe-shine boys, or *boleros*), has a visible presence in Tapachula and in other cities in the region.<sup>126</sup>

The vast majority workers, as in the other areas of the economy of Tapachula, are from Guatemala. Nonetheless, in recent years there has been an increase in the presence of children from Honduras, Belize, Colombia, El Salvador, and Nicaragua. They are found in other spaces and areas of the city performing marginal activities such as those mentioned above, or inserted in the agricultural plantations that surround the city.

Data from the DIF Day Center,<sup>127</sup> a reception center often frequented by a considerable number of these children and adolescents, indicate that from June 2009 to September 2013, some 1,441

<sup>126</sup> The data comes from 25 surveys administered (8% of the total registered population of the Day House (DIF) as of September 2010) in the months of June and July 2010; as well as information from 102 Day House case files, the equivalent to one-third of the children and adolescents registered as of September 2010.

<sup>127</sup> The Center for Attention of Migrant Children and Youths in the city of Tapachula was created in 2009 by the Government of the State of Chiapas, DIF Chiapas, IOM, UNDP, and UNICEF. Its objective is “to give comprehensive care to migrant children and youths and marginal urban workers (target population) who are in the

child and adolescent workers went there, 94% of whom are male, and only 6% female – although in recent years this number has been rising.<sup>128</sup>

The largest share of Guatemalan children and adolescents are from the department of San Marcos, situated in southwestern Guatemala; the departmental capital is located 252 km from Guatemala City. It is followed by the departments of Totonicapán, Quetzaltenango, and Huehuetenango. Of the total, 72% are from peasant families that live in rural villages or hamlets (*rancherías*, *caseríos*, and *cantones*) and only 28% reside in an urban center, which is to say a municipal seat or town that they, themselves, consider to be an urban area.<sup>129</sup>

In her study, Rivera indicates that for 2010 the age range was 13 to 16 years (49%), followed by those up to 17 years and 11 months (45%); and 6% from 4 to 12 years old.<sup>130</sup> All of them, without exception, have had to interrupt their studies due to various circumstances associated with the lack of economic resources in their domestic groups. The most common causes cited in explanations in this respect are: “I left school to work and help my parents with the expenses at home”; “there was no money to buy the notebooks and books they asked for at the school”; “all my brothers and sisters must work to help with the expenses of the house and one’s own expenses”; and “working to be able to save and continue studying.”

These children and adolescents allude to the poverty at home and the lack of work in Guatemala as the main causes for migrating to the city of Tapachula and engaging in the work or trades indicated above. Other responses to the question as to why they come to work in Tapachula are: “*easier to find work in this city*”; “*you can earn more here*”; “*the city is safer than Guatemala.*” Their idea was to work for a few months in the city, but in several cases their stay was extended to two years, during which they travelled to their home two to three times a year. The few who were still in school only went to Tapachula during the two months of vacation.<sup>131</sup>

*E. Principal abuses, violations, and dangers to which working children and adolescents are exposed in Soconusco*

Due to the wide variety of labor activities in which they are engaged, it is not possible to state a general rule concerning the types of abuses, violations, and dangers to which working children and adolescents are exposed. We group work activities into two main categories, the agricultural sector and the commerce and services sector in urban areas.

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border zone in the state of Chiapas in a situation of social vulnerability, no matter their nationality and legal status, for the purpose of guaranteeing their dignity under a framework of law, respecting the provisions established in this respect.” See (2009) *Reunión de trabajo para el funcionamiento del Centro de Atención de Niñas, Niños y Jóvenes Migrantes*. Tapachula, Chiapas.

<sup>128</sup> Villegas, DIF. (2013).

<sup>129</sup> Rivera, C. (2011). *El trabajo de niñas, niños y adolescentes guatemaltecos en el Soconusco, Chiapas* in UNICACH, and BUAP. (2011). *Migración, seguridad, violencia y derechos humanos en el sur de México y Centroamérica*. Mexico City: Villafuerte, D. and del Carmen García, M. (eds.). pp. 257-290.

<sup>130</sup> Based on information from 102 case files at the Day House, accounting for one-third of the children and adolescents registered as of September 2010.

<sup>131</sup> Rivera, C. (2011).

In agriculture, especially on those plantations with short cycles whose production is for the national market or export (papaya, mango, banana, and sugar cane), the constant exposure to toxic substances (pesticides and insecticides, among others) exposes children and adolescent workers to skin diseases and respiratory infections. They live in makeshift sheds (*galleras*), collective spaces situated in the annexes of plantations, in overcrowded and unhealthy conditions, with little ventilation or light. Most sleep on boards. The food they receive is of poor quality and is repetitive (beans, tortillas, and coffee or sweetened flavored water) and there is no space for rest or recreational activities.<sup>132</sup> In relation to services and commerce, which include children and adolescents working in the street as street vendors, the risks to which workers are exposed include the constant harassment by agents (municipal or migration) but also by people in the streets; this is especially true for those who work at night. The lack of regular migration papers makes them susceptible to the municipal “inspectors” who patrol parts of the city with a high concentration of migrants and demand of them, by way of blackmail and threats, money or part of the merchandise they sell (especially cigarettes), and, in exchange for such payment, “they are allowed” to continue working.<sup>133</sup>

The working children and adolescents’ permanent fear is being detained by the INM for subsequent deportation for the lack of legal documents. In addition, many are assaulted; their belongings are stolen, even by those with whom they share a room; they are cheated, and on more than a few occasions they become victims of human trafficking, especially children and adolescents from El Salvador and Honduras. Even though these abuses occur in plain view, no authority appears to do anything to prevent or stop them.<sup>134</sup> In addition, for domestic employees (females), and those who sell food, the workday is long, on occasion more than 10 hours. This is especially true for those who live in the homes of their employers, whose work begins very early, between 5:30 a.m. and 6:00 a.m., to prepare breakfast and then clean the house and wash the laundry. It is assumed that the domestic employees “should be available” for any task required by the employer.<sup>135</sup>

In addition to the negative impact on their labor rights—the work itself is already a violation of their right to develop as children and adolescents—these workers are deprived of basic aspects of other rights, such as housing and health. The violation of these rights is linked to the labor conditions and different forms of exploitation or abuses they experience, and also associated with

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<sup>132</sup> These working and housing conditions are reported in several papers, including those by Ayala-Carrillo, M. et al. (2013). El trabajo infantil guatemalteco en los cafetales del Soconusco: “insumo” que genera riqueza económica, pero nula valoración social. *Revista Latinoamericana de Ciencias Sociales, Niñez y Juventud*, 11 (1), pp. 659-673. Retrieved from <http://revistaumanizales.cinde.org.co/index.php/Revista-Latinoamericana/article/view/943/449>; Wilson, J. (2012). *Entre la plebe. Adolescentes guatemaltecos cortadores de caña en la agroindustria azucarera de Huixtla, Chiapas. Tácticas y vida cotidiana* (Master’s Thesis in Social Anthropology). CIESAS, Mexico City; and Rivera (2011), to mention a few.

<sup>133</sup> The information collected, questionnaires, and interviews come from the constant work of monitoring and documenting migrant realities performed by CDH Fray Matías for many years in Tapachula. We visit the Siglo XXI detention center and the Chiapas DIF’s Viva México shelter on a regular basis, conducting full interviews with migrants and asylum seekers, documenting their legal situation. As a result of this work, there exists statistical information on violations of rights and direct testimony of migrants, including children. Approximately five interviews are conducted weekly at both places and at our offices; this is an exercise that has continued throughout the period covered by this research study, and is the source of the data and cases included in this book.

<sup>134</sup> Information based on the permanent field work and experience of CDH Fray Matías de Córdoba.

<sup>135</sup> Information based on the permanent field work and experience of CDH Fray Matías de Córdoba.

the lack of effective policies for prevention and protection, particularly from a comprehensive rights-based approach.

Accordingly, those children or adolescents who work in services and commerce who live in Tapachula, who do not travel every day to their place of residence in Guatemala or who do not live in the employer's home, look for rental housing. Typically, groups made up of family members or friends from the same home community almost always rent rooms together and live in overcrowded conditions. Recent arrivals who do not have such support networks find lodging in neighborhood situations known as "cuartería," where a landlord will place renters of all ages who do not necessarily know one another in a single room.

The cost of renting a room in 2011 ranged from \$400 Mexican pesos (US\$ 30.00) and \$900 pesos (US\$ 67.46) monthly; the payment is prorated among the persons living in the room. They are rooms no larger than 25 square meters, with little if any ventilation; the bathrooms and spaces for washing clothes are collective. On average, such a room is shared by three or four people, but in many cases it is shared by as many as six or seven people, especially when some are relatives. There is no space for a stove or refrigerator.<sup>136</sup>

These dwellings are occupied exclusively to sleep, because everyone works all day. Nearly 80% of these children sleep on cardboard; very few have been able to buy or inherit a mat; and it is very rare for such children to sleep on a mattress. They get food in the street, normally in eateries in the market which, for 15 pesos (US\$ 1.12), offer a meal and sugar water to drink; or four or five might get together to buy a roast chicken and tortillas to eat on the sidewalk or in the main plaza. They usually have two meals, with one more at night made up of soft drinks and cookies. It all depends on their earnings that day.<sup>137</sup>

With respect to health care, it is striking that the children and youths report that they only get sick occasionally. Domestic employees, as well as those who work in restaurants, eateries, taverns or bars may be supported by the employers, depending on the economic capacity of the business or household, because they are not covered by the public health care service.<sup>138</sup> Most report that when they suffer some illness, such as respiratory and gastrointestinal infections, they relieve their symptoms by sharing medicines recommended by a relative or friend, or by a clerk at a local pharmacy. Some physical ailments suffered by street vendors are associated with fatigue caused by long workdays and having to carry the goods they sell. Aches in the back and feet and exhaustion are the most common complaints.

They also have problems of malnutrition, anemia, and parasitosis that are reflected, among other symptoms, in spots on the skin. Early pregnancies in mostly young women who work as street vendors present greater difficulties, for in addition to the merchandise they carry a child, just a few months old, on their backs. Many of them are coupled with someone who performs the same type of work, and together they work out the schedules for their workday; when they have their partner's support, women generally work fewer hours. In general they may say they do not get

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<sup>136</sup> Information based on the research by Carolina Rivera and the testimony documented by CDH Fray Matías.

<sup>137</sup> Rivera, C. (2011).

<sup>138</sup> Blanco. (2012).

sick, but getting into details, the cases mentioned above come up, but for them this is not considered illness because they lived in similar conditions at home.<sup>139</sup>

Another constant is the irregular payment of salaries agreed upon in the labor agreement. The amount agreed upon is not respected, or payment is not made in full because sales were low, or an employee was not present for a full workday or was delayed. All these reasons are invoked to justify not sticking to stipulated agreements. The situation of female minors who work as domestic employees is particularly fragile where there is no contract or any type of document that supports the labor relationship and its conditions. These situations provoke great instability and make it difficult to keep a job for a prolonged period.<sup>140</sup>

At the southern border of Mexico, child labor lacks effective institutional regulation even though the federal and state government recognize International Labor Organization (ILO) (2002) stipulations. Even though during the last eight years the issue of child labor in Chiapas has been part of the government's discourse, measures taken have been ineffective in determining the number of children involved in child labor. There is also a lack of programs to comprehensively address the issue. Only recently have mechanisms been put in place aimed at doing so. The Inter-institutional Commission for Eradicating Child Labor includes among its main objectives "seeing to the enforcement of Mexican and international provisions ratified by Mexico regarding the prevention and eradication of child labor; as well as designing prevention campaigns that foster the importance of according priority to the education of children and adolescents."<sup>141</sup> In addition, in June 2014, the Child and Adolescent Labor Observatory was established in Chiapas. Nonetheless, in both very little reference is made to foreign child and adolescent workers, such as the Central Americans to whom we refer in this chapter.

Making their presence and the conditions in which they work visible is urgently needed. However, we recognize, as we note in the recommendations, the challenges created by their undocumented migration status, among other issues. It is also possible to identify enormous challenges related to providing protection for children and adolescents, including institutional weakness (DIF), lack of budget, inadequate public assistance, and, once again, the priority given to a security-based approach to migration which continues to impede an integrated rights-based approach.

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<sup>139</sup> Information based on the permanent field work and experience of CDH Fray Matías de Córdoba.

<sup>140</sup> Rivera. 2014 (in press).

<sup>141</sup> Judicial Branch of the state of Chiapas. (September 4, 2014) *Reglamento Interno de la Comisión Interinstitucional para la Erradicación del Trabajo Infantil en el Estado de Chiapas*. Tuxtla Gutiérrez, Chiapas. Mexico. Retrieved from <http://www.poderjudicialchiapas.gob.mx/forms/archivos/dc31reglamento-interno-de-la-comision-interinstitucional-para-la-erradicacion-del-trabajo-infantil-en-el-edo-chis.pdf>.

## VII. Migration of children and adolescents of Chiapas and their families: causes and effects<sup>142</sup>

### A. General characterization of migration from Chiapas

#### 1. Introduction

Chiapas is a state in which migration involves a historical, cultural, and economic process that has affected primarily the indigenous populations since the last century. This legacy of migration began in the 19<sup>th</sup> century with the arrival of Germans and their sugar cane industries. Ever since, thousands of indigenous began moving towards the sugar cane mills of the Soconusco region. Afterwards, the coffee industry, also in the Soconusco region, became the sector hiring indigenous labor up until the 1980s, when the coffee crisis forced thousands from Chiapas, mostly indigenous, to consider destinations elsewhere in Mexico and outside of Mexico in their search for work. This is when the United States became “the promised land and the land of hope” for thousands of indigenous peasants who were especially hard hit by the abrupt decline in the price of coffee.<sup>143</sup>

Today the situation has not improved; quite to the contrary, poverty and inequality have worsened. The issue has been the establishment of a single model of development and thinking that has resulted in social policies being capitalist in nature. In addition, the social, economic, and political exclusion of the communities of Chiapas force thousands of migrants to abandon their lands. Just over 10 years ago the state of Chiapas was characterized as a state with low levels of migration to the United States, both adults and minors. More recent data indicate that more than 600,000 persons from Chiapas are living in the United States.<sup>144</sup>

The economic, political, and social situation in Chiapas and south-southeast Mexico is quite deplorable. The indicators of poverty and marginalization are alarming: according to the National Council for Evaluation of Social Development Policy (*El Consejo Nacional de Evaluación de la Política de Desarrollo Social* or CONEVAL), in 2013 alone some 53.3 million people in Mexico were living in poverty, and Chiapas was one of the states hit hardest, with 3 million poor.<sup>145</sup>

During the last two six-year presidential terms no tangible advances were seen towards a better future for the population of Chiapas, even though it is the richest and most diverse state of Mexico in terms of natural resources. The North American Free Trade Agreement, natural disasters, systemic violence, and the lack of inclusion and recognition of the peasant and indigenous peoples have resulted in a steady increase in the migration of persons from Chiapas.

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<sup>142</sup> Section drafted and based on the experience of working with communities of migrants from Aldo Ledón, of the organization Voces Mesoamericanas-Acción con Pueblos Migrantes, located in San Cristóbal de las Casas, Chiapas.

<sup>143</sup> Based on the information obtained from the testimony documented by CDH Fray Matías; *see also* Rivera, C. (2011).

<sup>144</sup> *See* data published by the Mexican Ministry of Foreign Affairs.

<sup>145</sup> The National Council for the Evaluation of Social Development Policy. (2012). *Informe de pobreza en México*. DF, Mexico. Retrieved from <http://www.coneval.gob.mx/mediccion/paginas/mediccion/pobreza%202012/Pobreza-2012.aspx>.

The State Population Council (COESPO: Consejo Estatal de Población) reported in 2005 that the age of migrants from Chiapas was mainly from 15 to 30 years. Of the total, 65% were indigenous and peasants. It is striking that 79% of this migrant population never returned to their place of origin. The result is the abandonment of the countryside and the loss of food sovereignty.

Data from the National Institute of Statistics and Geography (INEGI: Instituto Nacional de Estadística y Geografía) report that out of every 100 Mexicans who were living in the United States in 2011, 5 were children ages 0-14 years, 24 were youths between the ages 15 to 29 years, 61 were adults, ages 30 to 59 years, and 10 were adults 60 years of age or older. There are more males (53.3%) than females (46.7%). This preponderance of males is found across almost every age group, with the exception of older adults, among whom more than half are women (53.2%).

In this context, when observing the profile of children and adolescents in Chiapas, it is crucial to consider the indicators noted by the INEGI in 2011 for a critical reading on the situation:<sup>146</sup>

- Population ages 0 to 17 years: 2,172,688 (41%).
- Percentage of under-registration of births over 10 years: 51.8%, compared to 18.5% nationally.
- Child mortality rate / per 1,000 live births (2012): 15.04 / 13.22% nationally.
- Percentage of population ages 10 to 17 years who do not study or work (2010): 86,658 people, equivalent to 13.2%, compared to 10% nationally.
- Percentage of population ages 13 and 14 years not in school (2010): 45,791 people, equivalent to 13.9%, compared to 8.3% nationally.
- Percentage of Occupied Economically Active Population (OEAP) who work without remuneration (2012): 110,940 people, equivalent to 72%, compared to 40.8% nationally.
- Percentage of OEAP ages 12 to 17 years that work more than 48 hours weekly (2011): 19,134 persons, equivalent to 12.4%, compared to 14% nationally.
- Mortality due to homicide in the population ages 15 to 17 years (2010) /for every 100,000 population: 5 cases, equivalent to 1.6, compared to 15.7 nationally.
- Place in the list of well-being of the child and adolescent population: 31<sup>st</sup>, which is to say, next-to-last; only the state of Guerrero trails Chiapas.

It is also important to note that the National Survey on the Dynamic of Relations in Households (ENDIREH: *Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares*), of 2011, indicates that “28.4% of the total of women who are in a relationship with a man (married or in consensual union) 15 years and over reported that they had suffered some type of violence at the hands of the last partner; the most prevalent type of violence is emotional (87.3%), which consists of insults, threats, humiliation, and other psychological or emotional offenses; it is followed by economic violence (47.2%); physical violence (33.5%), which involves pushing, pulling, beating, assault with weapons, among others, and sexual violence (12.1 percent).”<sup>147</sup>

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<sup>146</sup> INEGI. (2011). *Módulo de Trabajo Infantil 2011. Encuesta Nacional de Ocupación y Empleo 2011*. Retrieved from <http://www.inegi.org.mx/est/contenidos/proyectos/encuestas/hogares/modulos/mti/mti2011/default.aspx>.

<sup>147</sup> INEGI. (2013). *Estadísticas a propósito del Día de la Madre. Datos de Chiapas*. Available at <http://www.inegi.org.mx/inegi/contenidos/espanol/prensa/Contenidos/estadisticas/2013/madre7.pdf>.

Regarding the population of minors in Chiapas, of 1,971,538 children and adolescents in the state of Chiapas, 573,972, ages 3 to 19 years old, spoke an indigenous language.<sup>148</sup> Many of these children and adolescents experience a situation of exclusion for various reasons that affects the protection of their rights, and some are experiencing a situation of family violence.<sup>149</sup> Facing this reality, we find that migrant children and adolescents from Chiapas have cultural and social particularities that require recognition of specific needs that allow the building of alternatives consistent with their environment. When discussing them, we refer to migrant indigenous children and adolescents.

## *2. Migrant Indigenous Children and Adolescents and their history in migration*

Historically, the indigenous populations of Chiapas have been subjected to marked social exclusion. Therefore, the causes of migrations among indigenous children and youth are many, complex, and interrelated. Before addressing the issues that have to do with migrant indigenous children and adolescents, it is necessary to provide some socio-demographic figures on Chiapas. It is one of the states of Mexico with the lowest human development index, which expresses the inequality and marginality that indigenous peoples in particular have experienced. According to data from the National Institute of Statistics and Geography (INEGI), Chiapas has 1,141,499 people of indigenous origin, 27% of the state's population. This sector is concentrated mainly in the North, Jungle, and Highlands areas.

Therefore, the indigenous child population of the state is present in all the municipalities and in all the migration processes that occur. In this respect, it should be noted that Chiapas has the fourth largest population of emigrant minors who speak an indigenous language of all the states of Mexico. In this context, children and adolescents in Chiapas undertake the migratory odyssey not only due to poverty-related factors, but also, in many cases documented in the region of Chiapas known as Los Altos, they emigrate as a matter of imitation, a consequence of living in a migratory model whose roots go back to their grandparents' generation; for them, mobility is a normal form of subsistence in their communities.<sup>150</sup>

We also found cases in which migration is a proof of maturity; that is, other children and adolescents who have migrated and returned to the community are seen as serious people with skills they have developed after migrating. In any event, there is a major lack of information when it comes to understanding the causes and effects of migration, given that to date there are no sufficient indicators for clarifying the motivations for minors to migrate, and if they are indigenous, how their sense of cultural belonging is changed.

In the specific case of Los Altos in Chiapas, departure is undertaken with the authorization of the mother and father, who argue that they cannot refuse to allow their sons and daughters to leave,

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<sup>148</sup> UNICEF. *Quiénes son los niños de Chiapas*. Retrieved from <http://www.infoninez.mx/los-derechos-en-cifras>

<sup>149</sup> See Arellano, C. (June 25, 2014). Guerrero, Oaxaca, y Chiapas donde existe mayor abuso de niños: Fupavi. *Periódico La Jornada*. Retrieved from <http://www.jornada.unam.mx/2014/06/25/sociedad/033n2soc> (“Guerrero, Oaxaca, and Chiapas are the states with the most child abuse after the state of México, Coahuila, and Guanajuato, considered the most violent in terms of abuses of minors, said María Teresa Sotelo Morales, president of the Fundación En Pantalla contra la Violencia Infantil (Fupavi).”).

<sup>150</sup> Information collected in fieldwork in Los Altos of Chiapas by Voces Mesoamericanas, Acción con Pueblos Migrantes AC.



for they did the same. So in general we find that the children and adolescents leave with the consent of their guardians but remain in the place to which they decide to migrate for brief periods. In general, other persons close to the family await them in the destinations: cousins, siblings, or friends from the same community who are already working. For example:

*“I went because my brothers went, and when they returned to the community they were famous and even had many girls following them; and the older members of the community had more respect for them.”*

(Tsotsil boy, 11 years old)

*“Immigration officials caught me three times, and each time took me to the DIF shelter in Nogales, Sonora. I tried but I didn’t want to anymore, because I didn’t have any more money so I returned to the community.”*

(Tsotsil boy, 14 years old)

The origins, economic conditions, gender, and sense of ethnic identity are variables that constitute the many aspects of the migration experience. In addition, they mark the differences when speaking of the motivations for migrating, as well as experiences during transit and at the place of destination. It is important to address the many characteristics that may mean greater vulnerability for minors in the context of migration.

Given the complex diversity of children and adolescents affected by migration, we consider migrant indigenous children and adolescents to be the group most likely to fall victim to human rights violations, whether due to the problems in their places of origin, their passage through the various contexts of Mexican territory, or their arrival in the United States. Because of their multiple conditions as children and adolescents, these migrants who speak a language other than Spanish, and persons with their own ethnic origins, become victims of several forms of discrimination, abuse, and even exploitation.<sup>151</sup>

### *3. Causes of the forced migration of children from Chiapas*

In relation to Chiapas as a sending state, it is notable that the people of Chiapas who participate in the regional migration system seek destinations primarily in the states of Tabasco, Campeche, and Quintana Roo, and to a lesser extent the United States. According to INEGI data (2010), cases of minors who emigrate from Chiapas, especially adolescents between the age of 15 to 17 years old, are also common. Nonetheless, for this same age bracket there has been an increase in return migration in recent decades (from 15.4% in 1990 to 31.8% in 2010).

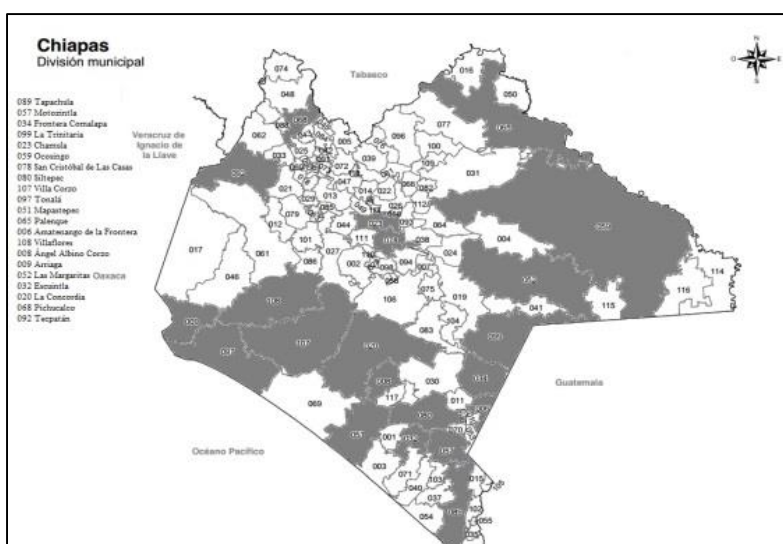
Different causes of migration may be combined and, in general, are interrelated. This means that migrant indigenous children and adolescents are not always driven by economic causes. The need for family reunification stands out, along with overcoming situations of poverty and precariousness or family violence. More worrisome is that both the causes and the consequences of this migratory flow are overshadowed by several situations. First, the government agencies do not take appropriate action, and their indifference helps render invisible the origin and real dimensions of the problem.

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<sup>151</sup> Information collected in fieldwork in Los Altos of Chiapas by Voces Mesoamericanas.

The situation of children emigrating from Chiapas is marked by exclusion and other circumstances that spur on forced migration. There is little statistical data on the number of people expelled and forced to migrate by municipality, not to mention data disaggregated by age and sex. There are only approximations of these numbers based on total remittances received in the municipalities, as well as the number of informal travel services operating, both to tourist centers in Mexico and to cities in northern Mexico. Based on these data, from 2000 to 2010, the municipalities that stand out most prominently are Tapachula, Motozintla, Frontera Comalapa, La Trinitaria, San Juan Chamula, Ocosingo, San Cristóbal de Las Casas, Siltepec, Villacorzo, Tonalá, Mapastepec, Palenque, Amatenango de la Frontera, Villaflores, Ángel Albino Corzo, Arriaga, Las Margaritas, Escuintla, La Concordia, Pichucalco, and Tecpatán.<sup>152</sup>

Map 2. State of Chiapas.



Source: National Institute of Statistics and Geography (INEGI).

In these and other localities of Chiapas, migration is increasingly a “natural” strategy for family survival. Migration is disrupting each and every one of the sectors of the population. Many children and adolescents have experienced migration from a very young age through their parents, who have had to leave their community of origin in search of work, headed to the interior of the same state (to the municipal seats), to other states of Mexico, or in many cases to the United States. The main emigrants from Chiapas are from the indigenous and peasant sector.<sup>153</sup> Similarly, the children and adolescents who decide to migrate are from that same sector.

<sup>152</sup> Asociación Latinoamericana de Organizaciones de Promoción al Desarrollo, A.C. and ENLACE, Comunicación y Capacitación, A. C.(2009). *Sur inicio de un camino: Una mirada Global de los Derechos Humanos en la frontera Sur de México en su triple condición de origen - retorno, tránsito y destino de trabajadoras y trabajadores migrantes*. Retrieved from

[http://www.alop.org.mx/sites/default/files/INFORME\\_SUR\\_INICIO\\_DE\\_UN\\_CAMINO.pdf](http://www.alop.org.mx/sites/default/files/INFORME_SUR_INICIO_DE_UN_CAMINO.pdf).

<sup>153</sup> According to the INEGI (2010), in Chiapas, 1,141,499 people over 5 years of age speak some indigenous language, i.e., 27.2% of the state’s population.

Political and social factors, mainly related to different forms of violence and threats to life, also contribute to the migration of migrant indigenous children and adolescents, both within Mexico and to the United States. The authorities of the state of Chiapas calculate that approximately 20,000 persons displaced during the Zapatista uprising are still living as internally displaced persons. “The surge in violence in recent years has driven thousands of people from the places that they have traditionally called home.”<sup>154</sup> No doubt internal migration in Mexico is one of the various dynamics of migration.

Nonetheless, in the wake of the increase in violence at different scales, and the stripping of natural resources among other phenomena, some research studies speak of the seriousness of the situation of internal displacement in Mexico, and at the same time the lack of statistics on the part of the State. In effect, the IACHR has highlighted the importance of the adoption of the Law for the Prevention and Care of Internal Displacement in the State of Chiapas, but has noted its concern over the fact that “thus far Mexico has not passed a law on internal displacement that makes the Guiding Principles of Internal Displacement part of its own system of laws nor does it have a federal institution or focal point responsible for protecting the internally displaced.”<sup>155</sup>

*B. Migrant indigenous children and adolescents whose parents have migrated: The social and community context they face*

*1. General characterization*

The changes in the social and cultural struggles that have occurred in the sending communities are notable and drastic, and they also affect, in particular, the children and youth who stay behind. Community life has undergone drastic and perhaps irreversible transformations. Starting with transnational migration (late 1980s, early 1990s), the mode of subsistence of the indigenous and peasant communities was sustained mainly by agricultural production. Today, the abandonment of the countryside is undeniable. At first, when migration began to be part of the life of the communities of Chiapas, the lands began to be left alone, since the women could not cover all the work the men performed.

At present, most of the children and youths who stay in the communities and whose father and/or mother have migrated no longer work their lands, but they do seek better paid work in nearby urban centers. While it is true that in the wake of migration the inhabitants of the sending communities undergo a complex process affecting the individuals, families, and communities, at the same time they remain in a situation of personal and collective pressure to remain, so as to not lose those thin threads that make them part of the social fabric of the community.

There is a reconfiguration in the way of life and social activity. It is easy to understand how such a reconfiguration of identities opens up an array of possibilities for harnessing migrant experiences, turning the children and adolescents into protagonists of their own story and that of

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<sup>154</sup> IACHR. (2013). *Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México*. Washington, D.C. Retrieved from <http://www.oas.org/es/cidh/migrantes/docs/pdf/Informe-Migrantes-Mexico-2013.pdf>.

<sup>155</sup> IACHR. (2013). pp. 110-11.

their communities. These conditions create possibilities for the reintegration of the youths into the social fabric of the communities.

The term “community” refers to much more than the simple fact of sharing a geographic space. It refers to a something vaster: sharing customs, language, values, historical memory and, of course, a social project created and embraced by the inhabitants of that territory. With migration, community members no longer share the same geographic space, strictly speaking, but the rest of the unique elements that make up a community continue to be shared: hence the creation of trans-territorial or transnational communities. We know that culture is not immovable, but that it is the representation of a society that changes over time, adopting and incorporating new elements that can enrich it.

The children and adolescents who remain in the geographic space of the community face an unknown future in which one can envision an expansion of social and economic inequalities, which will force them to create new forms for survival.

They will be the lead actors in the migratory mosaic that will provoke changes in identity and transformations in the patterns of production and consumption, and in their ties to the land and territory.

## *2. Principal problems facing the children who stay*

In this context, what do the children and adolescents of Chiapas face vis-à-vis an exclusionary and restrictive sociopolitical model?

Some of the principal problems, according to the testimony gathered and the observation work done by Voces Mesoamericanas in its day-to-day work in communities of origin of Chiapaneco migrants, are:

- High levels of poverty and marginalization.
- Lack of options for quality of life, from an economic and social perspective that considers needs based on the uses and customs of their peoples.
- Educational models that are based on the needs of the urban sector without integrating the way of life of the rural sectors into its structure.
- The lack of spaces and projects for youth in the locality.
- Familial problems related to violence, addictions, and family disintegration.
- Limited or no participation of youths in public, private, and community spaces.
- Premature maternity.
- In Chiapas, 12.7% of youths are head of a household.
- Confrontation with existing social, political, economic, and cultural relations.
- Concerns regarding their youth, and the desire to get to know other places and have new experiences.
- A migratory model inherited from the parents, as a practice for the economic and social development of the family.

It should be added that no long-term initiatives have been identified that contribute to fostering and ensuring the rights of migrant indigenous children and adolescents.

The challenge is how to work in the face of systematic and structural violence to improve conditions for children and adolescents in the region, considering not only the causes and conditions that compel them to migrate, but also the destination, transit, and return. Accordingly, joint actions are needed that genuinely and specifically address the issue, understanding the importance of having an impact, from the grassroots to the top echelons of power where decisions are made.

### C. Children from Chiapas who migrate North

#### 1. Risks in transit

The stories of departure, transit, destination, and return are highly varied and show a reality similar to that of the migration of Central American children and adolescents. We find accounts that indicate the proximity of the children and adolescents to highly dangerous situations in which there is a clear presence of organized crime. In Mexico, both nationals and foreigners travel by foot, by bus, or by train to reach the desired crossing point. In many cases they climb onto a bus or train and remain hidden, which can cause serious physical damage or even death.

Throughout the journey, the various forms of abuse (being robbed, assaulted, or raped by others encountered along the way, by criminal groups and even by Mexican officials) are real and ever-present. Approaching the border, many minors and adults have to look for and pay for the services of a *coyote* or *pollero* (i.e., a paid guide who is engaged in irregular crossings of the defended border with the United States).<sup>156</sup>

As noted earlier, most migrant children and adolescents belong to indigenous sectors, making them even more vulnerable. For example, in most cases they do not speak Spanish as their mother tongue and they are not familiar with the contexts of danger in the country, among other risks.

In cases of deportation to Mexico, these children have difficulty accessing services, which requires the intervention of civic associations to facilitate communication and allow the children or adolescents to understand their situation, in his or her own language. Government offices do not have the capacity to address such needs, which in many cases results in migrant indigenous children and adolescents staying longer at the shelters.<sup>157</sup>

This whole scenario occurs as a result of the discriminatory process that Mexican children and adolescents face within the United States protection system and at the hands of the Mexican

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<sup>156</sup> Appleseed. (2011). *Niños en la Frontera. Evaluación, Protección y Repatriación de Niños, Niñas y Adolescentes Mexicanos sin Compañía*. New York. Retrieved from [http://www.unicef.org/mexico/spanish/mx\\_Reporte\\_Ninos\\_en\\_la\\_Frontera\\_Espanol1MI.pdf](http://www.unicef.org/mexico/spanish/mx_Reporte_Ninos_en_la_Frontera_Espanol1MI.pdf).

<sup>157</sup> Information obtained from testimony taken and the observation work done by Voces Mesoamericanas in its day-to-day work in the communities of origin of migrants from Chiapas. See <http://vocesmesoamericanas.org/buen-vivir-y-migraciones/nuestra-region-de-trabajo-los-altos-de-chiapas/>.



Table 6. Deportation of Chiapan Children and Adolescents from the United States

<b>Year</b>	<b>Total number of Mexican minors deported</b>	<b>Chiapan minors deported</b>	<b>Percentage of all Mexican minors deported</b>
2011	15,524	748	4.8%
2012	17,129	1089	6.4%
2013	16,971	807	4.8%
2014/August	10,175	418	4.1%

Source: By authors based on data from the INM.

## 2. Reintegration of Chiapan children

Once they return, the issue of the reintegration of migrant indigenous children and adolescents into their communities of origin is another priority issue, for in this case many rights are affected. All people from a migrant community, whether they themselves have migrated, find themselves in the midst of cultural, social, economic, and family changes, among others. Readaptation is experienced not only by the individuals who have gone and returned to their place of origin, it is also experienced by the community as a whole. Nonetheless, we consider that this process of reintegration is stronger and has a greater personal impact on those who return after a given period away from their place of origin.

Once there is reunification with the parents, there is no follow-up on the process of reintegration or of the conditions in which the child or adolescent is found. The focus continues to be on security, without addressing in-depth the structural causes that are at the origin of the migration. The establishment of durable solutions to improve living conditions through quality services (education, health, food, etc.) is not considered.

The experience of migrant indigenous children and adolescents is that “*they do not feel that there from here or there.*” This simple phrase symbolizes for them a whole experience and reconfiguration of their own identity. Being in the place of destination, they do not feel well-received and they suffer culture shock when trying to become accustomed to a culture entirely different from their own, which poses a major challenge. Yet the challenge doesn’t end there: upon returning to their community of origin and “feeling” foreign, identity conflicts reappear that are extremely difficult to address. These crises and reconfigurations occur not only at a personal level, but also in collective identities. The sending communities are transformed and adjust day by day to the return of their migrants.

### *3. Situation of U.S. children of Chiapanecan parents*

One of the rights most impaired is the right to identity, particularly its ethnic-cultural aspect. In the context of migration, the identity of children and adolescents is reconstituted by the experience; accordingly, we see clear differences in identity as between those children and adolescents who migrate and those who do not. Identity is not in linear state of being, but rather a changing condition that is reconstituted throughout one's life, adopting and rejecting ways of thinking, of behaving, of being, and of self-expression. Identity is our configuration as individuals with characteristics of our own, or collective characteristics, that distinguish us from one another. Identity also constitutes relationships, processes of socialization, recognition of common origin, as well as the belonging to a given culture.

Another group of children and adolescents with major problems exercising their rights has become ever more visible in Chiapas in recent years: those who were born in the United States and returned with their fathers and/or mothers who were deported. In the Los Altos region we find more and more children and adolescents who need to become reintegrated into these communities. For example, the father of a child who was born in the United States is of the opinion that:

*Having a birth certificate from the gringos is like a life insurance policy for my son, we don't know exactly what he will do in the future, but certainly somehow it will be useful for him to be American.<sup>159</sup>*

This group of children and adolescents is highly marginalized in the community because they are seen as belonging to a privileged class. In some cases the adaptation of children to the school system is difficult because they have reached a more advanced level of education and now face realities and contexts different from those in the United States. It is difficult for these children and adolescents to adapt to the reality of the community, and its agriculture and culture, which are all part of their roots, since most of them come from highly urbanized areas. This is contrasted by the feeling that they need to return to a place where they belong. But they do not necessarily belong where they came from, given that there they also suffered discrimination. So we find a group of children and adolescents who do not feel a sense of belonging anywhere, as expressed by a Tsotsil child born in the United States:

*We have no homeland, for they don't want us here or there.*

The experiences of integration vary depending on the age and level of development of the children and youths on returning to Mexico, their internal resistance, and the stability of their family situation. Once they see that they must move to Mexico due to deportation, they may well experience anxiety, fear, depression, and behavioral problems due to the uncertain immigration status of their parents in the United States. In addition, the capacity of a father or mother to

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<sup>159</sup> Testimony taken by Voces Mesoamericanas in its day-to-day work of accompaniment of families of migrants from Chiapas. See <http://vocesmesoamericanas.org/buen-vivir-y-migraciones/nuestra-region-de-trabajo-los-altos-de-chiapas/>.



support their child during the process of adaptation depends on his or her own emotional stability.

As for education, the Ministry of Public Education has a transfer document for binational students. Nonetheless, it does not keep statistics on the number of transnational youth who go to school in Mexico. And, in the communities, the schools already operate with scant resources, therefore the educators and administrators oppose requests for additional services for students arriving from the United States.

Also, little resources are available in the public education system to support the teaching of Spanish as a second language. The children who learn Spanish at home can express themselves verbally, but do not always develop reading or writing skills that match their grade in school.

*D. The institutional role in the migratory process of Chiapanecan migrant indigenous children and adolescents*

Even though in general there is little recognition of migrants from the state, some institutions have been established that support them, such as the Ministry for the Development of the Southern Border and Liaison for International Cooperation. This ministry has established a Program for the Protection of Chiapanecan Migrants Abroad called ACERCATE that seeks to create mechanisms of protection for Chiapanecans by activating consular networks, offering legal support, searching for migrants in prisons, and, on occasion, effectuating transfers. However, this resource is not well known and even less used by the population for which it was established, and it does not provide support specifically for minors as such.

As part of the strategy of attention to unaccompanied Mexican and foreign children migrants, Specific Cooperation Agreements (*Convenios Específicos de Colaboración*) have been signed by the INM, the National DIF System, and the state DIF systems, for installing modules for serving unaccompanied migrant children and adolescents at Mexico's northern and southern borders.<sup>160</sup>

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<sup>160</sup> SER/INM. Practica mexicana. (August 28 and 29, 2014). *Asistencia y Protección Consular a Niñez y Adolescencia en Situación de Migración*. Paper presented at the Regional Conference on Migration, First Meeting of the Ad Hoc Working Group on children and adolescence.

Table 7. Services modules for unaccompanied migrant children and adolescents at the Northern and Southern Borders.

Modules at Northern Border	Modules at Southern Border
Reynosa and Nuevo Laredo, Tamaulipas	Tenosique, Tabasco
Tijuana and Mexicali in Baja California	Tapachula, Chiapas
San Luis Río Colorado, Agua Prieta, and Nogales in Sonora	Acayucan, Veracruz
Ciudad Juárez, Chihuahua	La Ventosa, Oaxaca
Piedras Negras and Ciudad Acuña, Coahuila	

As regards the work done by the DIF System at the northern border, the Framework 2013 mentions that “when migrant children or their family members do not have any money to return to their place of origin, DIF resources are used, whether from the federal, state, or municipal DIF.” Nonetheless, the limitations of the DIF—substantive and operative—do not allow for it to fulfill its objectives in a satisfactory manner. Not only does DIF have scant resources for this task, but the security conditions for most of the overland transfers are not adequate, and children and adolescents ages 13 to 15 years may only travel unaccompanied if they are authorized by their parents to do so.

Children under 13 years of age must be accompanied by a guardian to make the trip, a rule intended to safeguard the child’s physical integrity and well-being during repatriation. This is important due to the dangers and indices of violence along most of the migratory routes through Mexico. These programs at the northern and southern border make it clear that the DIF System continues to be paternalistic and has a negative impact on the different populations it serves, because it does not provide adequate and timely follow-up to their problems; nor does it seek full protection.

The State has no program addressing the integration of Chiapan children and adolescents, who are being deported, even though the state and municipal DIF Systems in Framework 2013 have activities divided by regions such as Northern Border, Places of Origin, and Southern Border. The government’s actions with respect to migrant children can be summarized in very specific issues that reveal the precarious state of the system of care, and do not make it clear how they ensure the best interest of the child, which appears to be no more than aspirational.

### VIII. Final reflections

All the information collected in this chapter shows that the issues related to children and migration in the state of Chiapas—only one of the four states along Mexico’s southern border—are really extensive and take in different migration categories: the migration of Mexican children and adolescents from Chiapas northward; the migration of Central American children and adolescents to Chiapas; the migration of Central American children and adolescents in transit

through Chiapas to the United States or another state of Mexico; or of children and adolescents who return to Chiapas voluntarily or forcibly from the United States.

There are many categories of children, and of causes leading them to leave their place of origin, the effects of the policies and programs on their rights, and different approaches from which to observe their reality. This breadth indicates to us the complexity of the processes that children associated with migration at this border experience and the importance of developing specific public policies that take into account this multidimensionality and all its different facets.

Nonetheless, the authors of this chapter, based on their day-to-day work defending children's rights in the region, observe that the response of the Mexican State in its different administrations and levels is based more on a paternalistic vision than a rights-orientated approach—one which is repressive and influenced by having assumed more forcefully than ever the role of gatekeeper of the border required by its neighbors to the North.

This chapter shows weaknesses in the procedures applied to migrant children and adolescents with a lack of due process; in the protection programs marked by their precarious funding and their paternalistic vision; in the invisibility to which these children are subjected, often times due to being foreigners; in the abandonment of the Mexican policy of asylum, despite the context of generalized violence in the Northern Triangle of Central America; and the non-existence of social and labor reintegration programs for those who return.

We have only seen erratic policies and responses to a very complex and diverse phenomenon, in which the most basic rights of society's next generation in our region are at stake.

*Recommendations are included in full at the end of this book. For the full set of recommendations, please visit <http://cgrs.uchastings.edu/Childhood-Migration-HumanRights>.*

Graphic 3.  
 Procedure for providing services to unaccompanied foreign children and adolescents (INM)



The OPI (child protection officer) interviews the child to determine whether he or she is an unaccompanied foreign migrant.



If it is not possible to determine the nationality of the child or adolescent, the procedures will begin to recognize him or her as a stateless person.



The OPI (child protection officer) will inform the child of his or her rights, in a language appropriate for his or her development and age.



If no need is detected that requires immediate medical care, he or she will be taken to the nearest migration station, where the measures needed to protect his or her physical and psychological integrity will be taken so that the director of the Migration Station can then inform the SNDIF and provide the attention required, as well as the services of representation, legal assistance, and social orientation.

Source: *Práctica mexicana* (2014, August 28, 29) *Asistencia y Protección Consular a Niñez y Adolescencia en Situación de Migración*. Presented at the First Meeting of the Ad-Hoc Group, Guatemala City.