

## Migrant children and adolescents from North Central America towards Mexico and their deprivation of liberty

**Valentina Agredo,\* Florencia Botazzi,\*\*  
Natalia Morales,\*\*\* María José Orué\*\*\*\* and  
Rocío Comas\*\*\*\*\***

**Abstract:** A growing number of migrant children and adolescents, mainly from El Salvador, Guatemala and Honduras, embark on a perilous journey to Mexico. This article intends to provide detailed information on and an analysis of Mexico as the receiving, issuing, transiting and returning country. The intention, in turn, is to analyse the countries of North Central America, as the main countries of issuance, transit and return of migrants to and from Mexico. The situation of migrant children and adolescents reveals the violation of international and regional legislation on the protection of children's human rights. The migration process itself involves multiple risks to the security and integrity of migrant children, whose rights are affected at each stage of the process. In this regard, the data collected reflects the deprivation of the freedom of migrant children and adolescents in Mexico, while noting that this

\* BA in Psychology (ICESI University), MA in Human Rights and Democratisation (University of San Martín); [valentina.agredos@gmail.com](mailto:valentina.agredos@gmail.com)

\*\* BA in Political Science (University of Rosario), MA in Human Rights and Democratisation (University of San Martín); [mflorenciabottazzi@gmail.com](mailto:mflorenciabottazzi@gmail.com)

\*\*\* BA in Law (University of Chile), MA in Human Rights and Democratisation (University of San Martín); [natalia.morales@ug.uchile.cl](mailto:natalia.morales@ug.uchile.cl)

\*\*\*\* BA in Law (National University of Asunción), MA in Human Rights and Democratisation (University of San Martín); [majo.mo218@gmail.com](mailto:majo.mo218@gmail.com). Research coordinator: Rocío Comas; BA in Law (University of Buenos Aires), MA in Human Rights and Democratisation (University of San Martín); Doctoral Candidate, Faculty of Law (Friedrich Alexander University); fellow scholar for the German Academic Exchange Service (DAAD); Children's Rights Regional Officer (Global Campus Latin American and the Caribbean Master's Programme); [rocio.comas@fau.de](mailto:rocio.comas@fau.de). We also wish to extend a special acknowledgment to Andrea Flores Ruilova for her valuable comments and observations. This article is based on a paper prepared for and presented at the 2020 Global Classroom, a project of the Global Campus of Human Rights (September 2020).

\*\*\*\*\* BA in Law (University of Buenos Aires) MA in Human Rights and Democratisation (University of San Martín), Doctoral Candidate, Faculty of Law (Friedrich Alexander University), fellow scholar for the German Academic Exchange Service (DAAD), Children's Rights Regional Officer (Global Campus Latin American and the Caribbean Master Programme), [rocio.comas@fau.de](mailto:rocio.comas@fau.de). We also wish to extend a special acknowledgment to Andrea Flores Ruilova for her valuable comments and observations.)

*situation proves to be the focal point of all other rights violations that occur in the migration context. The analysis includes the perspectives gathered from international and regional standards for the protection of their rights. The article also examines conceptual definitions used in connection with migrant children in light of their vulnerability and the countries' national context. To address the specific situation of children, the article reviews each country's legislation, as well as outlines the migration flows taking place, in light of the causes identified as a general framework for the migration phenomenon. The article is informed by information gathered through the analysis of conventions, judgments, laws, theoretical documents, thematic reports as well as statistical analysis gathered from reports and surveys by human rights organisations. Finally, the conclusion considers this information alongside existing legal provisions so as to make recommendations aimed at better protecting migrant children and to prevent the violation of their fundamental rights.*

**Key words:** children and adolescents; migration; North Central American countries; Mexico; deprivation of liberty; international human rights law

## 1 Introduction

This article addresses the situation of children and adolescents<sup>1</sup> migrating from North Central American<sup>2</sup> countries to Mexico, and their resulting deprivation of liberty, with detention being the latter state's response to immigration flows. Consideration should be given to the fact that children and adolescents affected by migration in North Central America are beset by a number of human rights violations, such as social exclusion, violence, deprivation of education, unemployment, poor medical care and nutritional problems (Musalo & Ceriani 2015).

The position of the United States as the main destination country for migration in the region has positioned Mexico as a 'gateway', receiving large numbers of migrants mainly from the countries of North Central America (Durand & Heredia Zubieta 2018). For instance, the Migration Policy Unit of the Mexican Ministry of the Interior reported approximately 18 300 children and adolescents from Guatemala, Honduras and El Salvador

1 'While there is no formal legal definition of an international migrant, most experts agree that an international migrant is someone who changes his or her country of usual residence, irrespective of the reason for migration or legal status.' See UN Refugees and Migrants, available at <https://refugeesmigrants.un.org/definitions>. In addition, adolescents is defined by the World Health Organisation 'as individuals in the 10-19 years age group', see World Health Organisation, adolescent health, available at <https://www.who.int/southeastasia/health-topics/adolescent-health> (last visited 17 February 2021).

2 The denomination 'Northern Triangle' – frequently employed to refer to the countries of Honduras, El Salvador and Guatemala – is not used in this article since it is not useful in terms of its analytical purposes. The migration dynamics of Honduras and El Salvador are very different from that of Guatemala, and it ignores intraregional migration. In addition, it is terminology resulting from oversimplification when trying to unify processes that are actually so diverse (Durand & Heredia Zubieta 2018).

in 2017, of which approximately 16 162 were returned to their home countries (UNICEF). In 2019 the highest number of migrant children and adolescents recorded by the National Migration Institute (INM) reached a total of 52 000, mostly from the countries of North Central America. Of the total, 30 453 males and 21 547 females were reported (Unidad de Política Migratoria, México 2020).

Consequently, Mexico's response to migration has been mainly restrictive and punitive (Musalo & Ceriani 2015) with the widespread use of immigration detention and repatriation as the main measures to contain migration flows. In the implementation of this approach, no distinction is drawn between adults and children and adolescents, using detention with the same force (Musalo & Ceriani 2015: 17). For example, in the United States in 2011, 16 056 unaccompanied children and adolescents were detained; in 2012, 24 481 were detained; in 2013, 38 833; and in 2014, 68 631 (Musalo & Ceriani 2015: 282). In Mexico, meanwhile, immigration detention also has broad application, covering unaccompanied migrants, families and children and adolescents (Musalo & Ceriani 2015: 17). According to the National Commission on Human Rights, by 2019 the migration authorities had arrested 38 581 children and adolescents, an increase of 21 per cent compared to the previous year. Of that figure, 8 744 were unaccompanied children and adolescents.

The restrictive approach is also evident from the use of multiple surveillance measures bolstering arrests and repatriations, such as those implemented by Mexico along its southern border with Guatemala (Musalo & Ceriani 2015: 17). In this sense, states often distinguish between good and bad migrants, grouping bad migrants as those who are unacceptable for (a) surpassing the number of employment opportunities; (b) non-assimilation; (c) their association with crime; or (d) having entered the destination country clandestinely (De Lucas 2002: 67). In addition, migration continues to be perceived as a 'question of numbers' where the logic of market benefit is used to determine what number of migrants are acceptable, and it is treated as a security issue, assuming that migration tends to increase the hidden number of crimes and marginality (DeLucas 2002: 61). Thus, the human rights of migrants are not a priority for states, with the migrant – particularly the undocumented migrant – being labelled as a non-subject of law (De Lucas 2002: 65-68).

Additionally, the issue surrounding the deprivation of the liberty of migrant children and adolescents falls within the broader framework of global and regional inequality, questioning the role of states as a guarantor of rights within the framework of democratic systems. This is a problem that requires an effort to change the paradigms through which the migratory phenomenon is understood, while requiring a reassessment of practices developed in this regard. It is also essential to recognise that

the deprivation of the liberty of children and adolescents, in addition to violating their fundamental rights, undermines 'the right to a childhood', that is, to live as children, as Nowak suggests in the *Global Study on Children Deprived of Liberty* (Nowak 2019).

It is essential to consider the relationship between childhood and democracy and to emphasise the primacy of social rights (Baratta 2004). In this context, basic social policies serve a primary and general function and, with respect to the former, all other policies must be subsidiary and residual. Baratta points out that the dynamic interpretation of the Convention on the Rights of the Child (CRC) sets a minimum standard for the norms of the social state and for the regulation of economic development, in order that the criteria of human development are respected. The norms of CRC provide a dynamic view of equality in relation to the rules of the welfare state and international solidarity – signalling a different kind of globalisation than what is known today (Baratta 2004). It is in this context that meaning and strength are lent to the debates around migrant children and its approach from a democratic and supportive perspective.

## 2 Methodological considerations

This article is informed by information gathered through the analysis of conventions, judgments, laws, theoretical documents, thematic reports as well as statistical analysis gathered from reports and surveys of human rights organisations. It also considers data on the subject from specialised press sources.

As a specific analytical variable, the article did not focus on the gender status of children and adolescent migrants deprived of liberty. According to Beloff, there is a 'deficit of a robust *corpus juris* regarding the right of girls, as well as difficulties in the consolidation and strengthening of practices responsive to their characteristics, particularities and vulnerabilities from both an age and gender perspective' (Beloff 2017: 55-81). While this is a central issue in the violation of rights towards children and adolescents, there is no sufficiently updated or categorised information for inclusion in this research. However, this in no way implies the absence of the gender approach in the analyses and reflections undertaken herein.<sup>3</sup>

It is relevant to point out that the present work does not address the detention of children and adolescents on migration grounds in the United

3 The gender approach involves the ideas, methodologies and techniques used to enquire about and analyse the manner in which social groups have built and assigned roles for women and men, the activities they develop, the spaces they inhabit, the traits that define them and the power they hold. Together, these ideas and techniques propose a new focus on reality, defined as a 'gender perspective', as a prism that shows facets that would otherwise remain invisible (Pautassi, 2011: 280).

States, but in relation to Mexico. This does not in any way imply that the human rights violations of children and adolescents are considered more serious in one country than another, nor does it imply that relevant United States action towards this problem should be ignored, mainly in light of its so-called 'zero tolerance' policy.<sup>4</sup> However, the view is that the case of the United States has already been assessed in its essential aspects in the Global Study (2019: 438-443, 451-452, 460-465, 468-471, 475-477). In addition, the failure of the United States to participate in the regulatory instruments governing this analysis makes it difficult to use as a reflection of the regional landscape. In particular, the United States is not a party to CRC, nor to the Convention on the Protection of the Rights of All Migrant Workers and Their Families (CMW). In the Inter-American sphere, while bound to the American Declaration on the Rights and Duties of Man as an integral part of the Organization of American States (OAS) Charter, it has not ratified the American Convention on Human Rights; nor has it accepted the jurisdiction of the Inter-American Court of Human Rights. In any case, it can be scrutinised by the Inter-American Commission on Human Rights, as the organ of application of the American Declaration.

Hence, this work intends to provide detailed information and analysis about Mexico as the receiving, issuing, transiting and returning country. The aim is to analyse the countries of North Central America, as the main countries of issuance, transit and return of migrants to and from Mexico, in the sense that these countries are far from homogeneous with each other, as Durand and Heredia Zubieta (2018) argue. The relevance of addressing the problem by taking Mexico and the countries of North Central America as the fulcrum of this analysis makes it possible to recognise the inadequacies in the attention given to the problems experienced by children deprived of liberty for migratory reasons. At the same time, it highlights the unilateral management of migration flows and the privilege of security controls and security perspectives above all else (Durand & Heredia Zubieta 2018), as already noted above.

Finally, this research 'contour' also involves identifying the tensions and/or relationships between the region's regulatory systems and the practices in fact deployed. Consequently, it is important to remember that, despite the enormous momentum provided by CRC<sup>5</sup> and the progress over the years in the normative and administrative state structures, the protection of children and adolescents continues to conflict with confinement as

4 In this respect, the US Attorney-General's office in April 2018 announced the 'zero tolerance' policy for the control of migration from the country's southwestern border. The federal administration attempted to ban the entry of so-called 'aliens'. To justify the measure, the statement indicated that there was a 203% increase in irregular border crossings from March 2017 to March 2018 and a 37% increase from February to March 2018 (Comas 2018).

5 CRC to date has 196 state parties, making it the world's most ratified international human rights treaty. Mexico, Guatemala, El Salvador and Honduras have been parties to the treaty since 1990.

a measure of protection, and as the strategy most widely used by states (Beloff 2011). This is reflected in the situation of migrant children and adolescents who are deprived of their liberty.

### 3 International and regional legal framework

The vulnerability of migrant children and adolescents has been widely recognised in international human rights law.<sup>6</sup> The various protection bodies have emphasised that, in the context of international migration, children may find themselves in a situation of dual vulnerability: on the one hand, as children and, on the other, as children affected by migration. These are two disadvantaged structural situations with regard to the enjoyment and exercise of human rights, which require prioritisation and the targeted attention of states and international bodies. For example, whether they are in any of the following situations: (a) they are migrants, alone or with their families; (b) they were born to migrant parents in the destination countries; or (c) they stay in their home country while one or both parents have emigrated to another country. Other vulnerabilities may be related to their origin (national, ethnic or social), gender, sexual orientation or gender identity, religion, disability, immigration status or residence, citizenship, age, economic situation, political or other opinion, or another condition. This is also referred to in the Global Study (Nowak 2019: 448, 451).

In this case, one of the most serious violations affecting migrant children is the deprivation of liberty due to migration. In this regard, the minimum standards set in the international *corpus juris* for protection for children and adolescents, as well as in the *corpus juris* of protection for migrants, show that there is a clear consensus on the assessment of immigration detention and deprivation of liberty on grounds of immigration control: These are practices contrary to the human rights of children and adolescents (I/A Court HR, *Case of the Pacheco Tineo Family v Bolivia*, para 216).

The Inter-American Court of Human Rights (Inter-American Court) has emphatically stated that punitive measures in immigration control are inconsistent with the American Convention on Human Rights (American Convention) as they are considered a form of criminalising migration (I/A Court HR, Advisory Opinion OC-21/14, para 147; I/A Court HR, *Case of Vélaz Loor v Panama*, para 169). Also, the Inter-American Commission on Human Rights (Inter-American Commission) specified that most states establish custodial sanctions against migrants who violate immigration

6 An example of this is that the supervisory bodies of CRC and CMW have been responsible for the situation of migrant children, and have issued General Comments on the situation separately and jointly. See General Comment 6 (2005); General Comment 1 (2011); General Comment 2 (2013); Joint General Comment 3 (2017) and 22 (2017); Joint General Comment 4 (2017) and 23 (2017).

rules, thereby constituting a violation of personal liberty (IACHR 2015 OAS/Ser.L/V/II. Doc 46/15, paras 381 and 382). The Court has dealt with this issue in detail in order to outline states' obligations with respect to the immigration control of all migrants, regardless of age, by limiting to the maximum the origin and conditions of custodial measures.

The criterion outlined by the system is that detention for a migration offence must be exceptional, and never for punitive purposes (I/A Court HR, *Case of expelled Dominicans and Haitians v Dominican Republic*. Preliminary Objections, Merits, Reparations and Costs, Judgment of 28 August 2014. Series C No 282, para 359). In no case can irregular immigration be a sufficient ground for justifying detention (IACHR 2015 'The thematic report of the Rapporteurship on the Rights of Migrants' para 405). In order to evaluate the legality of any deprivation of liberty in the immigration context, all the requirements laid down by the Inter-American Court in its case law must be strictly complied with. That is to say, the custodial measure must be issued on the basis of a decision in accordance with law, on the basis of pre-existing legislation, and pursue a legitimate purpose in accordance with the principles and rights of the American Convention, and also be appropriate, necessary and proportionate to the purposes it pursues. All of these requirements are co-extensive (I/A Court HR, *Case of Vélez Loor v Panama*, para 166). In addition, the Inter-American Court has also issued criteria concerning conditions of detention, which should be verified in establishments specifically intended for the detention of irregular migrants, and not in prisons (I/A Court HR, *Case of Vélez Loor v Panama*, paras 208 and 209); for the shortest possible period (I/A Court HR, *Case of Vélez Loor v Panama* paras 171 and 208), among other conditions in the implementation of the measure (I/A Court HR, *Case of Nadege Dorzema & Others v Dominican Republic*, para 109).

The Inter-American Commission has been categorical with respect to the use of custodial measures for children and adolescents: States may not resort to deprivation of the liberty of children who are with their parents, or those who are unaccompanied or separated from their parents, as a precautionary measure in immigration proceedings. Nor may states base this measure on a failure to comply with the requirements to enter and to remain in a country, on the fact that the child is alone or separated from his or her family, or on the objective of ensuring family unity, because states can and should have other less harmful alternatives and, at the same time, protect the rights of the child integrally and as a priority (I/A Court HR, Advisory Opinion OC-21/14, paras 160 and 360). The prohibition on the detention of children could even be extended to their parents 'when the child's best interest requires keeping the family together' thereby forcing the authorities 'to choose alternative measures to detention for the family, which are appropriate to the needs of the children' (I/A Court HR, Advisory Opinion OC-21/14, para 158).

The regional case law has drawn clear guidelines on the principles governing the situation of children involved in migration procedures. The Inter-American Court notes that in the design, adoption and implementation of migration policies affecting children under the age of 18,

the State must accord priority to a human rights-based approach, from a crosscut perspective that takes into consideration the rights of the child and the protection and comprehensive development of the child. The latter should prevail over any consideration of her or his nationality or migratory status, in order to ensure the full exercise of her or his rights (I/A Court HR, Advisory Opinion OC-21/14, para 68).

The principles that must form the basis of any policy affecting children, including migration, are the same as those enshrined in CRC, namely, the principle of non-discrimination; the principle of the best interests of the child; the principle of respect for the right to life, survival and development; and the principle of respect for the wishes of the child in any proceedings affecting them (I/A Court HR, Advisory Opinion OC-21/14, para 69). It is essential to look closer at the best interests of the child, which must be rigorously applied whenever states take decisions involving any limitation on the exercise of any children's right (I/A Court HR, *Case of Expelled Dominicans and Haitians v Dominican Republic*, para 416). This idea has been reinforced for migration contexts, where the best interests should be the pivotal point of decisions affecting children and adolescents, so that all their rights are guaranteed irrespective of their nationality, their immigration status or that of their parents (I/A Court HR, Advisory Opinion OC-21/14, para 70).

For the proper assessment of the best interests of the child, it is imperative that states provide the means to ensure the effectiveness of the children's right to be heard (CRC Committee, General Comment 12, para 74). The CRC Committee has emphasised the extension of these guarantees to 'all' matters affecting the child (CRC Committee, General Comment 12, para 26) including judicial or administrative immigration proceedings (I/A Court HR, Advisory Opinion OC-21/14, paras 122 and 123). To give effect to this right, it is insufficient merely to listen to the child, but their opinions must be taken into account and given due weight (CRC Committee, General Comment 12, paras 45 and 139). This requires an environment of respect and safety, with consideration for the particular individual and characteristics that the children and adolescents may have. In addition, there is a duty to inform them of the issue at stake, the decisions that could be taken and the consequences that these could bring (CRC Committee, General Comment 12, paras 23-25).

Finally, it should be remembered that the rights involved in the migration process of children and adolescents are multiple and contained



in both CRC and the American Convention.<sup>7</sup> In this regard, the Inter-American Court has stressed that the right of children and adolescents not to be separated from their families also applies in the immigration context. When developing a deportation procedure for one of the parents or relatives, there should always be a reasoned assessment leading to an individual decision in light of the best interests of the child (IACHR, Report 81/10, paras 48-60). Measures involving the separation of parents from children must represent the most extreme exception, be subject to judicial review, in accordance with article 17 of the American Convention and article 9 of CRC and 'are only admissible if they are duly justified in the best interests of the child, exceptional and, insofar as possible, temporary' (I/A Court HR, *Case of the Pacheco Tineo family v Bolivia*, para 226; I/A Court HR, *Case of expelled Dominicans and Haitians v Dominican Republic*, para 416).

To address the specific situation of children and adolescents in this context, it is necessary to review each country's legislation, as well as to outline the migration flows taking place from North Central America to Mexico, in light of the causes identified as a general framework for the migration phenomenon.

#### **4 Overview of the national legal framework of North Central American countries in relation to migration**

The immigration legislation of North Central American countries contains important nuances. While Guatemala and El Salvador have more recent regulations covering current conditions in Latin America, the legislation of Honduras is outdated and may be characterised as being focused on immigration control.

In Guatemala, immigration legislation is contained in Decree 44-2016. Upon examination, it is possible to note that it focuses on the human rights of migrants, recognising migration as a right<sup>8</sup> establishing a catalogue of rights for migrants<sup>9</sup> and conforming to the rules of international human rights law (Recital 2nd, DL 44-2016), especially CMW. There is

7 Migrant CHA rights are enshrined in arts 5, 7(1), 8(1), 9(1), 9(2), 10, 20 and 22 of CRC. In addition, the American Convention enshrines their rights in arts 11(2), 17 and 19.

8 'The State of Guatemala recognises the right of every person to emigrate or immigrate, so the migrant may enter, remain, transit, leave and return to the national territory in accordance with national legislation'; art 1.

9 In addition to recognising migration itself as a right, it establishes the right of access to public services, the right to nationality, the right to family, property and investment, work, education, and non-discrimination. It also establishes in art 8 an express rule that incorporates into immigration legislation the rights and guarantees granted by international conventions and treaties ratified by Guatemala. Another important aspect is ch III, which enshrines comparatively advanced rights for migrants with respect to work.

a strong emphasis in the rules on the situation of migrant children and adolescents. Specific rights and protection mechanisms are established for unaccompanied children and adolescents, or those separated from their families (article 11, DL 44-2016), and also for those travelling with them (article 15, DL 44-2016). The law provides enhanced protection for those who have been recognised as refugees (article 48, DL 44-2016); victims of sexual violence (article 49, DL 44-2016); and as victims of human trafficking (article 49, DL 44-2016). Finally, deprivation of liberty is not established as a state response to migration. Even then, what the law calls 'protective and shelter homes' for migrants is regulated with a rights-based approach (article 11, DL 39-2016).

In the case of El Salvador, the regulations are contained in the Special Law on Migration and Alien recently renewed in 2019. This also centres on the human person and the rights-based approach (set out in article 5) and a list of specially-protected rights (set out in articles 19 and 20) and specific guarantees for migrants (set out in article 20 No 4). However, in parallel, an important emphasis on control persists. It defines the control organs and a flexible catalogue of entry impediments (article 40) and grounds for cancellation of regular stay (article 49), which in turn are the basis for the application of a deportation procedure (article 59). It should be noted that according to the Global Study (Nowak 2019), in El Salvador there is a lack of legislation establishing the deprivation of liberty of children for migration-related reasons, which favours avoiding restrictive practices against migrant children. Furthermore, in the country's legislation there is an evident concern about the specific situation of migrant children and adolescents, which is regulated in detail (chapter VI) in accordance with the guiding principles of the best interests of the child (article 72) and the right to be heard (article 74). Specific guarantees are included, and protection for children and adolescent migrants is widened by way of incorporating all the rights recognised by national and international rules, irrespective of their immigration status (article 20 No 6). As protective measures for children and adolescents, immediate referrals to Child and Adolescent Protection Boards for unaccompanied or separated children and adolescents are established (article 75) as is the obligation on any migration official or officer to provide immediate protection and attention to migrant children (article 76). Finally, in regard to detention as a state response, article 5 No 9 establishes the principle of 'non-sanction for irregular entrance by refugees and stateless persons'. Accordingly, as mentioned in the Global Study, there is no legislation establishing the possibility of depriving children and adolescents of their liberty on immigration grounds (Nowak 2019: 462).

Finally, Honduras has the least up-to-date migration legislation<sup>10</sup> with the phenomenon of mobility regulated in the 2004 Law on Population and Migration Policy. This Law takes a demographic, restrictive and control-focused perspective; to the detriment of a human rights approach. This is expressed in numerous provisions: The entry requirements are unclear,<sup>11</sup> there is a broad catalogue of grounds for refusal of entry (see articles 30 and 31(a)) and of expulsion (see article 43). Thus, there is a pronounced difference with respect to the legislation of Guatemala and El Salvador: Migration is not established as a right, nor are there specific rights established for migrants. The section on the rights and obligations of foreigners includes a strong reference to obligations. Only the civil rights of Hondurans are extended, and economic, social and cultural rights are not recognised in their favour (article 37). Another central point is that there is no provision relating to the particularities of migrant children and adolescents. Honduras' immigration law expressly validates deprivation of liberty as a state response to some immigration offences (article 42). Regarding the approach to migration in the state of Honduras, criticism has been aimed at the weaknesses of the regulatory framework, but progress has been made in the care of those returned to Honduras, with the setting up of the Care Centre for Returned Migrants, and Care Centres for Children and Migrant Families (IACHR 2019, paras 323-329).

In light of the aforementioned regulations, the following part analyses the data that accounts for the practices are actually developed and that, repeatedly, affect the human rights of children and adolescents in migratory contexts.

## 5 Situation of migrant children in Honduras, El Salvador and Guatemala

The migration process itself involves multiple risks to the security and integrity of children and adolescents, whose rights 'are affected at each stage of the process: in their countries of origin, during transit, in the destination countries and after their repatriation' (Musalo & Ceriani 2015: 7). Transit through migration routes is undertaken in dangerous contexts, due to climatic conditions, to precarious transport, to the control of certain regions by organised crime, and also by breaches committed by migration security agents, national and border authorities of transit countries (Musalo & Ceriani 2015). Against this background, the repressive responses of

10 The Inter-American Commission, in its 2019 Report on the Situation of Human Rights in Honduras, urged the Honduran state to bring its legislation in line with regional and international human rights norms and standards. IACHR 2019, para 323.

11 The conditions are stated as follows: 1. Satisfying an examination by medical authorities; 2. Providing appropriate identification documents, and where appropriate, proving immigration status; 3. Submitting all reports requested by migration authorities; 4. Meeting the conditions set out in the entry authorisations (art 28).

states and the use of deprivation of liberty represent a radical new violation of the human rights of children and adolescents migrating from their countries in search of better living conditions, and who undergo many dangers to achieve this.

Migration dynamics in these countries can also be understood in historical terms according to different problems such as the upheaval resulting from the articulation of poverty, violence and institutional weaknesses. The reasons why children set out on journeys alone vary greatly and may overlap, with many fleeing to seek asylum from war or civil strife, persecution or situations of mass violence in their own country (National University of Ireland 2019). In terms of the particular situation in each of the transit jurisdictions, in the countries of North Central America violence, insecurity, poverty and family reunification continue to be important drivers of migration (OIM 2020). Specifically, the level of poverty in Honduras, El Salvador and Guatemala is significantly above the Latin American average (the incidence of poverty is 74, 68 and 42 per cent of the population, respectively) (ECLAC 2019). According to the UNHCR (2017), Guatemala, Honduras and El Salvador are countries of origin and return for migration flows. In the case of Mexico, this country is both a transit and destination country, in light of the fact that the United States is the final destination on the migratory route.

The increase in the number of children and adolescents, as the Inter-American Commission points out, is also linked to the intention to flee various forms of violence. This violence refers to the action of organisations such as gangs or *maras*, and drug-trafficking cartels, as well as actions of state agents. These factors have also influenced international mobility, increasing internal displacement (IACHR 2018, para 29) in addition to factors such as poverty, inequality, and various forms of discrimination (IACHR 2015b, para 2). In turn, high levels of violence largely are a consequence of deteriorating socio-economic and security conditions (IACHR 2018, para 5). Furthermore, the Concluding Observations of the CRC Committee (2016, 2018, 2019) to these countries have reiterated its profound concern about the prevalence of the scenarios of poverty, violence, lack of education and discrimination affecting migrant children and adolescents.

Also, the research conducted has found that there is no specific data to show the use of deprivation of liberty as a measure of last resort, supporting what is indicated in the Global Study regarding the view that 'in Central and South America immigration detention of children is considerably less prevalent than elsewhere' (Nowak 2019: 462). However, CMW observed in its recent reports on Honduras (CMW 2016, para 36) and Guatemala (CMW 2019, paras 20, 40 and 41) about the lack of information on the detentions of migrants and their families in detention centres, or

places such as airports. What exists in these countries are ‘shelters’ for the housing of migrant children and adolescents. However, these mostly concern domestic children and adolescents returned from Mexico and the United States. In Honduras, El Salvador and Guatemala these reception centres operate as children and adolescent shelter institutions and not as detention centres. In this respect, the following part analyses the situation of migrant children and adolescents in the North Central American countries separately while also briefly describing the reception centres to where these children and adolescents have been returned.

### **5.1 Honduras**

Honduras is characterised by high levels of poverty, inequality and exclusion, especially impacting women, children and adolescents and migrants, as well as other vulnerable groups. In particular, the lack of opportunities for a large majority of the population affects young people. Other serious structural problems are institutional fragility, structural impunity, and corruption (IACHR 2019, para 17). In addition, the Inter-American Commission stated that there is ‘a particularly fragile institutional framework for guaranteeing children’s rights, the absence of comprehensive protection, and the lack of access to basic services for children and adolescents’ (IACHR 2019, para 221).

A significant percentage of Honduran children and adolescents live in poverty and many of them live on the street. As of 2017, of the 4.1 million children living in Honduras, 36 per cent lived in poverty and more than 10 000 were living on the streets (IACHR, Thematic Hearing on the ‘Children’s rights in the context of violence in Honduras’ 2017). Honduras also has a high rate of infant mortality, a lack of access to decent living conditions such as drinking water or basic sanitation (IACHR (2019) paras 223-225). The Inter-American Commission also observed that children and adolescents are one of the groups most affected by gang activities and organised crime, which is reflected by the number of murders, arbitrary executions and violent deaths of minors (IACHR 2019, para 234). The Committee on Economic, Social and Cultural Rights (ESCR Committee) has also expressed its concern about the situation of children and adolescent street children, emphasising the risk that they will be recruited by gangs or other groups, or be employed in the child labour market, and recommended that the state establish a comprehensive child protection system to prevent these problems (ESCR Committee 2016, paras 37-38).

Also, the CMW Committee has expressed concern about the large number of Honduran migrants who are deprived of their liberty in Mexico and the United States, including children and adolescents, and who are commonly deprived of their due process guarantees (CMW 2016, para 36). For example, in Mexico, between January and May 2019 alone

11 386 Honduran children and adolescents were arrested, of whom 950 were unaccompanied aged between 0 and 11 years, and 1 799 unaccompanied children and adolescents aged between 12 and 17 were arrested.<sup>12</sup> Most of these children are deported, without their procedural guarantees being respected, thus becoming returned migrants (CMW 2016, para 38). The CMW Committee has recommended that the state intensify its consular actions and bilateral talks with transit and destination states such as Mexico and the United States, to ensure that the human rights of Honduran migrant children and adolescents are respected (CMW 2016, paras 36-41). Despite these structural conditions, most migrants from Honduras are often considered economic migrants and often do not obtain the requisite international protection or are deported back to their countries (IACHR 2019, paras 316 and 324).

The majority of actions in connection with migration are concentrated on the attention of returned migrants. The state response consisted of the opening of the Attention Centre for Returned Migrants,<sup>13</sup> and the restructuring in 2016 of the former El Eden Centre that was converted into the Centre of Care for Children and Migrant Families.<sup>14</sup> These measures were highlighted by the Inter-American Commission as a step forward in the protection of returned migrants (IACHR 2019, paras 323-329). According to *Casa Alianza Honduras*,<sup>15</sup> throughout 2014 some 10 800 migrant children and adolescents were deported and received at the El Eden Centre. However, between January and August 2015 this figure was 5 429, according to data from the Returned Migrant Care Centre (CAMR). Currently the Centre for Child Care and Migrant Families 'Belén', administered by the IOM, highlighted overcrowding conditions and a lack of access to basic services in which unaccompanied and returned migrant children and adolescents live. It has urged the state to expand its measures to guarantee the rights of all children and adolescents. According to IOM data, as of 2017, 94.6 per cent of families of unaccompanied migrant children and adolescents lived in urban areas of Honduras, with an average of six people living in each home, of which 50 per cent lack access to sewerage or hygiene. One in ten returned

12 Source [https://elpais.com/internacional/2019/07/24/mexico/1563987207\\_829054.html](https://elpais.com/internacional/2019/07/24/mexico/1563987207_829054.html).

13 According to their official website, these centres provide services such as food, medical care, clothing, housing, and information about government social programs, to support returnees. There are currently two: CAMR-SPS and CAMR-OMOA.

14 The *Centro El Eden* was a reception centre for migrant children returned from the United States. It provides the same services as CAMR, but adapted to CHA whether they are unaccompanied migrants, or have returned with their families.

15 Casa Alianza is a civil society organisation working in the field of migrant children since 2000 and it has supported specific cases regarding the deportation of migrant CHA, mainly on the border of Agua Caliente, in the department of Ocotepeque. As the institution became involved with the issue, it expanded the attention towards this population, due to the increase in numbers of deported CHAs and the institutional vacuum generated by the state. Casa Alianza Honduras Pastoral Human Mobility Catholic Relief Services (2016). Migrant children Expulsion factors and challenges for their reintegration into Honduras.

children and adolescents live in houses with floors of soil and *bahareque* or adobe walls. Also, the Inter-American Commission noted that measures implemented by Honduras relate to migration 'for economic reasons' but fail to provide adequate programmes to identify and care for deportees with protection needs (IACHR 2019, para 330). There is also a lack of specialised protection protocols for the specific risks faced by returned migrant children and adolescents, nor effective implementation of a national comprehensive guarantee system for the rights of children and adolescents, for state organ activities to ensure the protection that these children require (IACHR 2019, para 252). The ESCR Committee has also noted the lack of adequate measures to reintegrate returned migrants to Honduran society and recommends improving living conditions in the returned migrant care centres, in particular to access adequate social, legal and medical assistance services (ESCR Committee 2016, paras 49 and 50). Finally, the Inter-American Commission has warned that the children and adolescents returned to Honduras are exposed to the same conditions and risk factors that forced them to leave the country (IACHR 2019, para 252), thus reflecting the circularity of this problem.

## 5.2 El Salvador

El Salvador, as indicated by the CRC Committee, experiences serious problems in relation to the protection of children, including the high number of murders and disappearances of children and adolescents, committed mostly by *maras*; the high degree of impunity for crimes; the vulnerability of children, from the age of five years, *vis-à-vis* recruitment by the *maras*; the scant attention paid to the structural causes of this violence; and the large number of allegations of torture, extrajudicial executions and enforced disappearances of children and adolescents at the hands of the police and armed forces, in the context of the fight against organised crime (CRC Committee 2018, paras 22-24). The Committee was also concerned that corporal punishment against children is legally and culturally accepted; a high incidence of cases of ill-treatment and neglect of children in the intra-family sphere; and an exceptionally high number of cases of sexual violence against girls (CRC Committee 2018, paras 25-27). Particularly regarding violence against girls, in the first eight months of 2017, 1 029 cases of sexual offence – with rape being the most frequent (769 cases) – were reported to have been committed against girls between the ages of 13 and 17 years. Many girls are also targeted by gangs for sexual exploitation purposes. Impunity affects 90 per cent of these cases (CRC Committee 2018, para 27). It is clear that the situation of violence against children in El Salvador is widespread and structural, being one of the factors that cause the migration of Salvadoran children and adolescents.

Furthermore, in terms of returned children and adolescents, the CMW Committee expressed concern about the increase in the number

of unaccompanied migrant children who had been repatriated to El Salvador and the lack of effective measures to ensure their resettlement and long-term reintegration (CMW (2014) para 48). According to the National Council on Children and Adolescents, 2 598 returned children and adolescents were registered in 2017 – 6 661 fewer than in 2016. There is a large percentage of children and adolescents deported in the destination countries and returned to El Salvador, located in the Centre for the Care of Returned Children and Adolescents. Others await deportation at El Salvador consulates located in transit or destination countries. Some of the children and adolescents that have returned or been deported are unaccompanied. Children of irregular migrant workers are also included, as well as those affected by internal displacements (UNICEF 2014, Child and Adolescent Situation Report in El Salvador).

As a step forward, between 2017 and 2018 El Salvador implemented a series of measures. One of these measures was the development and implementation of action protocols on migration, with an emphasis on vulnerability profiles and the role of each of the institutions in the care of returned migrants, such as the Protocol on the Protection and Care of Salvadoran Migrant Children and Adolescents CHAs (CRC Committee 2018, para 46). The Ministry of Foreign Affairs, in coordination with other government institutions and international agencies, launched two initiatives that serve the returned population. In October 2017 the programme *El Salvador es tu casa* was launched. This programme benefits the returned El Salvador population for a dignified and effective integration into society by coordinating a number of services: psycho-social assistance, academic, employment and entrepreneurship opportunities. The programme has five key areas of work, namely, (i) care and advice; (ii) reception and welcome; (iii) insertion and networking; (iv) follow-up; and (v) project management. Currently, El Salvador has a migrant care and shelter body: the Directorate of Migrant Care, which functions as a comprehensive care centre for returnees. The centre is located in the La Chacra community and receives returnees from land routes from Mexico and air routes from the United States. The Centre for Integral Care for Migrants functions as a shelter for migrants who are in an irregular status and provides them with safe conditions while the return to the country of origin is being processed. Among the focal points the Centre aims to provide comprehensive care with a human rights approach, meeting basic needs and health care, in addition to legal assistance to ensure due process.

### 5.3 Guatemala

The human rights situation in the country remains affected by the internal armed conflict that took place between 1960 and 1996. During the conflict, massive human rights violations were perpetrated, including massacres, forced disappearances, rape and scorched earth operations



aimed at decimating the Maya indigenous people (IACHR 2017, para 33). The reasons giving rise to this conflict persist, such as the concentration of economic power in the hands of a few, state weakness and, in particular, ongoing racial discrimination, social inequality, and lack of access to justice (IACHR 2017, paras 36 and 38). Crimes committed during the armed conflict were not tried after the closure of the International Commission against Impunity in Guatemala (CICIG).<sup>16</sup>

The country's current situation is characterised by the levels of poverty, racism and inequality (IACHR 2017, para 38). In 2018 the CRC Committee also expressed concern about the situation of children, highlighting the situation of poverty and exclusion, reflected in the large number of children under the age of five years suffering from chronic malnutrition and the number of resulting deaths (CRC Committee 2018, para 15). These exceed 46,5 per cent and rises to 61,2 per cent for indigenous children. It was also pointed out that the situation of children's rights in Guatemala leads them to migrate to other countries (CMW Committee 2019, para 44). Furthermore, and to better understand the country's context, between 40 and 60 per cent of the population identifies itself as indigenous, and much of it has historically inhabited rural areas (IACHR 2017, para 37). Also, between 1990 and 2013 Guatemala was the lowest state-grossing country in the region (IACHR 2017, para 38). The country also has one of the highest levels of impunity in the world,<sup>17</sup> the most egregious examples being crimes against women and girls, and violence against indigenous peoples.

In terms of returned children and adolescents' public policies, the Secretariat for Social Welfare of the Presidency of the Republic has a programme for unaccompanied migrant children, which provides specialised care for the repatriation of returned children to the country, as well assistance to migrants in transit who require support for family reunification. The programme operates with the Department of Unaccompanied Children and Adolescents, which has two services: Casa 'Our Roots' Shelter, Quetzaltenango (CNRQ) (its purpose is to care for and protect unaccompanied migrant children returning by land from the United States and Mexico, and the shelter's capacity is for 70 children) and Our Roots Albergue Casa Guatemala which provides protection for unaccompanied migrant children returning on flights from the United States and Mexico. Cases of serious human rights violations are housed in this centre. Both shelters are staffed with social workers and psychology professionals in charge of reporting to the Attorney-General's office. These

16 The CICIG was an international independent body supported by the United Nations that from 2007 to 2019 assisted state bodies in Guatemala both in the investigation of crimes committed by members of illegal security forces and clandestine security apparatuses, as well as dismantling these groups.

17 See more at <https://www.cicig.org/cicig/mandato-y-acuerdo-cicig/>.

reports summarise information related to an initial interview that focuses on human rights violations and risks to which children are exposed. In turn, the *Quedate* Training Centre has been identified<sup>18</sup> as a prevention mechanism for undocumented migration and at-risk returnees. It is a technical training facility for adolescent returnees requiring training in order to increase employment opportunities. It has post-school leveraged education processes and accelerated training of a technical nature. By 2017 it had 332 participants who were studying in different specialties.

Based on the data collected, the migration of children and adolescents from North Central America is linked to structural conditions that disproportionately affect them. Despite that, most migrant children and adolescents are often deported back to their country due to the deprivation of due process guarantees, among other reasons. Although there are efforts on the part of the states to try to reintegrate children and adolescents back into society, they are still lacking adequate measures in order to protect them. The same conditions that forced them to leave their home countries persist when they are returned. In this respect, the following part analyses the deprivation of liberty of children and adolescents in Mexico as the receiving, issuing, transiting and returning country in order to better understand the specific situation of children and adolescents and the state response towards migration.

## **6 Children and adolescents deprived of liberty on immigration grounds in Mexico: Tension between securitisation logic and comprehensive child protection**

The central problem concerning migrant children deprived of liberty arises from the ascendancy of immigration policy, especially its securitisation aspects, over the policy of comprehensive protection of migrant children. Comprehensive protection entails the abandonment of the old doctrine of the 'irregular status' which usually focused on assistance or repressive policies, plans and programmes, on those children and adolescents who were 'unprotected' or in a deprived situation, and were therefore (non-participating) targets. Unlike the concept of the 'irregular status', policies, plans and programmes that are based on the doctrine of comprehensive protection, promote, defend and protect the human rights of all children and adolescents. However, the subsidiary role that child protection bodies often play at the local and national levels, as well as the assistance and pastoral nature of the general policy on children, also indicate the lack of a comprehensive protective approach to migrant children and adolescents (Ceriani 2014). In this regard, the obligation to prioritise the status of

18 Secretariat of Social Welfare of the Presidency of the Republic, Government of Guatemala, on the *Quedate* Training Centre: <http://www.sbs.gob.gt/centros-de-formacion-quedate/>.

children and adolescents over that of migrants implies that policies for children and social protection must identify them as a particularly vulnerable group requiring protection. These policies often register a deficit with respect to the specific needs of unaccompanied and separated children and adolescents in particular (IPPDH 2019).

The situation of migrant children and adolescents from North Central American countries to Mexico as a destination or transit country highlights a series of violations of rights, and reveals the violation of international and regional legislation on the protection of children and adolescents' human rights. In this regard, the data below reflects the deprivation of the freedom of migrant children and adolescents in Mexico, while noting that this situation proves to be the focal point of all other rights violations that occur in the migration context.

In Mexico, according to the Migration Policy Unit, Registration and Identity of Persons, the number of foreign (accompanied and unaccompanied) children and adolescents registered with the National Migration Institute (INM) in 2019 totalled 51 999 (*Unidad de Política Migratoria, Registro e Identidad de Personas* 2019). The following table indicates the demographics of this group according to gender and major countries of origin.

Flow of foreign children and adolescents submitted to the INM, according to gender and principal countries of origin, January-September 2019			
Country of origin	Men	Women	Total
Guatemala	9,981 (61.4%)	6,265 (38.6%)	16,246 (31.2%)
Honduras	14,378 (58.1%)	10,372 (41.9%)	24,740 (47.6%)
El Salvador	3,890 (56.6%)	2,981 (43.4%)	6,871 (13.2%)
Other Countries	6,871 (13.2%)	1,929 (46.7%)	4,132 (7.9%)
Source: Migration Policy Unit, Registration and Identity of Persons, based on the Monthly Newsletter of Migration Statistics 2014-2019			

Immigration facilities in Mexico housing migrants have in law been referred to as Migratory Centres and, more recently, with the setting up of provisional shelters, are classified according to the length of time in which migrants remain detained. The Regulations of the Migration Law (article 3, section XI) and later the 2012 Rules (article 5) include this concept when indicating that they are 'the physical facility that the institute establishes or enables to temporarily accommodate foreigners who have failed to prove a regular migratory status, until their transfer to a migration station, or that their immigration status is resolved' (CNDH 2019). According to the Mexican National Commission on Human Rights (CNDH), 30 migratory centres are currently operating, mostly set up between the years 2000

and 2010 (20 centres). Those with the largest housing capacity are 21st Century (960); Acayucan (836); and Iztapalapa (430), totalling 2 226.<sup>19</sup>

Provisional shelters are classified according to their physical characteristics as temporary shelters A, which allow a maximum stay of 48 hours, and temporary shelters B, which allow a maximum stay of seven days. These latter shelters are necessary to provide space in those states of the Republic that have no, or inadequately existing, migration centres. There are currently 12 temporary type A and 11 type B shelters. The accommodation capacity in some temporary shelters is for up to 120 people, exceeding that of several migratory centres such as the Estancia de Comitán, Chiapas, as well as other Estancias whose capacity is similar to that of migratory centres, such as Hueyate, San Cristóbal de las Casas, La Ventosa and San Pedro Tapanatepec, located in the states of Chiapas and Oaxaca, entities with large migratory flows.

The physical, structural and operational characteristics of immigration centres continue to emulate a prison model where individuals are kept in cells with bars under lock and key, and subjected to routines typical of social reintegration centres, modelled on schemes for national security protection to the detriment of human security and respect for their human rights (CNDH 2019). In 2018 the authorities established temporary shelters where the members of the 'migrant caravans' were housed for a longer period. There were both open and closed-access shelters.

The shelters set up by the National Migration Institute at the Tapachula fairgrounds, in Chiapas, is a closed-access facility, with perimeter security provided by the Federal Police. The National Commission on Human Rights noted during its visits that up to approximately 3 000 people were housed there, including children and adolescents, women, older individuals, persons with disabilities and men, who remained deprived of their liberty, even though they were refugee-status applicants.

The National Commission on Human Rights of Mexico (CNDH) noted that of the 38 581 children and adolescents detained in Mexico in 2019, 8 744 were unaccompanied children and adolescents.<sup>20</sup> For its part, Mexico's National Migration Institute (INM) reported that the detention of Central American migrant children during the first half of 2019 increased by more than 130 per cent compared to the same period in 2018. On the other hand, the federal facilities where the INM detained a greater number of children and adolescents were Chiapas, Veracruz, Tabasco, Oaxaca, Tamaulipas and San Luis Potosí (CNDH 2018). A significant fact is that

19 *Comisión Nacional de los Derechos Humanos, Informe Especial. Situación de las Estaciones Migratorias en México, Hacia un nuevo modelo alternativo a la detención, México, 2019.*

20 Available at <https://www.proceso.com.mx/601288/piden-a-la-cidh-supervisar-politica-migratoria-regional-dirigida-a-la-ninez-y-adolescencia>.

of the 36 174 children and adolescents detained by the INM in 2015, only 12 414 were processed through the DIF systems (National System for Integral Family Development). This highlights the preponderant policy of immigration control over the policy of child protection, as has already been noted.<sup>21</sup> According to Mexico's CNDH, 86 per cent of children and adolescents were deported in 2016, representing a serious violation of their human rights. This trend continues up to the present day (CNDH 2018, para 160). Another important fact is that in its last visits, the CNDH repeatedly identified accompanied and unaccompanied CHAs at the migratory centres of Iztapalapa, Acayucan and Tapachula, in five provisional shelters, taking into account that the latter are even more precarious than the migratory centres themselves.<sup>22</sup>

Data gathered by the INMM Citizens' Council indicate that the children and adolescents' conditions of detention are a matter of concern.<sup>23</sup> The following aspects may be mentioned:

- Poor diet: Children aged 0 to four years were constantly falling ill due to the food provided to them in the centres – they are only provided with three meals a day, even though they require feeding five times. In addition, milk is distributed to children up to two years of age, while older children remain dependent on this nutrient.
- Lack of medical care: Medical care for infants and young children is poor, as mothers notice that medical staff do not perform basic check-ups before providing medical treatments.
- Staff abuse: Staff mistreatment of mothers with young children consisting of a ban on removing blankets from the rooms, causing minors to sleep directly on the floor throughout the day.
- Lack of recreational and educational opportunities: With the exception of the Acayucan centre, the others do not have educational and recreational spaces or activities for children and adolescents.
- Equivalent procedures for children and adults without contemplating the best interests of the child. The dossiers inspected did not include references to any proceedings followed to determine the best interests of the child.
- Prevalence of institutionalisation and detention over other alternatives. The placement of migrant children in shelters in the DIF (National System for the Integral Development of the Family) is concerning because these shelters are being validated as migratory

21 *Comisión Nacional de los Derechos Humanos (2018). Informe Especial. La problemática de niñas, niños y adolescentes centroamericanos en contexto de migración internacional no acompañados en su tránsito por México, y con necesidades de protección internacional. México.*

22 *Comisión Nacional de los Derechos Humanos (2018).*

23 *Consejo Ciudadano del Instituto Nacional de Migración, Personas en detención migratoria en México Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración. México, July 2017.*

centres. Numerous files include summary resolutions providing the corresponding authorisation and ignoring alternatives to detention set out in the immigration legislation itself.

- Prolonged periods of detention. Asylum-seeking children and adolescents remain in detention for long periods. Said periods continue, despite the children and adolescents being transferred to a shelter of the municipal, state or federal DIF system, due to the fact that the vast majority are closed-access shelters, and the periods of accommodation therein are long and create great uncertainty for children.

According to Musalo and Ceriani (2015), the human rights impact on children and adolescents in migratory contexts is based on the view that undocumented migration is a crime. This belief leads to circumstances in which ill-treatment and other human rights violations prevail. In this sense, the regularisation of migration should be considered as a measure of protection for children and adolescents. This involves a change of perspective and also a change in institutional practices and structures.

It is important to note that policies aimed at migrant children and adolescents must consider in the first place the best interests of the child. Migration and protection procedures involving migrant children and adolescents must respect a set of procedural safeguards, with the aim of ensuring that their best interests are a primary consideration. This implies the right to be heard; the right to information; the rapidity of the proceedings; the specialisation of responsible officials; access to legal assistance; the appointment of a guardian in the case of unaccompanied and separated children and adolescents; the right to appeal decisions; the right to consular assistance; and confidentiality safeguards – especially in cases of refugee status determinations (IPPDH 2019).

## **7 Final observations**

On the basis of the data collected, it is worth noting that the interpretation and implementation of CRC and the Principles of Comprehensive Protection continue to reveal difficulties, tensions and disputes (Beloff 2014). This is evident in the treatment of migrant children based on a rationale that prioritises national security over the best interests of the child. In this way, the deprivation of liberty of children and adolescents is at the heart of a series of violations that occur in the context of migration. In addition, the problem of children deprived of liberty on immigration grounds necessarily requires to be part of the broader framework of discussions on democracy and the role of states as guarantors of rights, as mentioned at the beginning of this article. The importance of social, economic and cultural rights and related policies is central in this context

(Baratta 2004) and especially in the case of the countries of North Central America.

In consequence of the above, and following the recommendations of the Global Study (Nowak 2019), in order to prevent the detention of children and adolescents on immigration grounds, the following challenges can be identified in the context the deprivation of liberty of migrant children in the countries of North Central America and Mexico: recognising the condition of children and adolescents as superior to other types of categorisation or classification; working on the training of state agents responsible for migration policies on the protection of the rights of children and adolescents; strengthening the creation and continuation of specialised bodies in the area of comprehensive child protection in migration contexts, as well as monitoring and controlling bodies on migration policies and institutions; eradicating the deprivation of liberty of children and adolescents, and in particular those who are detained on immigration grounds as migration-related detention can never be considered a measure of last resort and in the best interest of the child; in the interim, promoting non-custodial measures as protection mechanisms for children and adolescents in migratory contexts with the aim of reducing the number of children in this situation; moving towards a multidimensional and multi-causal approach to the migration issue by focusing on the guarantee of rights, in particular addressing social factors and their structural causes; expanding immigration policies as a protection mechanism for children and adolescents; and including a gender focus in the care of migrant children and adolescents.

The deprivation of children and adolescents' liberty for migratory reasons poses urgent challenges from the point of view of human rights and democracy. These challenges demand concrete action and solid agreements among key stakeholders, beyond mere rhetoric. This also conforms to goal 16.2 of United Nations Sustainable Development Goals as indicated by the Global Study (Nowak 2019). The human rights of migrant children and adolescents should be a priority for the states in order to eliminate their deprivation of liberty. The detention of migrant children should never be considered a measure of last resort as it violates the exercise of their fundamental rights.

## References

- Aldeas Infantiles ‘Enfoque de Juventudes. Una aproximación desde los Derechos Humanos, las diversidades y el desarrollo de las personas adolescentes y jóvenes’ (2017), available at <http://redegresadoslatam.org/wp-content/uploads/2017/12/Fasc%C3%ADculo-I-Enfoque-de-Juventudes.pdf> (last visited 17 February 2021)
- Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR) *Situación del Triángulo Norte en Centroamérica* (2017), available at <https://www.acnur.org/fileadmin/Documentos/BDL/2017/11040.pdf> (last visited 17 February 2021)
- Baratta A (2004) *Infancia y democracia*. en García Méndez y Beloff (comp) *Infancia, Ley y Democracia en América Latina*. Colombia, Temis
- Beloff M ‘Protección a la niñez en América Latina. Fortalezas y debilidades. Estado de Nuevo León’ (2014) *Poder Judicial Estado de Nueva León*, available at <http://www.pjenl.gob.mx/Publicaciones/Libros/30/docs/30.pdf> (last visited 17 February 2021)
- Beloff M ‘La protección de los niños y las políticas de la diferencia’ (2001) *Lecciones y Ensayos* 405
- Beloff M ‘La protección de los derechos de las niñas en la justicia juvenil’ (2017) *Instituto de Investigaciones*, Ambrosio L Gioja Research Institute, Issue 19, July/December 2017, Buenos Aires, Argentina, ISSN 1851-3069
- Ceriani C, García P, Lila & Gómez Salas A ‘Niñez y adolescencia en el contexto de la migración: principios, avances y desafíos en la protección de sus derechos en américa latina y el caribe’ (2014) 22 *REMHU – Revista Interdisciplinar da Mobilidade Humana* 9-28 ISSN: 1980-8585, available at <https://www.redalyc.org/articulo.oa?id=4070/407042019002> (last visited 17 February 2021)
- Casa Alianza Honduras Pastoral de Movilidad Humana Catholic Relief Services. (2016) *Niñas y niños migrantes Factores de expulsión y desafíos para su reinserción en Honduras*, available at <https://imumi.org/attachments/2016/MAR/Ninas-y-ninos-migrantes-factores-de-expulsion-y-desafios-para-su-reinsercion-en-Honduras.pdf> (last visited 17 February 2021)
- Comas R ‘Tolerancia cero’ en los Estados Unidos: niñez migrante no acompañada a causa de la privación de libertad de sus padres por status migratorio (2018), available at <https://diagonalciep.org/tolerancia-cero-en-los-estados-unidos-ninez-migrante-no-acompanada-a-causa-de-la-privacion-de-libertad-de-sus-padres-por-status-migratorio/> (last visited 17 February 2021)
- Comisión Internacional contra la Impunidad en Guatemala (CICIG), available at <https://www.cicig.org/cicig/mandato-y-acuerdo-cicig/> (last visited 17 February 2021)
- Comisión Nacional de los Derechos Humanos ‘Situación de las Estaciones Migratorias en México. Hacia un nuevo modelo alternativo a la detención. México’ (2019), available at <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf> (last visited 17 February 2021)
- Comisión Nacional de los Derechos Humanos ‘Informe Especial. La problemática de niñas, niños y adolescentes centroamericanos en contexto de migración internacional no acompañados en su tránsito por México, y con necesidades de protección internacional’ México (2018), available at <https://www.cndh.org.mx/sites/default/files/documentos/2019-04/Informe-Ninez-Adolescentes-Centroamericanos-Migracion.pdf> (last visited 17 February 2021)
- Consejo Ciudadano del Instituto Nacional de Migración (CCINM) ‘Personas en detención migratoria en México. Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración’ México (2017), available at <https://tbinternet.ohchr.org/Treaties/CESCR/Shared>



- %20Documents/MEX/INT\_CESCR\_CSS\_MEX\_28755\_S.pdf (last visited 17 February 2021)
- Consejo Nacional de la Niñez y la Adolescencia 'Estado de situación de los derechos de la niñez y adolescencia en El Salvador', junio 2017- mayo 2018. Consejo Directivo del CONNA. El Salvador (2013), available at <http://www.conna.gob.sv/wp-content/uploads/2016/06/Estado-de-Situacion-de-los-derechos-de-las-NNA-en-El-Salvador.pdf> (last visited 17 February 2021)
- CMW International Convention on the Protection of the Rights of All Migrant Workers and Their Families, adopted by the General Assembly in its Resolution 45/158 of 18 December 1990, available at <https://www.ohchr.org/sp/professionalinterest/pages/cmw.aspx> (last visited 17 February 2021)
- CMW Committee Committee for the Protection of the Rights of All Migrant Workers and Their Families Concluding Comments on Guatemala's second periodic report of 2 May 2019 CMW/C/GTM/CO/2
- CMW Committee Final Comments on Honduras' Initial Report of 3 October 2016 CMW/C/HND/CO/1
- CMW Committee Final Comments on El Salvador's second periodic report of 2 May 2014 CMW/C/SLV/CO/2
- CMW Committee General Comment No 2 on the rights of irregular migrant workers and their families CMW/C/GC/2 (2013), available at <https://www.mre.gov.py/SimorePlus/Adjuntos/Informes/CMW%20N%C2%BA%202.pdf> (last visited 17 February 2021)
- CMW Committee General Comment No 1 on migrant domestic workers (2011), available at <http://old.acnur.org/fileadmin/Documentos/BDL/2012/8447.pdf> (last visited 17 February 2021)
- CRC – OHCHR *Convention on the Rights of the Child* (1989), available at [https://www.ohchr.org/Documents/ProfessionalInterest/crc\\_SP.pdf](https://www.ohchr.org/Documents/ProfessionalInterest/crc_SP.pdf) (last visited 17 February 2021)
- CRC Committee Committee on the Rights of the Child Concluding Comments on the Combined Fifth and Sixth Periodic Reports of El Salvador of 29 November 2018. CRC/C/SLV/CO/5-6
- CRC Committee General Comment 12 CRC/C/GC/12 20 July 2009, available at <https://www.acnur.org/fileadmin/Documentos/BDL/2011/7532.pdf> (last visited 17 February 2021)
- CRC Committee General Comment 6 CRC/GC/2005/6 1 September 2005, available at <https://www.acnur.org/fileadmin/Documentos/BDL/2005/3886.pdf> (last visited 17 February 2021)
- CRC Committee and CMW Committee Joint General Comment No 3 of the Committee on the Protection of the Rights of All Migrant Workers and Their Families and No 22 of the Committee on the Rights of the Child on general principles concerning the human rights of children in the context of international migration (2017), available at <https://www.refworld.org/es/docid/5bd780094.html> (last visited 17 February 2021)
- CRC Committee and CMW Committee Joint General Comment No 4 of the Committee on the Protection of the Rights of All Migrant Workers and Their Families and No 23 of the Committee on the Rights of the Child on the obligations of States related to human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), available at <https://www.refworld.org/es/docid/5bd788294.html> (last visited 17 February 2021)
- De Lucas J 'La herida original de las políticas de inmigración. A propósito del lugar de los derechos humanos en las políticas de inmigración' (2002) 26 *Isegoría* 59 ISSN: 1130-2097, available at <http://isegoria.revistas.csic.es/index.php/isegoria/article/view/571> (last visited 17 February 2021)

- Durand Jorge & Heredia Zubieta C 'Los migrantes, los gobiernos y la sociedad civil en el sistema migratorio norte-mesoamericano' *Programa Interdisciplinario en Estudios Migratorios* (CIDE-MIG), Centro de Investigación y Docencia Económicas (CIDE) Ciudad de México (2018), available at <https://migdep.colmex.mx/publicaciones/DPM-06.pdf> (last visited 17 February 2021)
- ESCR Committee Committee of the International Covenant on Social and Cultural Economic Rights Concluding Comments on Honduras' second periodic report, 11 July 2016 E/C.12/HND/CO/2
- IACHR Situation of human rights in Honduras, 27 August 2019 OAS/Ser.L/V/II. Doc. 146, available at <http://reliefweb.int/report/honduras/situacion-de-los-derechos-humanos-en-honduras> (last visited 13 August 2020)
- IACHR Internal displacement in the North Triangle of Central America. Guidelines for public policy-making 27 July 2018 OAS/Ser.L/V/II, available at <http://www.oas.org/es/cidh/informes/pdfs/DesplazamientoInterno.pdf> (last visited 17 February 2021)
- IACHR Situation of human rights in Guatemala of 31 December 2017 OAS/Ser.L/V/II. Doc.208/17, available at <http://www.oas.org/es/cidh/informes/pdfs/Guatemala2017-es.pdf> (last visited 17 February 2021)
- IACHR (2015a) Thematic Report of the Rapporteurship on the Rights of Migrants 'Human rights of migrants, refugees, stateless persons, victims of trafficking in persons and internally displaced persons: Standards and Standards of the Inter-American System of Human Rights' of 31 December 2015 OAS/Ser.L/V/II. Doc, available at <https://www.cutidh.or.cr/tablas/r37887.pdf> (last visited 17 February 2021)
- IACHR (2015b) Human rights situation of families, children and adolescents unaccompanied refugees and migrants in the United States of America of 24 July 2015 OAS/Ser.L/V/II.155, available at <http://www.oas.org/es/cidh/informes/pdfs/Refugiados-Migrantes-EEUU.pdf> (last visited 17 February 2021)
- IIDH Instituto Interamericano de Derechos Humanos 'Prácticas relevantes de protección a los derechos de niños, niñas y adolescentes migrantes sin compañía en el triángulo norte y México' (2016) San José: IIDH
- Instituto de Políticas Públicas en Derechos Humanos del MERCOSUR (IPPDH) *Protección de niños, niñas y adolescentes en contextos de migración. Manual de aplicación de estándares internacionales y regionales de derechos humanos*. Buenos Aires, IPPDH (2019), available at [https://www.ippdh.mercosur.int/wp-content/uploads/2019/06/ManualProteccionNi%C3%B1ezMigrante\\_web.pdf](https://www.ippdh.mercosur.int/wp-content/uploads/2019/06/ManualProteccionNi%C3%B1ezMigrante_web.pdf) (last visited 17 February 2021)
- Isacson A, Meyer M & Morales G 'Mexico's other border: Security, migration, and the humanitarian crisis at the line with Central America' Washington, DC, WOLA (2014), available at <https://www.wola.org/files/mxgt/report/> (last visited 17 February 2021)
- Musalo K & Ceriani P 'Niñez y Migración en Centro y Norte América: causas, políticas, prácticas y desafíos' Buenos Aires: Centre for Gender and Refugee Studies and Universidad Nacional de Lanus (2015), available at <https://www.acnur.org/fileadmin/Documentos/Publicaciones/2015/9927.pdf> (last visited 17 February 2021)
- Nowak M (2019) *Global study on children deprived of liberty*, available at <https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562/page/1> (last visited 17 February 2021)
- Pautassi L 'La igualdad en espera: el enfoque de género. Lecciones y Ensayos' (2011) 89 279, available at <http://www.derecho.uba.ar/publicaciones/lye/revistas/89/pautassi-laura-laigualdad-en-espera-el-enfoque-de-genero.pdf> (last visited 17 February 2021)
- Ramírez Romero SJ, Hidalgo G, Muñoz Castellanos, RG & Enciso Cruz PJ Más allá de la frontera, La niñez migrante: Son las niñas y niños de todos, Estudio exploratorio sobre la protección de la niñez migrante repatriada en la frontera

norte citado en 'Niñez y Migración en Centro y Norte América: causas, políticas, prácticas y desafíos' (2009) 339

Unidad de Política Migratoria, Registro e Identidad de Personas 'Niñas, niños y adolescentes en situación migratoria irregular, desde y en tránsito por México' (2020)

UN General Assembly Report of the Independent Expert leading the United Nations Global Study on Children Deprived of Liberty, Manfred Nowak, A/74/136 (11 July 2019), available at <https://undocs.org/en/A/74/136> (last visited 17 February 2021)

UNICEF *Informe de Situación de la Niñez y Adolescencia en El Salvador* (2014), available at [https://www.unicef.org/elsalvador/sites/unicef.org.elsalvador/files/2018-12/Analisis\\_de\\_Situacion\\_de\\_la\\_Infancia\\_El\\_Salvador\\_UNICEF\\_2014.pdf](https://www.unicef.org/elsalvador/sites/unicef.org.elsalvador/files/2018-12/Analisis_de_Situacion_de_la_Infancia_El_Salvador_UNICEF_2014.pdf) (last visited 17 February 2021)

## Annexure

Guatemala's status of international treaty ratifications <sup>24</sup>		
Treaty	Signature date	Ratification date, accession, date (a)
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		5-Jan-1990 (a)
Optional Protocol of the Convention against Torture	25-Sep-2003	9-Jun-2008
International Covenant on Civil and Political Rights		5-May-1992 (a)
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
Convention for the Protection of All Persons from Enforced Disappearance	6-Feb-2007	
Convention on the Elimination of All Forms of Discrimination against Women	8-Jun-1981	12-Aug-1982
International Convention on the Elimination of All Forms of Racial Discrimination	8-Sep-1967	18-Jan-1983
International Covenant on Economic, Social and Cultural Rights		19-May-1988 (a)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	7-Sep-2000	14-Mar-2003
Convention on the Rights of the Child	26-Jan-1990	6-Jun-1990
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	7-Sep-2000	9-May-2002
Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	7-Sep-2000	9-May-2002
Convention on the Rights of Persons with Disabilities	30-Mar-2007	7-Apr-2009

24 OHCHR, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN)

<b>Treaty</b>	<b>Acceptance of individual complaints procedures</b>	<b>Date of acceptance/non-acceptance</b>
Individual complaints procedure under the Convention against Torture	Yes	25-Sep-2003
Optional Protocol to the International Covenant on Civil and Political Rights	Yes	28-Nov-2000
Individual complaints procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	-	
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Yes	9-May-2002
Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination	N/A	
Optional protocol to the International Covenant on Economic, Social and Cultural Rights	No	
Individual complaints procedure under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Yes	11-Sep-2007
Optional Protocol to the Convention on the Rights of the Child	No	
Optional protocol to the Convention on the Rights of Persons with Disabilities	Yes	7-Apr-2009
<b>Treaty</b>	<b>Acceptance of inquiry procedure</b>	<b>Date of acceptance/non acceptance</b>
Inquiry procedure under the Convention against Torture	Yes	5-Jan-1990
Inquiry procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	-	
Inquiry procedure under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Yes	9-May-2002
Inquiry procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	-	

Inquiry procedure under the Optional Protocol to the Convention on the Rights of the Child	-	
Inquiry procedure under the Convention on the Rights of Persons with Disabilities	Yes	7-Apr-2009
<b>Honduras's status of international treaty ratifications<sup>25</sup></b>		
<b>Treaty</b>	<b>Signature date</b>	<b>Ratification date, accession, date (a)</b>
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		5-Dec-1996 (a)
Optional Protocol of the Convention against Torture	8-Dec-2004	23-May-2006
International Covenant on Civil and Political Rights	19-Dec-1966	25-Aug-1997
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty	10-May-1990	1-Apr-2008
Convention for the Protection of All Persons from Enforced Disappearance	6-Feb-2007	1-Apr-2008
Convention on the Elimination of All Forms of Discrimination against Women	11-Jun-1980	3-Mar-1983
International Convention on the Elimination of All Forms of Racial Discrimination		10-Oct-2002 (a)
International Covenant on Economic, Social and Cultural Rights	19-Dec-1966	17-Feb-1981
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		9 Aug 2005 (a)
Convention on the Rights of the Child	31-May-1990	10 Aug 1990
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		14-Aug-2002 (a)
Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography		8-May-2002 (a)

25 OHCHR, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN)

Convention on the Rights of Persons with Disabilities	30-Mar-2007	14-Apr-2008
<b>Treaty</b>	<b>Acceptance of individual complaints procedures</b>	<b>Date of acceptance/non-acceptance</b>
Individual complaints procedure under the Convention against Torture	N/A	
Optional Protocol to the International Covenant on Civil and Political Rights	Yes	7-Jun-2005
Individual complaints procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	N/A	
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	No	
Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination	N/A	
Optional protocol to the International Covenant on Economic, Social and Cultural Rights	No	
Individual complaints procedure under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	N/A	
Optional Protocol to the Convention on the Rights of the Child	No	
Optional protocol to the Convention on the Rights of Persons with Disabilities	Yes	16-Aug-2010
<b>Treaty</b>	<b>Acceptance of inquiry procedure</b>	<b>Date of acceptance/non-acceptance</b>
Inquiry procedure under the Convention against Torture	Yes	5-Dec-1996
Inquiry procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	Yes	1-Apr-2008
Inquiry procedure under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women	-	

Inquiry procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	-	
Inquiry procedure under the Optional Protocol to the Convention on the Rights of the Child	-	
Inquiry procedure under the Convention on the Rights of Persons with Disabilities	Yes	16-Aug-2010

<b>El Salvador's status of international treaty ratifications<sup>26</sup></b>		
<b>Treaty</b>	<b>Signature date</b>	<b>Ratification date, accession, date (a)</b>
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		17-Jun-1996 (a)
Optional Protocol of the Convention against Torture		
International Covenant on Civil and Political Rights	21-Sep-1967	30-Nov-1979
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		8-Apr-2014 (a)
Convention for the Protection of All Persons from Enforced Disappearance		
Convention on the Elimination of All Forms of Discrimination against Women	14-Nov-1980	19-Aug-1981
International Convention on the Elimination of All Forms of Racial Discrimination		30-Nov-1979 (a)
International Covenant on Economic, Social and Cultural Rights	21-Sep-1967	30-Nov-1979
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	13-Sep-2002	14-Mar-2003
Convention on the Rights of the Child	26-Jan-1990	10-Jul-1990
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	18-Sep-2000	18-Apr-2002

26 OHCHR, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN)



Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	13-Sep-2002	17-May-2004
Convention on the Rights of Persons with Disabilities	30-Mar-2007	14-Dec-2007

<b>Treaty</b>	<b>Acceptance of individual complaints procedures</b>	<b>Date of acceptance/non-acceptance</b>
Individual complaints procedure under the Convention against Torture	N/A	
Optional Protocol to the International Covenant on Civil and Political Rights	Yes	6-Jun-1995
Individual complaints procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	-	
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	No	
Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination	Yes	23-Mar-2016
Optional protocol to the International Covenant on Economic, Social and Cultural Rights	Yes	20-Sep-2011
Individual complaints procedure under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	N/A	
Optional Protocol to the Convention on the Rights of the Child	Yes	9-Feb-2015
Optional protocol to the Convention on the Rights of Persons with Disabilities	Yes	14-Dec-2007

<b>Treaty</b>	<b>Acceptance of inquiry procedure</b>	<b>Date of acceptance/non-acceptance</b>
Inquiry procedure under the Convention against Torture	Yes	17-Jun-1996
Inquiry procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	-	

Inquiry procedure under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women	-	
Inquiry procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	Yes	20-Sep-2011
Inquiry procedure under the Optional Protocol to the Convention on the Rights of the Child	-	
Inquiry procedure under the Convention on the Rights of Persons with Disabilities	Yes	14-Dec-2007

<b>Mexico's status of international treaty ratifications<sup>27</sup></b>		
<b>Treaty</b>	<b>Signature date</b>	<b>Ratification date, accession, date (a)</b>
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	18-Mar-1985	23-Jan-1986
Optional Protocol of the Convention against Torture	23-Sep-2003	11-apr-2005
International Covenant on Civil and Political Rights		23-Mar-1981 (a)
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		26-Sep-2007 (a)
Convention for the Protection of All Persons from Enforced Disappearance	6-Feb-2007	18-Mar-2008
Convention on the Elimination of All Forms of Discrimination against Women	17-Jul-1980	23-Mar-1981
International Convention on the Elimination of All Forms of Racial Discrimination	1-Nov-1966	20-Feb-1975
International Covenant on Economic, Social and Cultural Rights		23-Mar-1981 (a)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	22-May-1991	8-Mar-1999
Convention on the Rights of the Child	26-Jan-1990	21-Sep-1990

27 OHCHR, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=7&Lang=EN)

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	7-Sep-2000	15-Mar-2002
Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	7-Sep-2000	15-Mar-2002
Convention on the Rights of Persons with Disabilities	30-Mar-2007	17-Dec-2007

<b>Treaty</b>	<b>Acceptance of individual complaints procedures</b>	<b>Date of acceptance/non-acceptance</b>
Individual complaints procedure under the Convention against Torture	Yes	15-Mar-2002
Optional Protocol to the International Covenant on Civil and Political Rights	Yes	15-Mar-2002
Individual complaints procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	N/A	
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Yes	15-Mar-2002
Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination	Yes	15-Mar-2002
Optional protocol to the International Covenant on Economic, Social and Cultural Rights	No	
Individual complaints procedure under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Yes	8-Mar-1999
Optional Protocol to the Convention on the Rights of the Child	No	
Optional protocol to the Convention on the Rights of Persons with Disabilities	Yes	17-Dec-2007
<b>Treaty</b>	<b>Acceptance of inquiry procedure</b>	<b>Date of acceptance/non-acceptance</b>
Inquiry procedure under the Convention against Torture	Yes	23-Jan-1986

Inquiry procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	Yes	18-Mar-2008
Inquiry procedure under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Yes	15-Mar-2002
Inquiry procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	-	
Inquiry procedure under the Optional Protocol to the Convention on the Rights of the Child	-	
Inquiry procedure under the Convention on the Rights of Persons with Disabilities	Yes	17-Dec-2007