



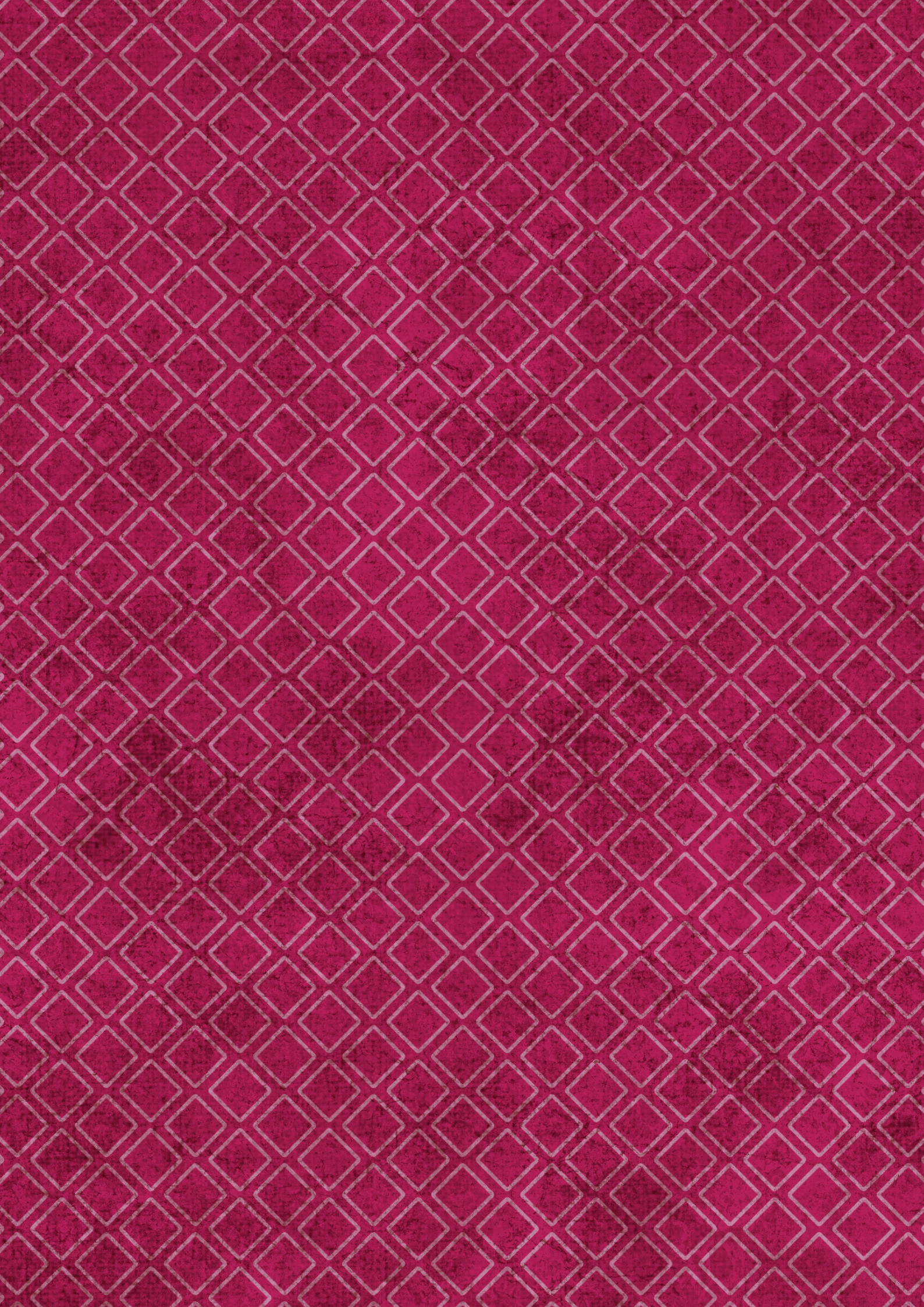
REPORT ON THE EFFECTS OF THE COVID-19 PANDEMIC ON MIGRANTS AND REFUGEES

HUMAN RIGHTS VIOLATIONS DOCUMENTED BY DEFENSE
ORGANIZATIONS AND SHELTERS IN MEXICO

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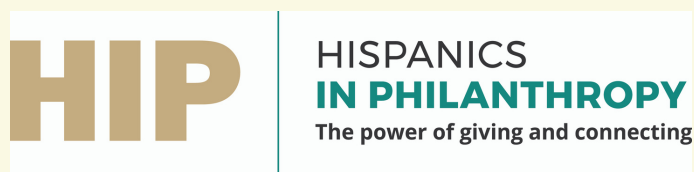
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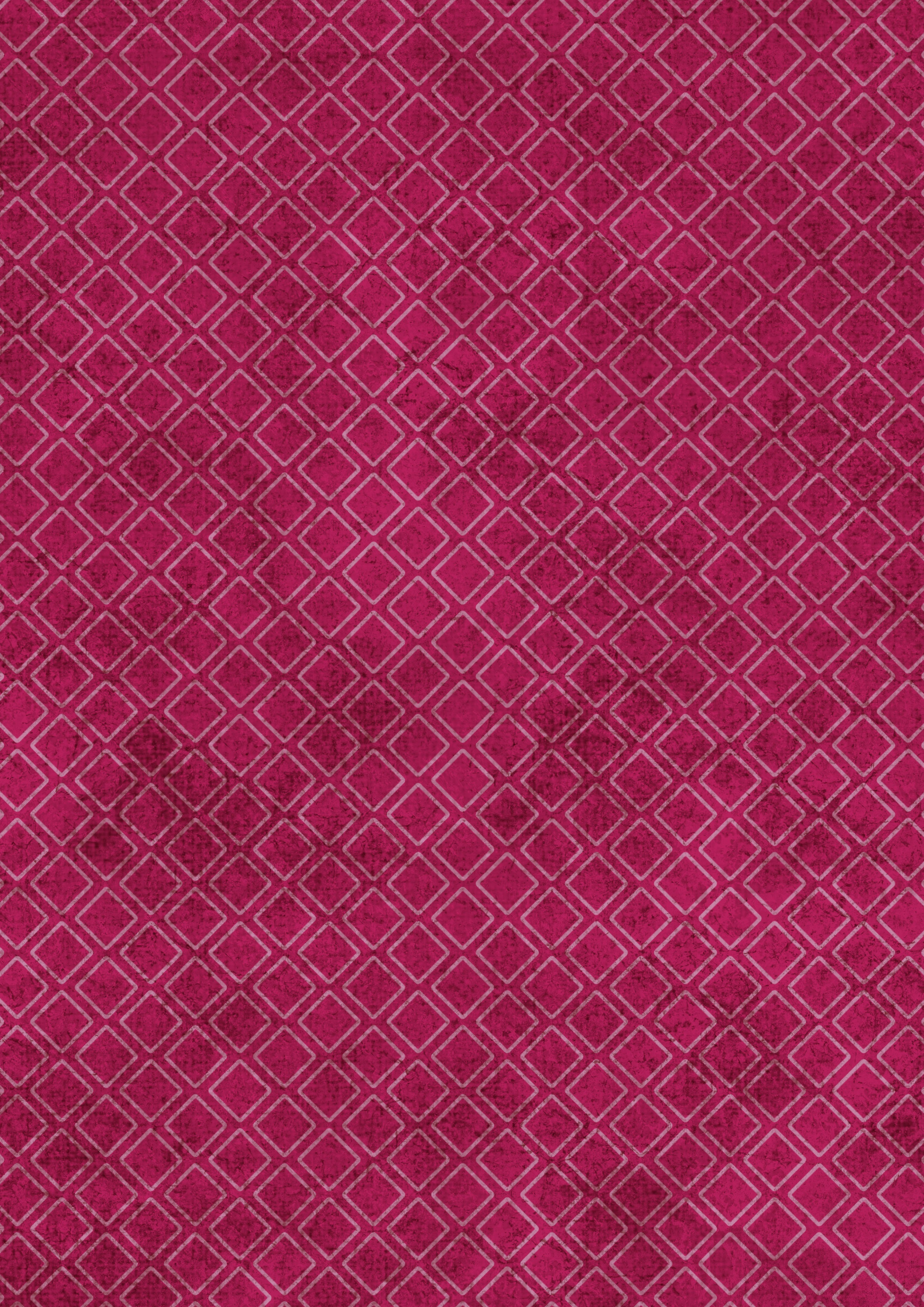


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EXECUTIVE SUMMARY

The COVID-19 pandemic was announced by the World Health Organization (WHO) in March of the current year. As of the completion date of this report, there are more than 26 million cases worldwide. The largest number of cases is concentrated in the American continent, specifically in the United States of America (USA) and Mexico, countries that rank at the top in the record of infections and deaths from COVID-19 within the region.

In Mexico, the federal government has developed a series of policies to minimize and avoid contagion including the identification of the areas of greatest transmission, social distancing, the promotion of the use of personal protective equipment, the suspension of non-essential activities and the limitation of border traffic. In addition, health emergencies have been declared in several states resulting from the exponential increase in infections.

However, the public health response in Mexico seems to have forgotten migrants or applicants for international protection, despite the fact that various international organizations have urged governments to adopt an approach that guarantees the inclusion of migrants and those in need of international protection—regardless of their immigration status—in planning and response actions and public health messages in the face of the COVID-19 pandemic.

Likewise, the government of Mexico has ignored the reinforced standards issued by international organizations for the respect, protection and guarantee

of human rights during the context of the pandemic, which highlight the needs and special protection that migrants and applicants for international protection must receive.

Violations of the human rights of migrants detained at immigration stations in Mexico during the COVID-19 pandemic

The actions of detention and deprivation of liberty implemented by the National Institute of Immigration (INM as per its acronym in Spanish) have serious consequences for the physical and mental health of migrants, who are held in immigration stations and provisional centers under the responsibility of the INM—without the possibility of leaving—and in a situation of extreme vulnerability to the alarming spread of COVID-19.

The risk of contagion in places of immigration detention is magnified by the uninhabitable conditions, widely reported by various human rights organizations and the National Human Rights Commission in 2019, being unsuitable to implement measures of social distancing, adequate hygiene, and other preventative and health care practices.

The lack of these conditions of habitability and prevention of COVID-19 contagion triggered multiple protests, riots and fires in places of immigration detention that put the lives and health of the people deprived of liberty in there at risk. These events led to the death of Rolando Barrientos in the immigration station of Tenosique (Tabasco) in the month of March 2020, who did not receive first aid, immediate and timely assistance for his health, life and integrity protection from the police and military authorities that were guarding the place.

The conditions to which Mr. Barrientos lost his life have not been investigated with the participation of the victims' families, nor has criminal responsibility been established even at the highest level of decision-making, both at the immigration station and with the members of the police and the military that participated in the events. The National Commission for Human Rights (CNDH as per its acronym in Spanish) has not issued a recommendation on the facts or established measures for comprehensive reparation of the damage. Until now, the members of Mr. Barrientos's family have not been registered as victims and have not received measures of assistance before the Executive Commission of Attention to Victims (CEAV as per its acronym in Spanish), in order to guarantee state protection and the established assistance measures within the General Law of Victims.

Incidentally, in April 2020, more than 150 civil society organizations filed a complaint with the CNDH, pointing out the INM as the responsible authority for the events that occurred at the Tenosique immigration station and the death of Mr. Barrientos. The organizations have denounced violations of human rights against migrants and individuals subject to international protection, deprived of their liberty in immigration stations, taking place within the context of the COVID-19 pandemic. At the same time, they exhorted the State to guarantee the observance and respect of all the human rights of the migrant population, reiterating the concern about the uninhabitable conditions and the lack of hygiene and sanitation measures in immigration stations and shelters, requesting in turn the cessation of immigration detention during the pandemic.

Faced with the risk of people in the context of human mobility, deprived of their freedom in immigration stations and provisional centers of the National Institute of Immigration in the face of COVID-19, the *amparo* writ has been

used by civil society organizations to demand the release of the migrants from these detention centers, as well as requesting the generation of actions that contribute to the protection of the migrant population against possible life, health and personal integrity damages.

As a result of civil society actions, eight *amparo* lawsuits were filed in six cities of the Republic (Tenosique, Tabasco; Tapachula, Chiapas; Acayucan, Veracruz; Monterrey, Nuevo Leon; Mexico City; and Tijuana, Baja California). In most cases, the performance of the judiciary was not satisfactory, issuing limited and—in some cases— ineffective measures to make a resolution in favor of the migrant population and applicants for international protection deprived of liberty in immigration detention centers. However, the suspension issued by the First District Court for Administrative Matters of Mexico City, which requests compliance by the immigration and health authorities with the measures that favor and guarantee the life, health and integrity of immigrants and asylum seekers stands out.

Unfortunately and even with protection measures issued from the *amparo* trials that were successful, the defendant authorities continue to preclude access to information through brief reports of compliance with the precautionary measures, denying the acts claimed and not complying with the decreed judicial orders.

In addition to the above, although the judiciary has set up virtual platforms to streamline remote procedures, these do not reflect the exact content of the physical files of the cases in process, which hinders access to information by the plaintiffs. Likewise, due to the pandemic, non-governmental organizations have detected variations in the calculation of terms and deadlines by the

courts, which generates a lack of legal certainty and procedural violations to their detriment.

Situation of people under the Remain in Mexico Program and people removed and/or deported by the US during the pandemic

Mexico and the United States of America share the main transit migration corridor in the world. It is also the second most lethal migration corridor and a place where people in a situation of human mobility face a diversity of violations of their human rights such as life, integrity, freedom, safety, health, amongst others, a situation that has been evidenced in various reports of the agencies of the Inter-American and Universal Systems for the protection of human rights.

The situation of risk and vulnerability for people in the context of mobility who travel this corridor has been magnified exponentially in the last three years, due to the signing of immigration agreements that include restrictive measures of security and border closure increasing the endangerment of the migrants in Mexico by encouraging illegality and the search for alternative routes that are less safe.

Based on the "United States-Mexico Joint Declaration" and the "Supplementary Agreement between the United States and Mexico", signed by the governments of the United States of America and Mexico in June 2019, the implementation and execution of the program called "Remain in Mexico" ("MPP") was extended. These instruments, which for the Mexican legal system did not have and have not had the recognition of international agreements, made Mexico a recipient country for asylum seekers in the United States.

Consequently, and at the time of writing this report, approximately 65,877 people since 2019 have been returned by the United States of America under the “Remain in Mexico” program. For this reason, thousands of people seeking international protection have concentrated on the northern border of Mexico, specifically in cities that report a high rate of crime—especially against people in a context of mobility— living in conditions of poverty and situations of vulnerability faced with multiple human rights violations.

Furthermore, the appearance of the COVID-19 virus and the onset of the pandemic added to the aforementioned extreme risk conditions suffered by people under the “Remain in Mexico” program. Likewise, in the context of the pandemic, the United States of America has implemented a policy of summary removal of people detained after crossing its southern border in an irregular manner, based on Section 265 of Title 42 of the US Code under “public health” grounds. The policy states that people who cross the US border in an undocumented manner may be removed without the execution of the legal deportation procedure established in US immigration law.

This policy, implemented on March 21, 2020, has been extended indefinitely. Until the end of July 2020, under this measure, more than 105,000 people were removed from the United States of America. From the start of the pandemic until May, the United States Department of Homeland Security reported having referred only 59 people to asylum officers to assess non-removal, out of approximately 40,000 expulsions at that time. Of those people, only two passed the interview in order to apply for asylum in the US.

Mexico has collaborated with the United States of America for the implementation of this policy that is harmful to the human rights of

immigrants and applicants for international protection. Among these contributions of the Mexican State are the execution of removal procedures late at night or in the early morning, through border points without safety conditions and dignified assistance for removed individuals that contribute to safeguard their lives, health and integrity against the risk conditions generated by the COVID-19 pandemic.

Given the facts, various civil society organizations have requested through *amparo* proceedings a series of actions and measures to protect the rights of immigrants removed from the United States of America and under the “Remain in Mexico” Protocol.

So far, two *amparo* lawsuits have been filed, whereby national authorities are asked to dictate actions of a general nature for the benefit of people in the context of mobility in Baja California and Chihuahua, with special emphasis on those who have been removed during the COVID-19 pandemic from the United States of America under the policy previously described and implemented by the Mexican Ministry of Foreign Affairs.

The organizations demand from the federal and state governments the generation of concerted actions that contribute to the protection of the health of the migrant population, asylum seekers and those subject to international protection.

Although the District Judge —before whom the *amparo* trial was processed in Chihuahua— granted exemplary precautionary measures, so that the authorities may order the necessary measures to safeguard the life and health of the migrants, the authorities have not complied with the suspensions granted by federal justice for the benefit of people in the context of mobility.

In the case of the *amparo* filed in the Fifth District Court on *Amparo* and Federal Trials in the state of Baja California, the complaining organizations have not received news about compliance with the suspension, nor have the authorities responded to the demand of the *amparo* trial. In fact, the judge in Tijuana refused to enforce the deprivation of liberty warning to the authorities, presenting a new opportunity to comply with the suspension under the warning of a fine.

Main requirements and good practices of shelters in Mexico for the admission and care of people in the context of mobility during the COVID-19 pandemic

Shelters, particularly those that do not have an adequate infrastructure and/or state recognition, indicate serious complications for the assistance of immigrants during the pandemic. The lack of food supplies, water, sanitizing material, adequate spaces to ensure safe distance, economic resources to guarantee the payment of rent and basic services, and a lack of medical or psychological assistance —if required by immigrants— are problems that complicate the care of immigrants and applicants for international protection accommodated in there.

The shelters require adequate facilities and specialized personnel for the diagnosis and medical care of people infected with COVID-19. They do not have enough personal protective equipment, such as gloves, masks, as well as supplies for the disinfection of people and facilities. The provision of personal protective equipment comes fundamentally from donations and contributions from civil society organizations and religious associations, so they are not systematically provided by the State. In addition, in terms of food, the shelters have not received the government support necessary to meet

both the food requirements of their beneficiary populations and the cancellation of debt derived from water services, a situation that endangers the right to water and to the humanitarian aid that people in the context of mobility need in the face of the health emergency. To request the cancellation of debt in public services such as water, some shelters require legal recognition to demand the state the support they require facing the COVID-19 pandemic.

KEY REQUESTS

The signatory organizations make various petitions addressed to Mexican authorities, local and federal, as well as to the National Human Rights Commission, the Executive Commission of Attention to Victims, international organizations and the Government of the United States of America.

The key requests are listed below:

To the Mexican State

I. General Requests

- To guarantee equal treatment and without discrimination to all migrants to access the right to health, support and assistance services, and protection of their personal integrity and other rights.
- To design an inter-institutional plan to meet the needs of migrants, protect and guarantee their rights; and design assistance protocols for migrants in conditions of multiple vulnerability, such as pregnant women, children, and people with pre-existing diseases in the context of Covid-19.

II. On detention in immigration stations and the rights to personal liberty, personal integrity, life and health

- To avoid the detention of migrants and release those who are in immigration stations or temporary centers, and to have assistance and information protocols for those released.
- To implement immigration regularization policies for people released from immigration stations and temporary centers, as well as those who require them to have access to other rights and services.
- To avoid immigration controls and other intimidating measures that discourage the access to healthcare institutions by migrants.
- To respect the right to protest of migrants without carrying out acts of repression and guarantee that the police personnel know and respect the protocols of the use of force.
- To initiate administrative sanctioning procedures against personnel who committed abuses and human rights violations against migrants in immigration stations; to guarantee reparation for damage and guarantees of non-repetition.
- To guarantee immigrants a free access to physical and mental healthcare, to adequate and sufficient medical care, medication and free tests in cases of Covid-19. To guarantee supplies and conditions of hygiene, cleanliness, sanitation and basic services at the immigration stations.

III. Regarding the people removed and/or deported from the US and the "Remain in Mexico" program

- To control through records the entry of all persons removed, deported or through the US MPP program, and ensure the transparency of information.
- To design reception protocols for immigrants removed from the United States to protect their human rights, and guarantee safe returns to their countries of origin when they so wish, through the implementation of coordination mechanisms among countries.
- To facilitate the renewal of official documents in Mexico, so that people can access services and rights. In cases of people in situations of multiple vulnerability, such as pregnant women, there is a reinforced duty of the State.

IV. On the right of access to justice and the judiciary

- To guarantee the functioning of the judiciary for the protection of the rights of immigrants. That the judges resolve and enforce their resolutions avoiding all kinds of interference or external influence. The authorities from which violating acts are claimed must respect and comply with the mandates of the Judiciary, abiding by the suspensions of the acts claimed, responding to the demands for protection.
- The authorities designated as responsible in the *amparos* must guarantee access to information and provide detailed and complete information in their responses to comply with court decisions.
- To establish coordination mechanisms between federal and local authorities and to streamline communication and compliance with judicial decisions.

V. On shelter needs

- To support the operation of shelters during the pandemic, providing them with medical supplies, personal protective equipment for the prevention of the spread of Covid-19, and food of a high nutritional value. To carry out physical and mental health campaigns to serve the migrant population housed in shelters.
- To create conditions for the legal recognition of shelters that have not yet obtained said status and that carry out humanitarian work.

VI. On the needs of migrants outside of shelters and immigration regularization

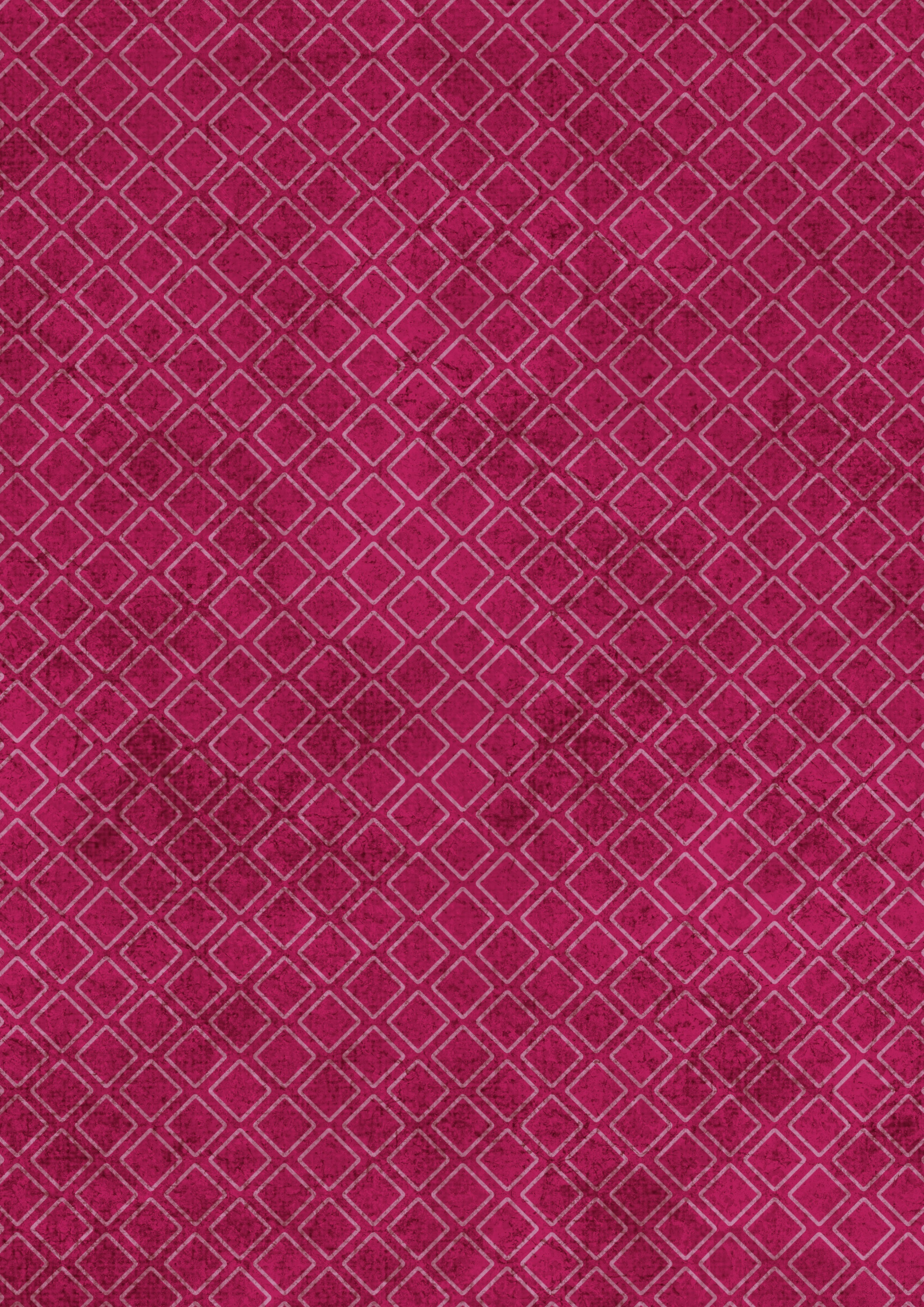
- To design a public policy that integrates immigrants into economic activities to obtain income to survive during their stay in Mexico.
- To facilitate the processing and reception of applications for permanent residence, and that the INM refrain from collecting from migrants their original refugee recognition resolutions.

To the Government of the United States of America

- To rescind the policy of arbitrary removal of immigrants under the standard 42 U.S.C. sec. 265 and guarantee the processing of immigrants in accordance with current immigration regulations and due procedural guarantees.
- To rescind the “Remain in Mexico” or “MPP” policy and guarantee the entry of people subject to MPP to the United States to carry out their immigration and asylum procedures in freedom in the United States. To guarantee the reopening of cases and the rescission of previous

deportation orders for people who were subject to the MPP, so that they can access an immigration procedure with guarantees of due process.

- To establish a policy for the protection of migrant children, especially unaccompanied children, and not expel them from the country. To guarantee family unity and take effective measures to avoid family separation as a consequence of any immigration procedure or immigration detention. To ensure the non-detention of migrant children and the principle of best interest. To guarantee the completion of the asylum application procedure or other types of protection.



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PRESENTATION

PRESENTATION

The Covid-19 pandemic has claimed many lives around the world, yet people's vulnerability is not the same. There are sectors of the population that are in a situation of structural discrimination and of greater vulnerability, such as migrants or people in a situation of mobility, whose condition worsens in the context of a pandemic due to the restriction of access to universal rights such as health, food, housing and work.

The risk of contagion for migrants increases in places of detention and in closed, small and common spaces, where it is difficult to maintain the proper distance to avoid contact with other people. In order to protect the health, life and integrity of migrants, governments should not keep them in detention because of their immigration status.

The repeated practice of the National Institute of Immigration to carry out arrests of migrants increases its negative impact in times of Covid-19, coupled with poor detention conditions. This triggered various protests and riots in immigration stations in Mexico, putting at risk not only the health of migrants, but also their lives due to the lack of reaction protocols by the police forces.

On the other hand, the shelters that have historically supported migrants during their transit face challenges of adapting spaces. So, their numerical capacity has diminished; their needs increase because they require acquiring equipment to guarantee the health of the place and prevent infections. The shelters that can be kept open during the pandemic maximize their efforts to serve the migrant population; however, government support is necessary so that these places can be sustained and provide humanitarian support in the best conditions of hygiene and sanitation.

The Covid-19 pandemic has left people in migration transit more unprotected, including those who are removed from the United States of America (USA) and who are on the northern border of Mexico waiting their turn to carry out application procedures of asylum or refuge in the neighboring country. The migration policies of Mexico and the United States, such as “Remain in Mexico”, the “Joint Declaration between the United States and Mexico” and the “Supplementary Agreement between the United States and Mexico”, reflect an immigration policy of exclusion that affects people who flee from their countries of origin in search of better living conditions.

In this Covid-19 scenario, the role of the Judiciary is essential to guarantee the rights of the migrant population. Various human rights organizations have filed *amparo* lawsuits to avoid irreparable damage to people in the context of the pandemic and mobility. The resolutions have been disparate, on the one hand there are broad and protective resolutions, but also resolutions that deny the protection of the rights of migrants.

In this report we analyze, in the light of international standards, the resolutions issued in the various *amparos*, which are still in process, so that the opportunities that the *amparo* proceeding represents in Mexico are observed when it is guided by the principles of maximum protection of people, led by judges sensitive to the protection of human rights, without discrimination.

In addition to this, in the cases of positive judicial decisions, there is resistance from the authorities of the executive branch to comply with the resolutions that safeguard and protect the migrant population, in such a way that human rights defenders are forced to file additional resources, making bureaucratic

and lengthy trials while the situation of risk and vulnerability of migrants is prolonged.

Likewise, this Report allows us to document the defense strategies implemented by civil society organizations that serve as a reference for subsequent actions.

Apart from the foregoing, this Report identifies clear needs and specific requests addressed to various Mexican federal and local authorities, as well as to the government of the United States of America; all aimed at protecting and guaranteeing the rights of the migrant population in times of the Covid-19 pandemic.

The signatory organizations urge the Mexican State to comply with its international obligations, and we await responses and commitments that articulate public policies with a human rights approach, through which progress is made in the protection of the rights of migrants, regardless of their immigration status, respecting the principles of equality and non-discrimination.

Foundation for Justice and the Democratic Rule of Law.



MIGRANTS IN THE FACE OF THE COVID-19 PANDEMIC



Luis Luján

Migrants in the face of the COVID-19 pandemic

Since the year 2000, the World Health Organization (hereinafter WHO) has been warning about the imminence of a flu or influenza pandemic¹ that requires the joint participation of States at the global level in the formulation of preparedness and response plans to this context².

¹ Pandemics are public health emergencies of an international nature, also defined by the World Health Organization in the International Health Regulations (2005) as an “extraordinary event that constitutes a risk to the public health of another State due to its capacity for international dissemination and for which a coordinated international response may be needed”.

² See: WHO. WHO Global Plan for Pandemic Influenza Preparedness. WHO's role and recommendations for national measures before and during pandemics. Geneva, 2008. Available at: <https://www.paho.org/spanish/ad/dpcc/vir-flu-plan-mundial-oms.pdf>

Emphasizing that States guarantee conditions for the right to health of vulnerable groups, the WHO urged that migrants be prioritized based on the social exclusion and marginalization to which they are subjected due to not being in a regular immigration situation, coupled with poverty, creating obstacles —many times insurmountable— for this population's access to health³.

Given the recent declaration of a COVID-19 pandemic⁴, the aforementioned WHO warnings become more relevant. They point out that any population in mobility during a pandemic context is a vulnerable group because they have greater possibilities of contracting the virus due to “exposure to infections, lack of access to healthcare, interruption of care and poor conditions of life during the migration process”⁵.

Faced with the COVID-19 pandemic, the IOM has also indicated that the risk of migrants of contracting the virus lies in:

"The conditions surrounding the migration process, such as barriers to healthcare services, poor living and working conditions, and exploitation, which can pose risks to the health of migrants"⁶.

³ WHO. Promoting migrant health — striving for peace and decent life for all, September 22, 2017. Available at: <https://www.who.int/dg/speeches/2017/promoting-migrant-health/es/>

⁴ WHO. Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV), January 30, 2020. Available at: [https://www.who.int/es/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)](https://www.who.int/es/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov))

⁵ WHO. Press Center, Migrants and Refugees at Higher Risk of Developing Ill Health Than Host Populations, January 21, 2020. Available at: <https://www.who.int/es/news-room/detail/21-01-2020-21-01-2020-21-01-2020-migrants-and-refugees-at-higher-risk-of-developing-ill-health>

⁶ IOM. Communities and migrants: How to respond to the coronavirus?, March 23, 2020. Available at: <https://rosanjose.iom.int/SITE/es/blog/comunidades-y-migrantes-como-responder-al-coronavirus>

Both organizations call on governments to adopt an inclusive approach to ensure that all migrants —regardless of their immigration status— are considered in public health planning, response and messages in the context of the COVID-19 pandemic.

This means: the use of appropriate language, culturally appropriate recommendations and treatment modalities, as well as ensuring that all migrants, whether under a regular or irregular status, can access healthcare services, without fear of stigma, arrest or deportation, amongst other things.

A joint statement from the WHO, the United Nations High Commissioner for Refugees (hereinafter UNHCR), the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR) also highlighted the vulnerability of migrants, refugees and stateless persons to COVID 19, indicating that:

“Three-quarters of the world's refugees and many migrants are in developing regions where health systems are already overwhelmed and under-trained. Many live in overcrowded camps, settlements, makeshift shelters or reception centers, where they lack adequate access to healthcare services, clean water and sanitation.”⁷.

However, the statement places special emphasis on:

“The situation of refugees and migrants who are in formal and informal places of detention, in overcrowded and unsanitary conditions, is particularly worrying. Considering the deadly consequences that a

⁷ OHCHR. Press center. The health rights of refugees, migrants and stateless persons must be protected in the response to COVID-19: Joint statement from UNHCR, IOM, OHCHR and WHO, March 31, 2020. Available at: <http://www.oacnudh.org/los-derechos-a-la-salud-de-las-personas-refugiadas-migrantes-y-apatridas-deben-ser-protegidos-en-la-respuesta-ante-covid-19-comunicado-conjunto-de-acnur-oim-oacnudh-y-ops/>

COVID-19 outbreak would have, they should be released without delay. Migrant children and their families and those detained without sufficient legal grounds should be immediately released.⁸

By the way, the Inter-American Commission on Human Rights (hereinafter IACHR) adopted on April 10 of this year, Resolution No. 01/20 called *Pandemic and Human Rights in the Americas*. This Resolution arises from "the conviction that the measures adopted by the States in the care and containment of the virus must have as their center full respect for human rights"⁹.

It further establishes that, in the matter of migrants, asylum seekers, refugees, stateless persons, victims of human trafficking and internally displaced persons, states must:

“Avoid the use of immigration detention strategies and other measures that increase the risks of contamination and spread of the disease generated by COVID-19 and the vulnerability of people in situations of human mobility such as deportations or collective expulsions, or any form of return that is executed without due coordination and verification of the corresponding sanitary conditions, guaranteeing the conditions so that these people and their families can safeguard their right to health without any discrimination. In this regard, mechanisms must be quickly implemented to provide the release of people currently in detention centers.

- Refrain from implementing measures that may hinder, intimidate and discourage the access of people in situations of human mobility to the

⁸ Idem.

⁹ IACHR. Resolution No. 1/2020 Pandemic and Human Rights in the Americas, April 10, 2020. Available at: <http://www.oas.org/es/cidh/prensa/comunicados/2020/073.asp#:~:text=10%20de%20abril%20de%202020&text=01%2F20%20Pandemia%20y%20Derechos%20Humanos%20en%20las%20Am%C3%A9ricas.&text=La%20Resoluci%C3%B3n%20se%20ha%20realizado,respeto%20de%20los%20derechos%20humanos.>

programs, services and policies of response and attention to the COVID-19 pandemic, such as immigration control actions or repression in the vicinity of hospitals or shelters, as well as the exchange of information of medical hospital services with immigration authorities of a repressive nature.

- Guarantee the right of return and return migration to the States and territories of origin or nationality, through cooperation actions, information exchange and logistical support between the corresponding States, with attention to the required health protocols and considering in a particular way the right of stateless persons to return to the countries of habitual residence, and guaranteeing the principle of respect for the family unit.
- Implement measures to prevent and combat xenophobia and stigmatization of people in a situation of human mobility in the context of the pandemic, promoting awareness-raising actions through campaigns and other communication instruments and developing specific protocols and procedures for targeted protection and assistance to migrant and refugee girls, boys and adolescents, especially by providing specific assistance mechanisms to those who are separated or unaccompanied.
- Expressly include populations in situations of human mobility in the economic recovery policies and actions that are necessary at all times of the crisis generated by the pandemic¹⁰.

Likewise, on March 25 of this year, the United Nations Subcommittee for the Prevention of Torture recommended to governments a series of actions for the protection of persons deprived of liberty during the COVID-19 pandemic, including people who remain in immigration detention centers. Thus, the

¹⁰ Idem.

Subcommittee advises the release of detained persons without sufficient legal grounds and of migrant children with their families¹¹.

On the same day of the Subcommittee's pronouncement, OHCHR urged governments to implement urgent measures in order to protect the health and integrity of people who are in closed facilities in the face of the threat of COVID-19. High Commissioner Michelle Bachelet stated:

“In many countries, prisons are overcrowded and in some cases dangerously crowded. Inmates are often in appalling hygienic conditions and health services are often poor or non-existent. Under these conditions, physical distancing and self-isolation are practically impossible.”¹²

¹¹ SPT. Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic, March 25th 2020. Available at: <https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>

¹² OHCHR. Urgent action must be taken to prevent COVID-19 from "wreaking havoc in prisons," March 25, 2020. Available at: <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=S>



I. International Standards

Given the emergence and expansion of Covid-19, various international organizations expedited the issuance of public pronouncements and standards for the respect, protection and guarantee of the human rights of all people in this context, highlighting the particular needs of groups in a situation of increased vulnerability.

In this sense, standards were issued to respect the rights to life, personal integrity and health, but also on economic and social rights such as the right to work, food, social security, housing, water and education¹³.

¹³Cfr. IACHR. Pandemic and Human Rights in the Americas, Resolution 1/2020, p. 5.

In the case of migrants, displaced persons and refugees, the United Nations Organization indicated that:

“States must implement specific measures to include migrants, IDPs and refugees in national prevention and response schemes to COVID-19. These measures should include those aimed at guaranteeing equitable access to information, tests and medical care for all migrants, IDPs and refugees, whatever their legal status, as well as the barriers that must separate the application of the immigration rules from the ability of migrants and refugees to access healthcare services, food distribution and other essential benefits”¹⁴.

In April 2020, the UN published a Guide on Covid-19 and the human rights of migrants, and in May the Committee for the Protection of the Rights of all Migrant Workers and their Families and the Special Rapporteur on the Human Rights of migrants of the UN issued a joint Note with guidelines on the impacts of the COVID-19 pandemic on the human rights of migrants.

Meanwhile, the United Nations Special Rapporteur on judicial independence, Diego García-Sayán has issued pronouncements to urge the countries to guarantee the continuity of the judicial function.

Principle of Equality and Non-Discrimination

Migrants are in a situation of vulnerability that is aggravated when other conditions other than mobility converge, such as their health condition, their age, or when they belong to a historically excluded group, such as indigenous

¹⁴ OHCHR, Human rights at the center of the response. Guidelines on Covid-19, p. 5.

people, women, people of African descent, LGBTIQ+, people in multidimensional poverty, among others.

The public policies designed by the States to deal with the pandemic must have a differentiated approach, intersectionality and gender perspective; adopt differentiated measures in favor of these groups and measures to avoid discrimination based on stigmas against migrants. In this sense, the scarcity of resources does not justify direct or indirect acts of discrimination¹⁵.

In this regard, the IACHR recommends:

“Immediately and transversally adopt the human rights approach in any strategy, policy or state measure aimed at confronting the COVID-19 pandemic and its consequences, including the plans for social and economic recovery that are formulated. These must be in accordance with unrestricted respect for Inter-American and international standards on human rights, within the framework of their universality, interdependence, indivisibility and transversality, particularly of the Economic, Social, Cultural and Environmental Rights”¹⁶.

In the case of migrants, the IACHR recommends avoiding immigration arrests and deportations or returns without the proper sanitary measures to avoid risks of contagion from Covid-19 and safeguard the right to health, as well as guaranteeing their return with the implementation of sanitary protocols. It also recommends:

“Refraining from implementing measures that may hinder, intimidate and discourage the access of people in situations of human mobility to the programs, services and policies of response and attention to the COVID-19 pandemic, such as immigration control actions or repression

¹⁵ IACHR. Pandemic and Human Rights in the Americas, Resolution 1/2020, p. 10.

¹⁶ Ibidem, p. 8.

in vicinity of hospitals or shelters, as well as the exchange of information of medical hospital services with immigration authorities of a repressive nature”.

Right to Health

The right to health includes the right to enjoy the highest level of physical, mental and social well-being; as well as timely and appropriate healthcare, and “the essential and interrelated elements of availability, accessibility, acceptability and quality of health services, goods and facilities, including the medications and the benefits of scientific progress in this area, under conditions of equality and non-discrimination”¹⁷.

Likewise, the State must adopt reinforced actions to protect the right to health in the case of groups with particular needs, such as women in a situation of mobility, pregnant women or with other health needs.

To this extent, the State must make available and mobilize as many resources as available to make effective the right to health and other ESCER and prevent and mitigate the effects of the pandemic on the exercise of human rights.¹⁸ “Public health strategies must address not only the medical dimensions of the pandemic, but also the immediate, medium and long-term consequences on human rights and gender issues that the measures adopted in the framework of the health response may have.”¹⁹.

¹⁷ Ibidem, p. 6.

¹⁸ Ibidem, p. 11.

¹⁹ OHCHR, Human rights at the center of the response. Guidelines on Covid-19, p. 1.

Rights to Personal Liberty and Integrity

According to the UN, migrant detention centers are places of high risk for the spread of infections and diseases because they regularly “lack adequate healthcare, food, water, sanitation and hygiene.”²⁰ In this regard, said international agency establishes that States give priority to the release of detained migrants and adopt alternative measures to detention, based on a human rights approach to protect the rights and health of migrants and the staff of the detention centers.

Likewise, taking into account the best interests of children, boys and girls, the States must release them and ensure that the freed persons have access to adequate housing, food and basic services.²¹

Faced with the pandemic, States must adopt measures to prevent infections and provide a satisfactory medical treatment to all those who need it²². This includes the protection of people in non-state shelters. States must “establish protocols and create adequate conditions for shelters and other structures designed for the reception or stay of migrants”²³.

Right to Work

In the context of a pandemic, the IACHR highlights the situation of workers who live in precarious conditions and who depend on their income from work,

²⁰ OHCHR. Covid-19 and the human rights of migrants Guide, p. 3.

²¹ Ibidem.

²² IACHR. Pandemic and Human Rights in the Americas, Resolution 1/2020, p. 9.

²³ UN. Committee for the protection of the Rights of all Migrant Workers and their Families and the Special Rapporteur on the Human Rights of migrants. Joint note with guidelines on the impacts of the COVID-19 pandemic on the human rights of migrants, p. 3.

among which are rural and informal workers²⁴. According to the UN, during the pandemic, many migrants are responsible for ensuring the fulfillment of essential services, so they may be exposed to a greater risk of infection. They are also exposed to losing their jobs or work visas and to economic difficulties derived from the closure of businesses. At the same time, those who perform domestic work may be most affected by social distancing and isolation in the homes of employers, potentially subject to discrimination or violence, including sexual violence²⁵.

This report shows that migrants stranded in Mexico as a country of transit are also exposed to precariousness due to the lack of access to temporary employment (formal or informal) during their stay in the country.

Economic, Social, Cultural and Environmental Rights

States must take action to guarantee access to rights such as food, drinking water, means of cleaning, adequate housing, amongst others, "including, among others, the granting of subsidies, basic income or other measures of economic support."²⁶

Both the UN and the IACHR recommend including migrants and populations in situations of human mobility —regardless of their immigration status— in economic recovery policies and actions at all times of the crisis generated by the pandemic²⁷.

²⁴ Ibidem, p. 6.

²⁵ OHCHR. Covid-19 and the human rights of migrants: Guide, p. 2.

²⁶ Ibidem, p. 9.

²⁷ UN. Committee for the Protection of the Rights of all Migrant Workers and their Families and the Special Rapporteur on the Human Rights of migrants. Joint Note with guidelines on the impacts of the COVID-19 pandemic on the human rights of migrants, p. 3; and IACHR. Pandemic and Human Rights in the Americas, Resolution 1/2020, p. 19.

Right to Judicial Protection

According to the IACHR, in the context of a pandemic, States must ensure the existence of mechanisms for access to justice in the event of possible human rights violations, including the ESCER²⁸.

To guarantee the continuity of the execution of the Judiciary, the United Nations Organization emphasizes that “information technologies and the use of “telework” to face the current crisis in processing cases of abuse must be urgently put into operation. Innovation and teleworking is essential, especially for courts and judges who have to hear human rights cases”²⁹.

²⁸ IACHR. Pandemic and Human Rights in the Americas, Resolution 1/2020, p. 11.

²⁹ UN Declaration of the United Nations Special Rapporteur on judicial independence, Diego García-Sayán Coronavirus Emergency: challenges for justice. Available at: <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=25810&LangID=S>



II. Violations of the human rights of migrants in Mexico in the context of the COVID-19 pandemic

In the first months of 2020, the COVID-19 pandemic spread rapidly and uncontrollably across the world. In Mexico, it was on February 28 that the first case of the disease was confirmed in the country³⁰.

³⁰ El País. Mexico confirms the first case of coronavirus in the country, February 28, 2020. Available at: https://elpais.com/sociedad/2020/02/28/actualidad/1582897294_203408.html

Since the identification of the first case within the Mexican territory, more than 403,000 cases of COVID-19³¹ have been officially confirmed as of the completion date of this report, and they keep increasing.

As in other parts of the world, it is the exponential increase in cases that has forced the government to adopt control measures and epidemiological surveillance of the virus. Since March 20, various measures were issued such as social distancing and the temporary suspension of non-essential activities³². Likewise, the government has initiated an emergency plan with the incorporation of operations by the armed forces called DN-III Plan³³.

On March 30, the "health emergency" was announced, a situation that forced the suspension of non-essential activities of the public and private sectors in order to mitigate the spread and transmission of the virus "to reduce the burden of disease, its complications and death from COVID-19 in the population residing in the national territory"³⁴.

However, on April 22, the health emergency was prolonged due to the increase in the number and speed of infections³⁵.

At the same time, other countries in the region such as Guatemala, Honduras and El Salvador closed their borders to prevent the spread of COVID-19³⁶. These measures have profoundly impacted migrants in Mexico, particularly those

³¹ Ministry of Health. Coronavirus: Conference of July 28, 2020. Available at: <https://www.youtube.com/watch?v=kuHed0scwVs>

³² SEGOB. To reduce the spread of COVID-19, the IMSS promotes healthy distance measures, March 2020. Available at: <http://www.imss.gob.mx/prensa/archivo/202003/142>

³³ Idem.

³⁴ Ministry of Health. Statement from the Ministry of Health, March 31, 2020. Available at: <https://www.gob.mx/salud/prensa/consejo-de-salubridad-general-declara-emergencia-sanitaria-nacional-a-epidemia-por-coronavirus-covid-19-239301>

³⁵ La Jornada de Oriente. Phase 3 of the health emergency due to Covid-19 begins; It is characterized by the increase and speed of infections, reported López-Gatell, April 22, 2020. Available at: <https://www.lajornadadeoriente.com.mx/puebla/fase-3-emergencia-sanitaria-covid-19/>

³⁶ El Faro. El Salvador will not receive deportees until further notice, March 20, 2020. Available at: https://elfaro.net/es/202003/el_salvador/24147/El-Salvador-no-recibir%C3%A1-deportados-hasta-nuevo-aviso.htm.

who were in Immigration Stations (hereinafter IS) and Temporary Centers (hereinafter TCs) as well as those who are deported or removed from the United States, especially because some of these actions involve the militarization of the public health response.

2.1 Human rights violations of migrants detained in Immigration Stations in Mexico during the COVID-19 pandemic

According to the INM Citizen Council (CCINM as per its acronym in Spanish) the following are counted:

32 Immigration Stations
15 Temporary "type A" Centers
for a maximum stay of 48
hours

12 Temporary "type B" centers
for a maximum stay of 7 days

In total, 59 immigration centers
—used as assistance centers
for migrants— operate under
the responsibility of the INM.

2.1.1 Context of Immigration Stations in Mexico before COVID-19

In Mexico, the deprivation of liberty of migrants is a practice implemented and supported by the INM for almost four decades³⁷. To define immigration detention, the INM has used different euphemisms such as “accommodation”³⁸, “presentation”³⁹, “securing” or “rescue”, in order to qualify the actions of detention and deprivation of liberty, as well as their consequences on the physical and mental health of migrants⁴⁰.

³⁷ Pérez García, Nancy and Arroyo Quintana, Elizabeth. Immigration detention in Mexico: Deprivation of Liberty in Immigration Stations. Yearbook of Human Rights of the Federal Judicial Institute. I-2017, p. 448. Available at <https://www.ijf.cjf.gob.mx/Sitio2016/include/sections/Anuario/Capitulos%20Anuario%202017/17-La%20detención%20migratoria%20en%20Mexico.pdf>.

³⁸ Article 111 of the Immigration Law establishes the time in which the immigration situation of the aliens presented must be resolved, as well as the maximum duration of accommodation in the Immigration Stations, the legal assumptions that must concur for the extension of the maximum time and the legal effects before the breach of the term.

³⁹ Section XX of Article 3 of the Immigration Law defines “Presentation” as: “(...) The measure dictated by the Institute through which the temporary accommodation of an alien who does not prove their immigration status is agreed upon for the regularization of their stay or assistance for their return.” In the same sense, it is regulated by article 99 of the law in question. Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra_030719.pdf.

⁴⁰ National Commission for Human Rights (CNDH). Special Report: Situation of Immigration Stations in Mexico, towards a new alternative model to detention, 2019. p. 42. Available at: <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

The Immigration Stations (hereinafter IS) and the Temporary Centers (hereinafter TCs) are physical facilities under the responsibility of the INM, whose purpose is to withhold without the possibility of departure until the resolution of their immigration status, aliens who have not accredited an immigration status for a regular stay in Mexico⁴¹.

During 2019, 186 750 arrests (“presentations”) were made. Among them, 134 751 were girls, boys and adolescents. Of the total population detained, 141 223 were deported⁴². The vast majority of those detained come from Guatemala, Honduras and El Salvador⁴³.

The signing of the Immigration Agreement between Mexico and the United States in 2019 involved the deployment of the National Guard (mainly composed and directed by the military) on the Mexican borders with special emphasis on the border with Guatemala⁴⁴.

This situation contributed to the increase in immigration detection and detention operations that the Ministry of Foreign Affairs (hereinafter SRE as per its acronym in Spanish) reports as an accomplishment that contributes to the reduction of the immigration flow to the United States of America by 56%⁴⁵.

⁴¹Citizen Council of the National Institute of Immigration. People under immigration detention in Mexico. INM Immigration Stations and Temporary Centers’ Monitoring Mission, July 2017. p. 42. Available at: <https://observatoriocolef.org/wp-content/uploads/2018/04/CCINM-Informe-Final-Monitoreo.pdf>. The administrative process in these centers can be resolved in the following way: By receiving a departure letter for regularization of documents; receiving a departure order to leave the territory by their own means in a very short period of time; and deportation or assisted return executed by the INM. The Immigration Law contemplates the possibility of carrying out the administrative procedure in freedom through the figure of custody; however, this modality is limited, despite its recognition under Article 101 of said ordinance.

⁴² Immigration Policy Unit. Bulletin of Immigration Statistics, 2019. Available at: <http://www.politicamigratoria.gob.mx/work/models/PoliticaMigratoria/CEM/Estadisticas/Boletines-Estadisticos/2019/Boletin-2019.pdf>

⁴³ IACHR. Human Rights of Migrants and other people in the Context of Human Mobility in Mexico, December 30, 2012. par. 63.

⁴⁴ Government of Mexico. Joint Declaration of Mexico and United States, June 7, 2019. Available at: <https://www.gob.mx/cms/uploads/attachment/file/467956/Declaracion-Conjunta-Mexico-Estados-Unidos.pdf>.

⁴⁵ BBC. Migration crisis: Mexico says it has reduced the flow of immigrants by 56% since Trump threatened to impose tariffs on their products, September 6, 2019. Available at: <https://www.bbc.com/mundo/noticias-america-latina-49616051>

However, this is one of the main reasons why the capacity of immigration detention centers—including the temporary centers—is doubled.

Shelters and human rights organizations in Mexico have documented and denounced the systematic violation of human rights in these crowded Immigration Stations⁴⁶, in which migrants and asylum seekers are victims of poor medical care, physical and psychological abuse, and even possible acts of torture⁴⁷.

With regard to access to healthcare, the greatest obstacle that organizations have documented is the lack of timely, sufficient and differentiated medical care for groups with specific needs. In the detention centers, the most common diseases identified by the Monitoring Mission of Immigration Stations and Temporary Centers of the National Institute of Migration in 2017 were “the flu, cough and sore throat, followed by headaches, hypertension, diabetes, and gastrointestinal diseases with symptoms such as diarrhea and vomiting and toothaches”⁴⁸. Likewise, a large part of the detainees—more

⁴⁶ According to the Immigration Law, the immigration stations must not place a number of people that exceeds their capacity. In accordance with Article 107 of said ordinance, within the immigration detention centers in general, the respect for human rights must be guaranteed, for which medical, psychological and legal assistance will be provided, three meals a day must be provided to people detained, considering the special food and nutrition needs of some groups of people. They must also seek to separate them by sex, preserving the family unit, considering at all times the cases in which this measure is not convenient for the best interests of children. Likewise, overcrowding should be avoided. They should have recreation spaces and allow the visit of legal and consular representatives, among others. Peaceful coexistence, order and discipline within these centers must be carried out in full compliance with the law and respect for fundamental rights. According to Article 109 of the Immigration Law, detained persons have the right to know the reasons for their stay, the administrative procedure to which they will be subject, the right to request asylum and other types of protection, the possibility of requesting an assisted return, as well as knowing the location of the station where they are, have contact with the outside world and access to telephone communication, the right to be visited by their family members and legal representative, not to be discriminated under any circumstances, and to be treated with dignity. CCINM. Op. cit. p. 43.

⁴⁷ Without Borders, Captive Rights. The situation of migrants and persons subject to international protection in immigration detention centers: seven monitoring experiences of the Civil Society. Mexico, 2015, p. 66. Available at: <https://sinfronteras.org.mx/docs/inf/inf-derechos-cautivos.pdf>

⁴⁸ Citizen Council of the National Institute of Immigration. People in immigration detention in Mexico, July 2017. Mexico. Available at: https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/MEX/INT_CESCR_CSS_MEX_28755_S.pdf

than 30% at a critical level— have some level of anxiety and depression, which affects the deterioration of their physical conditions⁴⁹.

Despite the monitoring results, only 40% of the Immigration Stations have medical personnel⁵⁰, while the rest of the Stations lack this service. The Saltillo Station is the only one that has a medical attention service within its facilities and that provides assistance 24 hours a day. This unit depends on the Ministry of Health of the state of Coahuila⁵¹.

There are no specialized protocols for the medical and psychological care of pregnant women and those with particular needs. The care criteria applied by the INM to families are unknown. In regard to girls, boys and adolescents, although their detention is prohibited in the General Law on the Rights of Children and Adolescents, various human rights organizations have documented that they are detained with their mothers in the women's modules, as well as children and adolescents who travel alone, until their immigration status and/or possible alternatives to detention are determined⁵².

Already prior to the pandemic, the hygiene within immigration detention centers was poor and endangered the people held in there. The Institute for Security and Democracy A.C. had indicated since last year that the Immigration Station of Acayucan, Veracruz, is a detention center "plagued by insects and filth." The mats are dirty and there is no laundry service, so it is

⁴⁹ See: Institute for Security and Democracy A.C. (Insyde). Report: The threshold of pain, access to health services in Immigration Stations. Mexico, 2017. Available at: http://insyde.org.mx/wp-content/uploads/2020/01/En-el-umbral-del-dolor_Salud-en-Estaciones-Migratorias_2017.pdf

⁵⁰ Idem.

⁵¹ In total, in the temporary centers there are only ten doctors assigned to the INM, the majority concentrated in Chiapas. For its part, Guadalajara, Jalisco has a doctor, as well as La Ventosa and Tapanatepec, Oaxaca. The center in La Ventosa also has a psychologist. Institute for Security and Democracy A.C. (Insyde). Report: Pain threshold, access to health services in Immigration Stations, Mexico, 2017, p. 23. Available at: http://insyde.org.mx/wp-content/uploads/2020/01/En-el-umbral-del-dolor_Salud-en-Estaciones-Migratorias_2017.pdf

⁵² Report presented to the Inter-American Commission on Human Rights by civil society organizations in the framework of the Thematic Hearing on "Asylum and Migration in Mexico". 173th period of sessions. September 2019.

common to find in the women's area, mothers with children who suffer from eczema and skin fungus that come from the dirt on the mattresses they sleep on⁵³.

Because the facilities of the Immigration Stations in Mexico did not meet the conditions of habitability and hygiene, recommendations had been issued for several years by the National Human Rights Commission (CNDH)⁵⁴ revealing conditions that contravene national and international guidelines on the matter.

This is the state in which the immigration stations were located before the COVID-19 pandemic, so the migrants who were there faced unworthy conditions of stay and a lack of the basic services they required.

2.1.2 Immigration stations in the context of COVID-19. Riots and protests in Immigration Stations due to lack of conditions in the face of the COVID-19 pandemic

Faced with the COVID-19 pandemic, the Immigration Stations in Mexico are unsafe spaces and contributing to the spread of the virus among the population held there, precisely because the deprivation of liberty coupled with the uninhabitable conditions —already pointed out by human rights organizations and the CNDH in a 2019 report⁵⁵— prevent social distancing, adequate hygiene and other preventive and medical care practices.

⁵³ Idem. p. 27.

⁵⁴ CNDH. Recommendations 47/2017.

⁵⁵ CNDH. Special Report: Situation of Immigration Stations in Mexico, towards a new alternative model to detention, 2019, p. 42. Available at: <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>

For this reason, on March 17, 2020, the National Human Rights Commission (CNDH) demanded precautionary measures to prevent the spread of COVID-19 at the INM Immigration Stations⁵⁶. Specifically, the CNDH asked the INM to "implement precautionary measures to safeguard the physical and psychological integrity, health and life of migrants housed in Immigration Stations, temporary centers and shelters of that institute"⁵⁷.

On March 17, the INM accepted the precautionary measures of the CNDH in order to "avoid overcrowding and massive contagion of COVID-19 among the foreign population staying in stations or centers of the institute, in air, land and sea terminals, and the personnel working at or visiting the facilities in the national territory"⁵⁸.

According to the INM, they have been applying since January "the sanitary actions recommended by the Ministry of Health, such as having the necessary and sufficient hygiene supplies (soap and alcohol-based hand sanitizer) to mitigate to the maximum the risks of the virus in the sites where migrants are received and assisted."

However, the facts presented in this report show that these alleged measures have not been complied with, nor have they been adequate to safeguard the life, integrity and health of the people detained in the country's ISs and TCs.

⁵⁶ CNDH. CNDH demands urgent actions to avoid overcrowding and massive contagion of coronavirus in migrants housed in stations of the National Institute of Immigration (INM), March 17, 2020. Available at: https://www.cndh.org.mx/sites/default/files/documentos/2020-03/COM_2020_081.pdf

⁵⁷ CNDH. CNDH demands urgent actions to avoid overcrowding and massive contagion of coronavirus in migrants housed in stations of the National Institute of Immigration (INM), March 17, 2020. Available at: https://www.cndh.org.mx/sites/default/files/documentos/2020-03/COM_2020_081.pdf

⁵⁸ INM. The INM accepts precautionary measures issued by the CNDH, Bulletin No. 091/2020, March 17, 2020. Available at: <https://www.gob.mx/inm/prensa/acepta-inm-medidas-cautelares-emitidas-por-la-cndh-238199>

Also on March 17, 2020, the Mexican State indicated that 3,059 migrants were being detained in the country's Immigration Stations⁵⁹; therefore, on March 19, a coalition of civil society organizations released a statement in which they mention the main risks for migrants in the context of the COVID-19 pandemic.

Due to the anguish, despair and fear in the face of the COVID-19 pandemic, multiple acts of protest were registered inside the Immigration Stations.

During the month of August, Asylum Access made review visits to Immigration Stations in Villahermosa in Tabasco, Iztapalapa in Mexico City, and Tijuana in Baja California, where it was found that all the hygiene measures dictated by the Ministry of Health for the care and prevention of Covid-19 were not being respected.

In August, a case of Covid-19 was detected in the Immigration Station of Ciudad Juarez, Chihuahua, without the authorities taking the necessary release measures, generating hot spots for infection among the migrant population⁶⁰.

2.2.1 Protest and riot of March 23, 2020, Siglo XXI Immigration Station in Tapachula (Chiapas)

On March 23, a protest was generated at the Siglo XXI Immigration Station, located in Tapachula, Chiapas:

⁵⁹ SEGOB, Bulletin No. 091/2020, March 17, 2020. Available at: <https://www.gob.mx/inm/prensa/acepta-inm-medidas-cautelares-emitidas-por-la-cndh-238199?idiom=es>

⁶⁰ The truth, investigative journalism. "Migrant tested positive for COVID-19 at Janos station, INM hides it". Available at: <https://laverdadjuarez.com/index.php/2020/08/19/migrante-dio-positivo-a-covid-19-en-estacion-de-janos-inm-lo-oculta/>

“Around five in the afternoon, a group of between 50 and 70 people, mostly Central Americans (from Honduras and El Salvador) gathered in the courtyard of the men's module of the Siglo XXI Immigration Station in Tapachula to protest the indefinite extension of the times of detention and demand their release or return to their countries of origin. People expressed fear of contracting the COVID-19 virus and announced their intention to start a hunger strike if they were not released”⁶¹.

Initially, the response of the Federal Police (FP) officers guarding the Immigration Station was backed by approximately 20 officers of the National Guard, who are deployed in the area in order to stop migration flows. The testimonies of the victims collected by civil society organizations indicate that the police forces used pepper spray, water jets and violent actions to repress migrants who exercised their right to protest:

“Once they managed to reduce the group, the officers dragged the people to the bathrooms, where there are no surveillance cameras, and as a measure of punishment and using absolutely disproportionate violence, elements of the NG beat the people and led them to a bus with an unknown destination... In the men's module, National Guard officers used batons, water hoses, pepper spray and tasers for electric shocks against people, and some INM agents beat them with their own fists and boots. Similarly, in the adolescent module, officers of the FP and the NG beat some young people with batons, iron grips and their own boots, and in the women's module they had already been confined to their cells hours before”⁶².

⁶¹ Statement from the Collective for the Observation and Monitoring of Human Rights in Southeast Mexico and the Group Against Immigration Detention and Torture. The National Guard violently represses a protest at the Tapachula immigration detention center, March 25, 2020. Available at: <http://foca.org.mx/blog/la-guardia-nacional-reprime-con-violencia-una-protesta-en-el-centro-de-detencion-migratoria-de-tapachula/>

⁶² Idem.

2.2.2 Protest and riot on March 29, 2020, Immigration Station in Villahermosa, Tabasco

On March 29, there was a protest inside the Villahermosa immigration detention center in Tabasco. The causes were despair and fear at the possibility of contagion of COVID-19.

Some protesters expressed their dissatisfaction with the situation of risk of COVID-19 and set fire to the mattresses. The fires did not cause more than a few minor damages to the facilities⁶³.

2.2.3. Protest and riot on March 31, 2020 - Immigration Station of Tenosique, Tabasco

On March 31, another protest took place at the Tenosique Immigration Station, for the same reasons as the aforementioned events⁶⁴. The authorities repressed the demonstration, blocking the exit of migrants inside the burning station. During the fire, Mr. Héctor Rolando Barrientos Dardón (42 years old) died, a man of Guatemalan origin, who along with his family had requested the recognition of refugee status before the Mexican Commission for Refugee Assistance (COMAR as per its acronym in Spanish).

According to survivors and witnesses, Mr. Barrientos —whose mobility was reduced due to diabetes and gout— managed to get out of the burning facilities with the help of other detainees. However, due to the lack of response from the authorities —together with the lack of first aid and immediate medical assistance— Mr. Barrientos died of asphyxia as a result of inhaling

⁶³ Idem.

⁶⁴ La 72 Home-Shelter for Migrants, Letter to the authorities of the Mexican State, to the media and to the national and international civil society. April 1, 2020.

carbon monoxide⁶⁵, according to the expert opinion of the local Prosecutor's office⁶⁶. In addition, according to the official INM communication, 15 people were poisoned by inhalation of gases during the fire⁶⁷ and 14 of them were hospitalized.⁶⁸

Regarding this situation, a statement from La 72 Home-Shelter for Migrants indicates that:

“Several testimonies collected by La 72 coincided with the inaction and inability of immigration agents, the National Guard and the State Police to handle the situation: they refused to open the cells to facilitate the evacuation of men, women and children, who were detained at the main entrance, closing and putting padlocks to prevent their escape; even some families with children reported that a national guard threatened to beat them if they tried to leave. There were no more losses of life thanks to the intervention of some migrants who forced doors and risked helping the injured”⁶⁹.

Incidentally, one of the witnesses related:

“We were finishing dinner when we only saw smoke from the elderly cell coming out, so we broke the door because the police did not open the door, we broke doors to get out and escape death, and we managed to get out and here to the street safe and sound ... I just saw that the people left when I left and most of them had left, some were already suffocating

⁶⁵ Animal Político. An asylum seeker dies after protests inside the immigration station in Tenosique, April 1, 2020. Available at <https://www.animalpolitico.com/2020/04/solicitante-asilo-muere-protestas-estacion-migratoria-tenosique-tabasco/>

⁶⁶ Idem.

⁶⁷ Mesoamerican Migrant Movement. Positioning of the survivors of the riot at the Tenosique immigration station, April 3, 2020. Available at: <https://www.youtube.com/watch?v=GL5kPxLU6GU>

⁶⁸ Idem.

⁶⁹ Idem.

inside, we just swallowed smoke but we managed to get out, then we ran out, because they didn't open the door, we broke it"⁷⁰.

After the protests, state communications adopted a narrative criminalizing the people who started the protests, presenting at the same time a distorted version of the reasons that led to the demonstrations⁷¹.

On April 3, 2020, the people who survived the fire at the Tenosique Immigration Station reported the lack of protocols to deal with fires at the facility, as well as the lack of medical care. They also stated that the actions and omissions of the members of the National Guard, as well as the police officers, put their lives, health and personal integrity at risk⁷².

2.2.4. Protest and riot on April 2, 2020 at the facilities of the National Institute of Immigration (INM) of Hermosillo (Sonora)

On April 2, a new protest took place at the INM facilities in the city of Hermosillo, capital of the state of Sonora. More than 300 detainees said that the overcrowded and unsanitary conditions at the INM detention center put their lives and health at risk in the context of the COVID-19 pandemic.

The protesters specifically demanded diagnostic tests to rule out the virus among the detained population and a more expeditious repatriation

⁷⁰ Mesoamerican Migrant Movement Tweet "Honduran immigrant recounts part of what happened inside the Tenosique immigration prison, #Tabasco , at the time of the riot and fire, where a person lost his life. @CNDH @ONUDHmexico @ACNURamericas @OPSOMSMexico". Available at: <https://twitter.com/mmmesoamericano/status/1245227122504994817?s=12>

⁷¹ Ministry of the Interior (SEGOB as per its acronym in Spanish). The National Immigration Institute reports on the events at the Tenosique Immigration Station, April 1, 2020. Available at: <https://www.gob.mx/segob/prensa/informacion-instituto-nacional-de-migracion-sobre-hechos-en-estacion-migratoria-de-tenosique>

⁷² Mesoamerican Migrant Movement. Positioning of the survivors of the riot at the Tenosique immigration station, April 3, 2020. Available at: <https://www.youtube.com/watch?v=GL5kPxLU6GU>

procedure and asylum applications in Mexico. A protester told the newspaper La Jornada:

“They detained us exactly 314 undocumented immigrants to lock us in a cell where supposedly only one hundred can fit, it has always been like that, the problem now is that the Coronavirus can be in any of us and reproduce by having us crowded together⁷³.”

Civil society organizations became aware of 30 girls, boys and adolescents alone who were in the INM facilities in Hermosillo at the time of the protest and the riot. According to the information available, they were transferred to the Veracruz IS and later returned to their country, without further information on the conditions under which these transfers and returns were managed.

2.2.5. Protest and riot on April 6, 2020 at the Provisional Shelter in Piedras Negras (Coahuila)

On April 6, a group of migrants deported by the United States started a protest that set off a fire in an INM temporary shelter in Piedras Negras (Coahuila). Regarding the increase in the number of migrants deported and removed by the United States, those protesting demanded to be released and conditions to prevent the spread of COVID-19. The protest was contained by officers of the Federal Police, the National Guard and state and municipal police officers.

⁷³ La Jornada. Migrants riot at INM in Sonora in fear of contagion, April 2, 2020. Available at: <https://www.jornada.com.mx/ultimas/estados/2020/04/02/migrantes-se-amotinan-en-inm-en-sonora-ante-temor-de-contagio-7516.html>



Luis Luján

III. Actions promoted by defense organizations and response from the authorities of the Mexican State

3.1 Violations committed against the victims of the protest and riot of Tenosique

3.1.1 Lack of effective investigation and protection of the victims related to the murder of Mr. Rolando Barrientos

As already indicated, in the protest and riot at the Tenosique immigration station, Héctor Rolando Barrientos Dardón, of Guatemalan origin, died. Along with his family, he had requested recognition of refugee status in Mexico.

On April 2, the Ministry of the Interior expressed its intention to contribute to the investigation by the Attorney General of the State of Tabasco⁷⁴. Apropos, the Prosecutor of the Public Prosecutor's Office Specialized in Crimes Committed Against Immigrants of Tabasco informed the organization Asylum Access Mexico, the legal representative of the victims, by telephone, that the Investigation File number CI-FEAM-43/2020 had been opened; but, because federal authorities were participating in the events, on April 1, 2020, they had been referred to the Attorney General's Office based in the city of Macuspana in Tabasco.

On April 7, a criminal complaint was filed for the death of Mr. Barrientos and the 14 injured persons. However, seven days later, Asylum Access Mexico communicated by telephone, in order to follow up on the filing of the complaint, with the Federal Agent of the Attorney General's Office (sub-headquarters in the municipality of Macuspana, Tabasco) who reported that the State Attorney General's Office opened the Investigation File for the crime of Murder and Damage, the latter to the detriment of the National Institute of Immigration⁷⁵.

⁷⁴ El Sol de San Luis. INM will collaborate with the Tabasco Prosecutor's Office in the case of the dead migrant, April 2, 2020. Available at: <https://www.elsoldesanluis.com.mx/mexico/sociedad/inm-colaborara-con-fiscalia-de-tabasco-tenosique-en-caso-del-migrante-guatemalteco-muerto-asfixia-5053107.html>

⁷⁵ The investigation file was broken down under file number 448/2020.

However, Asylum Access Mexico detected that the authorities of the Public Prosecutor's Office had not served and delivered official letters whose addressee was the National Institute of Immigration. Precisely, the Prosecutor's Office, based on Asylum Access's interest in the investigation, requested the support of the organization to carry out the delivery, a task that must be carried out by the same investigating authority or the State Attorney General's Office.

On April 9, 2020, the Internal Control Body of the Federal Police requested information from the Macuspana Prosecutor's Office to find out if the Investigation file was opened for the events of March 31, 2020 and a response was issued on April 30 confirming positive. This report was not accessed since the Attorney General's Office referred to it as internal documents.

On April 23 of this year, Asylum Access Mexico accompanied Roberto Carlos, who had his new address in Villahermosa, to the facilities of the Attorney General's Office in the Municipality of Macuspana, Tabasco to ratify the facts expressed in the complaint. At the same appearance, a writ was presented to justify the absence of the victims and request to set a new day and time for their appearance. On the same date at that time, the staff of the Prosecutor's Office reported being assisted by the authorities of the common jurisdiction by means of a warrant to request appearances in Tenosique. The appearances have not been possible so far because the family is no longer living in the State of Tabasco.

Information was requested from the INM on the facts and on the existence of any complaint or lawsuit filed by the same Institute against any person, protocols and security measures adopted, to know if any element was injured, if within the Immigration Station in Tenosique there were members of the National Guard or some other police force and what functions they perform. This request was dated April 20, granting a period of 3 days to render the report.

Between May 8 and 11, witness interviews were conducted to the Head of the Department of the National Institute of Immigration, an Immigration Services Officer, the Coordinator of the Unit in Migration Service Areas, 3 auxiliary police officers, 1 auxiliary Banking, Industrial and Commercial police member, and 1 State Police. This fact is established in the Criminal Investigation Report of May 30, 2020.

In said report, the objective established is: to investigate the following criminal relationship whoever is responsible, allegedly responsible for the crime(s) of Article 399, which literally says: when by any means damage, destruction or deterioration of another's property, or property of one's own to the detriment of a third party, the penalties of simple theft of the Federal Penal Code shall be applied to the detriment of the National Institute of Immigration.

Likewise, the CEAV's Federal Legal Advisor for Victims requested a copy of the Investigation File from the Prosecutor's Office. However, it was not provided due to not having legal personality within the File.

It is necessary to investigate the conditions under which Mr. Barrientos lost his life, based on the fact that he was in the custody of the State and there are testimonies that the public officers who were at the scene did not facilitate the departure of the detained people during the fire. The respective criminal responsibilities must be established for the death of Mr. Barrientos, up to the highest level of decision-making at the immigration station and with respect to the military and police forces that were at the scene of the events. Likewise, the family must be granted participation in the investigations, guaranteeing their right of access to justice, to the truth and to reparation.

3. 1. 2 Omissions and violations of the human rights of the victims by the CEAV due to the death of Mr. Rolando Barrientos

In accordance with the rights of victims established in the Political Constitution of the United Mexican States, the Federal Code of Criminal Procedures and the General Victims' Law, the family of Mr. Barrientos submitted, on April 15, the request of their record as victims and the request for assistance measures before the CEAV in order to guarantee them state protection and generate immediate assistance measures regarding accommodation, food, psychological aid and medical care (Articles 29, 30 , 31 and 34 of the General Victims' Law).

Until now, no measure of assistance has been granted by the CEAV, they have only called the victims by phone to inform them about the CEAV and that they are being contacted.

The CEAV is responsible for granting the relatives of Mr. Barrientos the status of victims, registering them and providing them with all the measures of assistance and reparation and guaranteeing all the rights in their favor established by the General Victims' Law. Victims must have the necessary means required for the death of Mr. Barrientos to be investigated and to be able to access justice, truth, and comprehensive reparation.

3.2. Complaint actions before the National Human Rights Commission (CNDH) for the death of Mr. Rolando Barrientos

On March 31, the Asylum Access office in Tenosique contacted the CNDH by telephone to report the events that occurred at the Tenosique Immigration Station, in addition to the fact that migrants and asylum seekers indicated that

they would not leave the place until establishing communication with the CNDH. Yet, the agency did not act urgently, indicating that their staff would not come until the following day.

On the other hand, from the Asylum Access office in Villahermosa, efforts were made on multiple occasions to contact the CNDH staff through the on-call phone number in order to initiate urgent complaints. Precisely because communication was not possible, an inspector was contacted directly, who indicated that he already had knowledge of the incident in Tenosique, but not of what happened at the Villahermosa Immigration Station.

In the above-mentioned call, he was informed that a group of people remained outside the Immigration Station in Tenosique and that they were asking the CNDH to hear their complaints. The inspector replied that he would travel the next day to attend to the group of people.

On April 2, 2020, the National Mechanism for the Prevention of Torture issued a statement asking the INM to take measures to “avoid demeanor to the detriment of people in migration situations that may constitute cruel, inhuman, degrading treatment or even torture⁷⁶”. This statement responded to the riot and death of the asylum seeker in Tenosique on March 31.

On April 2, 2020, through the Press Release DGC/116/2020, the CNDH asked the INM and the Mexican Commission for Refugee Assistance to implement precautionary measures to safeguard the integrity and security of people in the context of migration housed in the Institute’s Immigration Station in Tenosique, Tabasco, by virtue of the events that occurred on March 31, 2020 in

⁷⁶ CNDH. Press Release DGC/118/2020 The National Mechanism for the Prevention of Torture asks the National Institute of Immigration to take precautionary measures against the alleged riot that occurred at the Tenosique Immigration Station, Tabasco, April 2, 2020. Available at: <https://www.cndh.org.mx/documento/el-mecanismo-nacional-de-prevencion-de-la-tortura-pide-al-instituto-nacional-de-migracion>

those facilities, where a group of migrants demonstrated, causing a fire and the death of one person, as well as several injured people.

Through this release, the Commission states that as soon as it learned of the events, personnel of the Agency went to the facilities of the immigration station and confirmed that the place does not have sufficient infrastructure to guarantee human rights. However, the Commission was informed on March 31, and its visit did not take place that same day. The agency expressed its condemnation and concern at the lack of actions decided by the INM to avoid overcrowding and thereby preventing events such as those that occurred.

In the following weeks, there was no update on this request.

Through a communiqué on April 2, the Ministry of the Interior stated that:

“Regarding the precautionary measures issued by the National Human Rights Commission (CNDH) to safeguard the integrity and security of people in the context of migration, housed in the immigration station in Tenosique, the National Institute of Immigration informs that it accepts and applies them in favor of the migrant population. This station, which has a capacity for 170 people, was evacuated. Migrants transferred to other shelters are being treated psychologically and given decent hosting conditions.

In addition, administrative immigration procedures are streamlined and, where appropriate, the possibility of regularizing their stay in the country is given, especially for vulnerable groups such as girls, boys and adolescents. It should be noted that the Institute's Immigration Stations and centers are not overcrowded and there are the necessary supplies

to adequately assist sheltered aliens awaiting a resolution to their legal situation.⁷⁷

The CNDH has the obligation to investigate the human rights violations committed against all the victims in the protest and the riot at the Tenosique Immigration Station occurring on March 31, 2020. It has the obligation to establish the responsibilities, listen to the victims, document their testimonies, guarantee their right to participate in the complaint filed and issue a recommendation on the events that occurred, establishing the measures for a comprehensive reparation of the damage.

3.3 Complaint from civil society organizations and shelters before the National Human Rights Commission (CNDH) for the detention of migrants and events that occurred in Immigration Stations.

On April 13, more than 150 civil society organizations filed a complaint with the CNDH ⁷⁸, pointing out the responsible authority to the INM for the events that occurred at the Tenosique immigration station on March 31, denouncing human rights violations against migrants and persons subject to international protection, deprived of their liberty in Immigration Stations, in the framework of the contingency generated by the COVID-19 pandemic, and requesting the CNDH to do the following: issue urgent protection measures to ensure integrity of the people who are in the immigration stations at risk and overcrowding and to issue urgent protection measures in order to ensure

⁷⁷ SEGOB. INM agrees with national and international organizations in guaranteeing the protection of the human rights of migrants, April 2020. Available at: <https://www.gob.mx/segob/prensa/coincide-inm-con-organismos-nacionales-e-internacionales-en-garantizar-la-proteccion-de-los-derechos-humanos-de-las-personas-migrantes?state=published>

⁷⁸ CIMAC Noticias. (NEWS) Complaint filed against the INM for omissions to protect health of migrants, April 14, 2020. Available at: <https://cimacnoticias.com.mx/2020/04/14/interponen-queja-contra-inm-por-omisiones-para-protoger-salud-de-personas-migrantes>

access to health and assistance for people deprived of liberty and for people who will be released due to the context of the COVID-19 pandemic.

On April 26, 2020, the INM reported —through an information card— the closure of the Immigration Station where Mr. Héctor Rolando Barrientos died. As for the precautionary measures derived from the Tenosique facts, requested by the CNDH to the INM, the migration authority stated that:

“The immediate departure of aliens housed in Immigration Stations and Centers is instructed in compliance with sanitary measures. INM addresses the precautionary measures and observations made by the CNDH in favor of the migrant population. There are 106 migrants in the country's Immigration Stations and shelters.⁷⁹”

Regarding the immediate departure of the people detained at the Immigration Stations, according to the INM, 3,653 people were deported to Guatemala, Honduras and El Salvador.

However, as of the date of completion of this report, the authorities (INM, COMAR, CEAV, SSP) have not responded to requests for information made by the CNDH on the precautionary measures requested by the civil society. Although the INM published bulletins and information cards where —as already indicated— they instruct the immediate departure of people held in immigration detention centers, these methods do not replace the formal response that should be given to applicants in the procedure before the CNDH.

⁷⁹ SEGOB. INM acts with responsibility in the face of the COVID-19 contingency, April 26, 2020. Available at: <https://www.gob.mx/segob/prensa/actua-inm-con-responsabilidad-ante-la-contingencia-por-covid-19?state=published>

On April 30, the CNDH Advisory Council spoke out⁸⁰ by calling on the authorities to contain, mitigate, address and overcome the pandemic, highlighting the need to guarantee the respect and observance of all human rights, in accordance with the principle of interdependence, particularly to groups in vulnerable situations such as the migrant population, and it reiterated its concern about the situation of confinement in reduced spaces and the implementation of essential hygienic and sanitary measures in Immigration Stations and shelters, requesting the responsible authorities to assess alternative measures⁸¹.

In June, in the City of Tijuana, Baja California, Asylum Access Mexico, through its legal counselors, filed 71 Complaints with the CNDH to the detriment of 113 people⁸² for the lack of response on the admission of application for recognition of refugee status presented to the General Coordination of the Mexican Commission for Refugee Assistance.

In these complaints, violations of the right of access to asylum and the right to petition were alleged since cases have been documented of applicants advancing their applications from May 2019 to March 2020 and that had not received any response on their admission, including requests for access to asylum within 30 days⁸³, extemporaneous requests, reopening or re-entry requests.

During the month of July, the Foreign Office in Tijuana of the National Human Rights Commission began to carry out negotiations between the aggrieved persons and the COMAR Office in Tijuana, since, on the instructions of the

⁸⁰ CNDH. Press Release DGC/147/2020, April 30, 2020. Available at: https://www.cndh.org.mx/sites/default/files/documentos/2020-04/COM_2020_147.pdf

⁸¹ Idem.

⁸² People are being represented by Asylum Access Mexico in their refugee status recognition procedures.

⁸³ Law on Refugees, Complementary Protection and Political Asylum. Article 18. The alien who requests to be recognized as a refugee must submit his request in writing to the Ministry within a term of 30 business days from the business day after he entered the country or, where appropriate, the one on which he was materially in possibility to submit it in the terms defined by the regulation.

Coordinator, an Inspector was appointed to attend to the notification of the admission agreement, prevention agreements (extemporaneous applications) and delivery of original certificates.

Nonetheless, various documents received are expired, since the certificates are valid for 45 days, which constitute the term that the COMAR must take to review an asylum request. For this reason, the registration of the procedure before the SIRE-COMAR⁸⁴ exceeds 45 business days from the date of notice. In this case, the violation of due process is preserved because the term was exceeded in time without prior notification of the justification causing this.

In addition to the above, Asylum Access Mexico informed of the possible human rights violations committed by the officials of the General Coordination of the COMAR, through the Citizen Report of Corruption (SIDECE) platform of the Ministry of Civil Service, presenting a total of 82 complaints and/or citizen petitions in June that were filed with the Complaints, Denunciation and Investigation Department of the Internal Control Body of the National Institute of Immigration, due to the fact that the reception of the applications before the COMAR is made in the facilities of the National Institute of Immigration, both belonging to the Ministry of the Interior.

The aforementioned complaints were presented due to the lack of response on access to the procedure for the recognition of refugee status and the failure to issue and deliver the original proof of recognition of refugee status, as the latter allows access to rights such as immigration regularization for humanitarian reasons for being an asylum seeker in Mexico⁸⁵.

Similarly, Asylum Access Mexico, through its legal advisors in Monterrey, Nuevo Leon, submitted 23 complaints through the CNDH's electronic portal on behalf

⁸⁴ Registration with the Refugee Information System - SIRE used by COMAR to manage the registration.

⁸⁵ See frac. II of Art. 11 of the GUIDELINES for immigration procedures of November 8, 2012 available at http://dof.gob.mx/nota_detalle.php?codigo=5276967&fecha=08/11/2012

of 29 people aggrieved by human rights violations committed by the General Coordination of the Mexican Commission for Refugee Assistance, specifically the violation of access to the right to request asylum and the right to petition. Among these cases, applications submitted from May 2019 to February 2020 have been documented, with failure to respond to requests within 30 days, extemporaneous and reopening requests.

During the month of July, the Office Coordinator in Reynosa, Tamaulipas of the National Human Rights Commission sent two letters of communication of admission of complaints and is in communication with Asylum Access. Efforts continue to notify the aggrieved persons of their requests to the COMAR.

Additionally, 30 citizen complaints from 35 people were filed for possible human rights violations committed by officials of the General Coordination of the COMAR through the Citizen Complaint of Corruption (SIDECA) platform of the Ministry of Civil Service, filed with the Complaints, Denunciation and Investigation Department of the Internal Control Body of the National Institute of Immigration, due to the fact that the reception of the applications before the COMAR is made in the facilities of the National Institute of Immigration, both belonging to the Ministry of the Interior.

Of the complaints filed, 20 were derived from failure to provide a response on the right to request and receive asylum and 10 from failure to issue and deliver the original proof of application for the procedure for the recognition of refugee status which, as referred to previously, is essential to guarantee the right of stay and identity among others.

The foregoing may demonstrate the generalized situation of human rights violations for asylum seekers on the Northern Border, since even when the COMAR officials are in the cities of Tijuana and Monterrey, it is not possible to ensure access to the procedure of recognition of refugee status effectively. One

of the greatest difficulties is that the issuance of agreements (admission, legal representation, transfer of procedures, etc.) and certificates of procedure is carried out in the Offices of the General Coordination of the COMAR in Mexico City, which logistically represents a challenge to issue and notify applicants about their procedures.

The CNDH has the obligation to investigate the human rights violations against the migrant population, asylum seekers and those in need of international protection denounced by civil society organizations; to inform them of the actions it has carried out and maintain a constant dialogue. Given the few possibilities for organizations to monitor Immigration Stations and other places due to the pandemic, the role of Ombudsperson Institutions is fundamental as the control and surveillance mechanism against abuses or violations by the authorities. A federal human rights institution close to the organizations is required.

The COMAR must strengthen the actions of its officials at the local level, being able to receive any request from applicants and refugees. In the case of Tijuana and Monterrey, it has to designate officials authorized to sign documents such as agreements, proof of processing, procedural resolutions and certificates of recognition of refugee status and/or complementary protection, in addition to registering the temporary CURP (Personal ID Code Number) as dictated by the Normative INSTRUCTION for the assignment of the Unique Population Registry Code.



Luis Luján

IV. Action by the judiciary to protect the rights of migrants: amparo proceedings to request the release of migrants in Immigration Stations and requirements for conditions for their release

As a result of the latent risk, facing the COVID-19 pandemic, for people in the context of human mobility deprived of liberty in Immigration Stations and Temporary Centers of the National Institute of Immigration, the amparo proceeding has been used by various actors to demand their release from these detention centers and request support to protect this population from possible damage to their life, health and personal integrity.

Among the first isolated efforts from the health emergency are the amparo proceeding 549/2020 of the Second District Court of the State of Chihuahua, promoted by two asylum seekers detained in an immigration station since the beginning of the COVID-19 pandemic. On April 2, 2020, they were granted the suspension of the acts claimed, as the judge considered that “in the context of the pandemic that affects us, the situation of migrants takes on a more serious dimension, since it is related to the possibility of an effective access to the right to health and the possibility of preserving one's life”. The judge ordered the immediate release of the people, as well as the processing of asylum applications by the INM and the Mexican Commission for Refugee Assistance (hereinafter COMAR).

Although the suspension recognizes the risk and irreparable violation of rights to which migrants are exposed —to arbitrary detentions— during the pandemic, the effect of the decision is limited only to the two people who upheld this amparo trial. Also, there is no guarantee that similar judgments can be obtained in similar cases.

That is why the often-mentioned collective of migrant defense organizations created a model of protection against a long list of authorities (in total, sixty-six) in order to avoid irreparable damage to life, health and personal integrity of people in the context of human mobility who were detained in the Immigration Stations and Temporary Centers of the INM during the pandemic of the COVID-19 disease.

As a result, a total of eight amparos were promoted in six cities of the Republic: in Tenosique, Tabasco; Tapachula, Chiapas; Acayucan, Veracruz; Monterrey, Nuevo Leon; Mexico City; and Tijuana, Baja California. For the most part, the performance of the judiciary was less than satisfactory; however, we found a prominent role on the part of the First District Court for Administrative Matters of Mexico City, which has followed up and requested compliance by the immigration and health authorities to the measures ordered to protect the migrant and asylum-seeking population.

Amparo Number	State	Promoters	Court
Central Region			
426/2020	Mexico City	IMUMI, Without Borders, FJEDD	First District Court for Administrative Matters of Mexico City
534/2020	Mexico City	CMDPDH	Second District Court for Administrative Matters of Mexico City
Northern Region			
278/2020	Baja California	Alma Migrante	Fifth District Court for Amparo and Federal Trials of Tijuana, Baja California
289/2020	Baja California	Asylum Access	Fifth District Court for Amparo and Federal Trials of Tijuana, Baja California
509/2020	Monterrey	Asylum Access	Third District Court for Administrative Matters in the state of Nuevo Leon
Southern Region			
202/2020	Chiapas	Fray Matías de Córdova	Third District Court in Tapachula
547/2020	Tabasco	Asylum Access	Seventh District Court in the state of Tabasco
283/2020	Veracruz	Asylum Access	Nineteenth District Court in the State of Veracruz

From the analysis of the protection measures issued by the district courts in different cities of the country, it seems that the Judiciary implemented

different regional strategies to respond to the amparo model: in the country's capital, the courts issued highly guaranteeing measures of rights whereas in the northern region the courts issued very limited and, consequently, ineffective measures to address the situation, and in the southern region the courts simply rejected the admission of the claims.

Unfortunately, even with the protection measures that were issued in some of the amparos that were successful, the defendant authorities have hindered the effectiveness of this constitutional remedy by providing incomplete information in their reports on compliance with the precautionary measures decreed and, even, by refusing to comply with the decreed court orders, or denying the existence of the claimed acts.

Next, the responses provided by the jurisdictional authorities by region will be analyzed, to conclude with an analysis of the effectiveness of the amparo as a resource to protect the migrant population and asylum seekers in the context of the COVID-19 pandemic.

In Mexico, the purpose of the amparo proceeding is to "protect people from general norms, acts or omissions by public powers or individuals"

Article 1 of the Law of Amparo, Statutory norm of Articles 103 and 107 of the Political Constitution of the United Mexican States "Law of Amparo"

Through amparo proceedings, it is possible to request that the violations of human rights claimed be suspended. This suspension is a protection measure that prevents the action claimed as a violation of human rights from developing or continuing its development; it can even order the protection of some rights in case of state omissions, until the revocation or issuance of the sentence that ultimately resolve the merits of the matter.

The amparo trial and the suspension have effect only on the people who promote it, in addition to those who are granted constitutional protection, which is why multiple amparo trials can be promoted for facts and actions that violate human rights resembling each other. Although, repeatedly, the

criteria of the judges differ and/or are contradicted, in some cases the judges decide to grant general protection, despite the fact that reality shows that the responsible authorities, very often, do not comply with the orders and even challenge them.

To better understand the scope of the amparo trial in Mexico, see Annex N ° 7.

4.1 Model of protection against discriminatory behavior patterns

This model⁸⁶ of claim for indirect protection was developed to be promoted out of legitimate interest, that is, for civil society organizations to present it themselves without the need to identify individual victims of the claimed human rights violations. The amparo sued various authorities for acts, omissions and even rules that, taken together, make up a "pattern of conduct" of discrimination in a systematic and generalized way, within the framework of the pandemic caused by the SARS-CoV2 virus, which generates serious human rights violations of the beneficiary population, the people in the context of human mobility in the country.

Below, a table is presented in which the authorities and the acts claimed in the referred model are indicated:

⁸⁶ The strategy used by the group in *amparo* trials has its precedent in an *amparo* trial promoted by Alma Migrante, A. C. and Fundacion Regalando Amor, A.C. in August 2019 in Baja California, against the immigration review powers of the National Guard, as members of a pattern of conduct of persecution of the migrant population <http://almamigrante.org/ordenan-a-guardia-nacional-suspend-immigration-reviews/>. Likewise, the demand for protection of Mexicans against Corruption, AC promoted in March 2020 due to inactivity of the federal authorities in the face of the pandemic was used as construction input: <https://www.eleconomista.com.mx/politica/Amparo-para-que-tame-meas-20200319-0161.html>

Table 1, Authorities and actions claimed in the amparo model.	
<i>Responsible Authorities</i>	<i>Actions claimed</i>
Head of the Executive Branch	Failure to request, as Direct Responsible of the General Health Council, the publication in the Official Gazette of the Federation and the approval of the necessary measures to protect and guarantee the rights of the entire population in the Mexican Republic
Head of the Ministry of the Interior	The failure to coordinate with the Ministry of Health at the federal level and to design and implement protocols and measures necessary to ensure the life, integrity and safety of people in the context of human mobility during the health emergency. Consequently, the imminent contagion of COVID-19, acts of torture and/or cruel and inhuman treatment against people in the context of human mobility who are housed (detained) in the facilities of the National Institute of Immigration of the entire Mexican Republic, excluding the application of necessary measures to protect and guarantee them their rights to health, life and physical and
Head of the National Institute of Immigration	
Head of the General Directorate of Migration Control and Verification of the National Institute of Immigration	
Head of the General Directorate of Immigration Stations of the National Institute of Immigration	
Holders of the 59 Immigration Stations and Temporary Centers of the National Institute of Immigration ⁸⁷	

⁸⁷ With residence in Tenosique, Tabasco; Villahermosa Tabasco; Mexico City; Palenque, Chiapas; Aguascalientes, Aguascalientes; Mexicali, Baja California; Tijuana Baja California; Los Cabos, Baja California Sur; Tapachula, Chiapas; Tuxtla Gutiérrez, Chiapas; Chihuahua, Chihuahua; Ciudad Juárez Chihuahua; Janos, Chihuahua; Saltillo Coahuila; Pachuca, Hidalgo; Guadalajara Jalisco; Morelia, Michoacán; Oaxaca, Oaxaca; Puebla, Puebla; Querétaro, Querétaro; Chetumal, Quintana Roo; San Luis Potosí, San Luis Potosí; Mazatlan Sinaloa; Hermosillo, Sonora; El Ceibo, Tabasco;

	<p>psychological integrity, during this period of health emergency. The permanence of people in the context of human mobility in deprivation of liberty within the INM's IS or TC facilities. The failure to request the General Health Council the approval and publication in the Official Gazette of the Federation of the necessary measures to protect and ensure the rights and guarantees of people in the context of human mobility who are housed (detained) in the Institute's facilities to prevent and limit the spread and contagion of the SARS-COVID-19 Coronavirus, particularly COVID-19. The failure to dictate, approve, publish in the Official Gazette of the Federation or in the public and official media, the necessary health measures and actions to mitigate the spread and contagion of the COVID-19 virus in the INM facilities titled IS and TCs of the INM.</p> <p>Likewise, the unconstitutionality of the Agreement officially published in the Official Gazette of the Federation on April 1, 2020, which discriminates against people in the context of mobility was claimed by not contemplating the suspension of</p>
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Nuevo Laredo, Tamaulipas; Reynosa Tamaulipas; Tampico, Tamaulipas; Tlaxcala, Tlaxcala; Acayucan, Veracruz; Veracruz, Veracruz; Merida Yucatan; Zacatecas, Zacatecas; Campeche, Campeche; Ciudad del Carmen, Campeche; Ciudad Cuauhtémoc, Chiapas; El Hueyate, Chiapas; Huehuetan, Chiapas; Playas de Catatzajá, Chiapas; San Gregorio Chamic, Chiapas; Piedras Negras, Coahuila; Colima, Colima; Zihuatanejo, Guerrero; Agua Prieta, Sonora; Nogales, Sonora; Miguel Alemán, Tamaulipas; Tuxpan, Veracruz; Escárcega, Campeche; Comitán, Chiapas; Echegaray, Chiapas; San Cristóbal de las Casas, Chiapas; Torreón, Coahuila; Acapulco Guerrero; Monterrey, Nuevo Leon; La Ventosa, Oaxaca; Salina Cruz, Oaxaca; San Pedro Tapanatepec, Oaxaca; Huatulco, Oaxaca; and Matamoros, Tamaulipas.

	<p>detention activities, aggravating the imminent possibility of contagion and therefore danger to health, life, liberty and physical and personal integrity, and making it impossible to exercise the defense of human rights of people in the context of human mobility.</p>
<p>Head of the Ministry of Health</p>	<p>The preparation and presentation of the "General Guidelines for the mitigation and prevention of COVID-19 in closed public spaces" published on March 27, 2020, lacking specific measures applicable to facilities of the specific nature of immigration stations and temporary centers of the National Institute of Immigration, as well as measures to evacuate and vacate them, in the face of imminent contagion among people in the context of human mobility housed (detained) in said spaces, with the intention of safeguarding their rights to life, health and physical and psychological integrity.</p> <p>Likewise, making it impossible to defend the human rights of people in the context of human mobility.</p>
<p>Head of the General Directorate of Health Promotion of the Ministry of Health</p>	
<p>Head of the General Health Council</p>	<p>The failure to approve and publish, on its own initiative, in the Official Gazette of the Federation the specific measures that must be adopted in places of confinement of people such as Immigration Stations and</p>

	<p>Temporary Centers to guarantee the rights to life, health and physical and psychological integrity of people in the context of human mobility in order to prevent and avoid their contagion caused by the Coronavirus COVID-19 that threatens their life. Also, the failure to publish in the Official Gazette of the Federation the agreements that allow the implementation of the necessary actions to face the extraordinary epidemiological circumstances that are currently occurring due to the COVID-19 Coronavirus that threatens life and the indication of measures, so that people are not stigmatized or discriminated against in the context of human mobility, as well as to guarantee their health.</p>
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Along these lines, with this model, the organizations filed a total of eight claims for protection of amparo in the Northern, Central and Southern Mexican territory: in Tijuana, Baja California; Monterrey, Nuevo Leon; Mexico City; Tenosique, Tabasco; Veracruz, Veracruz; and in Tapachula, Chiapas.

4.2 Central Region: Protective measures guaranteeing human rights

In the two trials initiated in Mexico City, the courts issued practically identical resolutions. This is the case of amparo 426/2020, promoted by the organizations: Institute of Women in Migration (IMUMI), the Foundation for Justice and the Democratic Rule of Law (FJEDD) and Without Borders I.A.P. before the First District Court for Administrative Matters of Mexico City, on April 17, 2020, and case 534/2020, promoted by the Mexican Commission for the

Defense and Promotion of Human Rights A.C. (CMDPDH) before the Second District Court for Administrative Matters of Mexico City, on April 23, 2020.

In the first amparo, the suspension agreement was issued on April 16, 2020 and in the second one, the admission and suspension agreement was issued on April 23, 2020.

In both cases, the courts issued measures with a high degree of compliance with International Standards for the protection of migrants. Below, a table is presented indicating the effects for which the protection measures were granted in these injunctions (amparos):

Table 2, Effects of suspension measures in the Central Region
<i>Amparo 426/2020 of the First District Court for Administrative Matters of Mexico City and Amparo 534/2020 of the Second District Court for Administrative Matters of Mexico City</i>
“The responsible authorities within the immigration stations throughout the national territory must apply the health prevention protocols regarding the SARS-CoV2 virus (COVID-19), in accordance with the provisions of the Ministry of Health.
The responsible authorities must implement, within the Immigration Stations throughout the country, general, effective and proportional health measures for the prevention and avoidance of the spread of the SARS-CoV2 virus (COVID-19)
The responsible authorities must carry out periodic inspections of Immigration Stations throughout the country in order to verify that the standards of respect for the human rights of the people who are there are met.
The responsible authorities must implement the necessary actions within the Immigration Stations throughout the country to detect people with possible symptoms of COVID-19 virus infection within the Immigration Stations, in order to prevent contagion.
The responsible authorities must take the necessary measures so that people admitted to Immigration Stations throughout the country have

consular support in order to maintain communication with their families, derived from the confinement measures established to counteract the spread of the Covid-19 virus.

The responsible authorities must guarantee the human right to health of the people held in the Immigration Stations, not only in relation to the possible contagion of the SARS-CoV2 virus (COVID-19), but also by guaranteeing the basic supplies of personal hygiene, access to drinking water and healthy, nutritious and adequate food.

The responsible authorities must elaborate a detailed report stating the number of people who are in the Immigration Stations and, where appropriate, their vulnerability conditions, that is, being over sixty years old, suffering from a chronic disease, having any type of disability, minors or any other type and publishing it for the knowledge of the Mexican society.

The responsible authorities must keep children and adolescents close to adulthood that are unaccompanied, safe in adequate rooms that guarantee their life and integrity.

The responsible authorities must immediately release the people housed in the Immigration Stations who are older adults or who belong to the group of people at risk of acquiring and developing a serious illness and/or dying from it; and opt for other monitoring mechanisms in national territory, for which, in terms of the applicable legislation, they may grant temporary residence rights that include access to health and social benefits in the context of the fight against the pandemic, in accordance with the migration provisions established for that purpose.

This implies that all persons in a situation of migration or applicants for international protection have guaranteed equal access to health services and are included in national responses aimed at preventing and mitigating the transmission of the aforementioned virus, which must include tests and treatments in equal conditions for national citizens and people with legal permanence in the Mexican Republic.

Finally, those responsible must establish a strategy, in adherence to existing social programs, so that people in a situation of migration or applicants for international protection who are released due to their personal situation in the face of the COVID-19 pandemic can access economic benefits that contribute to their sustenance."

There were only three differences between the two resolutions:

1. Under the protection of IMUMI, Without Borders and the FJEDD, the court also ordered the authorities to “Guarantee access to information, so that people held in Immigration Stations throughout the country, as well as their families, are aware of the measures adopted to protect health, by virtue of the pandemic declared by Covid-19.”
2. Under the CMDPDH, the court ordered “That acts of torture and cruel treatment of people who are housed in Immigration Stations cease, for which, it is under the strict responsibility of the administrative authority to exercise their custody in compliance with this measure”.
3. In both amparos, the Courts refused to suspend the arrests of people in the context of human mobility; however, each one offered a different argument. In the first amparo, the Court found that the authorities have a sovereign power in matters of national security to detain migrants, so they have freedom of action in accordance with the Immigration Law. In the second amparo, the Court pointed out that the acts of immigration detention, review and control “constitute an act that tends to control public health, to know if the migrants who are in the country have contagions due to the disease of COVID-19 and if this is the case, proceed to their detection and possible isolation” (sic).

Faced with the refusal of the Court to suspend the detentions or “accommodations”, on April 29 the CMDPDH filed a complaint appeal against said determination, in view of the fact that, in the opinion of the complainant, the Court A-quo was deficient in the analysis of the immigration review powers of the authorities, specifically the difference between securing, making the presentation available and the “accommodation” (detention).

In addition, the Court argued that immigration detention allows the authorities to control public health. However, as argued before the Appeal

Court, the health faculties referred to by the A-quo lack legal support and were based on stigmas that violate the right to equality and non-discrimination of the beneficiaries. Despite the foregoing, the complaint filed by the CMDPDH was resolved by the Collegiate Court on May 6, 2020 for the purpose of confirming the contested resolution.

Regarding Amparo 426/2020, promoted by the IMUMI, Without Borders I.A.P. and the FJEDD, it was admitted after three months of submitting it, because in the agreement that decreed the suspension measures, the Court determined that the analysis of the initial application writ would be reserved for the moment in which the suspension of work concluded due to the contingency period, despite the fact that in the same agreement it was determined that the lawsuit met the urgent case criteria.

4.3 Northern Region: Restricted protective measures

In three lawsuits brought in the Northern region of the country, the District Courts admitted the claims and issued suspension measures that were identical and also insufficient to protect the beneficiary population of the Amparo. Such were the cases of Amparo 278/2020 promoted by Alma Migrante A.C. in the Fifth District Court on Amparo and Federal Trials of Tijuana, Baja California on April 14, 2020, the Amparo 289/2020 promoted by Asylum Access Mexico A.C. in the same Tijuana court on April 15, 2020, and Amparo 509/2020 promoted by this same organization in the Third District Court for Administrative Matters in the state of Nuevo Leon on April 23, 2020.

The admission and suspension agreement for these trials were issued on April 14, 2020 (278/2020), April 15, 2020 (289/2020) and April 23, 2020 (509/2020).

Below is a table comparing the effects for which they were granted:

Table 3, Effects of suspension measures in the Northern Region

Amparo 278/2020 and 289/2020 in the Fifth District Court on Amparo and Federal Trials in Tijuana, Baja California, and Amparo 509/2020 in the Third District Court for Administrative Matters in Monterrey, Nuevo Leon

[That the responsible authorities:]

“A) Approve and publish in the corresponding official media, the specific measures that in the context of the current pandemic must be adopted in the Immigration Stations and Temporary Centers of the National Institute of Immigration throughout the country, suitable for the nature of these facilities, for the purpose of safeguarding the health and safety of the migrants who are housed there, as well as of the people who work or visit the facilities throughout the national territory. Measures that must guarantee, including but not limited to: the "healthy distance", avoiding confinement or overcrowding, supervision of health conditions, special attention to vulnerable groups (older adults, boys and girls), permanent dissemination of information among the people to whom they are addressed—in their language—, establishing plans to prevent the spread and contagion of Covid-19 among the population housed in stations or centers of the National Institute of Immigration, monitoring to find, isolate, test, and treat Covid-19 cases, and, especially to take into account the most guaranteeing measures that have been implemented by other countries that, like Mexico, are countries of transit or destination for migrants and asylum seekers in the current context of global emergency.

b) Design and implement protocols to guarantee the life, integrity and safety of the migrants housed in the Immigration Stations and Temporary Centers during the health emergency caused by Covid-19, as well as to guarantee that the exercise of the right of defense of said persons is not impeded or restrained.

[...] On the other hand, the request for suspension made by the complaining civil association for the purpose of granting "a progressive, orderly and scheduled departure" of the population that is housed in the National Institute of Immigration stations is inadmissible, and therefore, the granting of immigration regularization and ordering the authority to suspend detentions and review and control activities."

The only difference in the resolutions of the three Amparos was that, in the Monterrey amparo, the Court additionally ordered that “[...] all acts of physical and psychological torture ceased, as well as cruel and inhuman treatment or any other act prohibited by Article 22 of the Constitution, to which migrants who are housed in the immigration stations and temporary centers of the National Institute of Immigration may be the subject”.

Due to their shortcomings, the complaining organizations promoted complaint remedies in the three trials, considering that the measures issued are ineffective in protecting the rights of the beneficiaries of the lawsuit. However, only one complaint has been resolved due to the suspension of activities of the Federal Judicial Branch and the fact that the Courts do not consider it an urgent matter.

Such is the case of the complaint filed by Alma Migrante A.C. in the city of Tijuana, Baja California. On June 17 of this year it was resolved by the magistrates of the First Collegiate Court of the Fifteenth Circuit the day before, to the effect of modifying the resolution of suspension directly in the court order, so that the immigration authorities resolve the immigration situation of the people housed and, if appropriate, order their release to avoid overcrowding; refrain from limiting their rights of defense and, finally, if the immigration stations are not sufficient and adequate, the authorities shall provide adequate spaces to protect the health and life of migrants.

4.4 Southern Region: Lawsuits dismissed

In the three remaining lawsuits filed in the country, the District Courts chose to dismiss the claims, considering that the complaining organizations did not have a legitimate interest to go to trial for the pattern of conduct claimed. This was the case of Amparo 202/2020 promoted by the Fray Matias de Cordova Human Rights Center in Chiapas before the Third District Court in Tapachula,

Amparo 547/2020 promoted by Asylum Access Mexico, A.C. before the Seventh District Court in the state of Tabasco on April 23, 2020, and Amparo 283/2020 also promoted by Asylum Access Mexico, A.C. before the Nineteenth District Court in the State of Veracruz on April 23, 2020.

In these lawsuits the organizations filed complaints against the dismissal, most of which have not been resolved due to the suspension of terms and procedures of the Judicial Branch.

4.5 Extensions to the lawsuits

In three of the trials, the petitioning organizations expanded their claims for Amparo protection based on the information they obtained from the authorities in their reports.

4.5.1 Asylum Access Amparos in Monterrey and Tijuana

On May 25 (Monterrey) and June 1 (Tijuana) 2020, Asylum Access expanded the claim regarding the protocol presented by the INM that is used in Immigration Stations and Temporary Centers as a measure to prevent COVID-19 infections. As of July 17, 2020, over a month after being submitted, not all authorities have been notified of the extension of the claim.

4.5.2 Amparo 426/2020 promoted by the Institute for Women in Migration (IMUMI), Without Borders and the Foundation for Justice and the Democratic Rule of Law (FJEDD)

On May 14, the IMUMI, Without Borders and the FJEDD filed an extension to their claim against the Ministry of the Interior, the Ministry of Health, the Commissioner of the National Institute of Immigration, the Legal Sub-Commissioner of the National Institute of Immigration, the General Director of Immigration Stations of the National Institute of Immigration, the General

Director of Immigration Control and Verification of the National Immigration Institute, the Head of the Sub-Directorate of the Immigration Station of the Representation Office of the National Institute of Immigration in Queretaro, the Head of the Representation Office of the National Institute of Immigration in Guerrero, and the Local Deputy Representative in charge of the Legal Department of the National Institute of Immigration in Oaxaca.

The acts, omissions and norms that expanded the claim for amparo protection consisted of:

1. The violation of the formality requirements, essential for the "Action Protocol in Immigration Stations and Temporary Centers of the National Institute of Immigration against Covid 19" to have validity and binding force in the absence of a competent administrative act for the approval of said protocol and the lack of publication in the Official Gazette of the Federation.
2. The issuance of the circular letter numbered INM/ORQR/SRFCHT/OSRF/171/2020 as it was not issued by the competent immigration authority for such purpose and restricting, disproportionately and without time limit, the right of people deprived of the liberty to receive visits.
3. The violation of the duties to guarantee the enjoyment of the rights of equality and non-discrimination, to personal integrity, health and life of the population in the context of human mobility housed (deprived of liberty) in IS and TCs of the INM before the implementation—under an apparent legality—, and the omission of incorporating in the so-called "Protocol of Action in Immigration Stations and Temporary Centers of the National Institute of Immigration against Covid 19", standards related to the capacity of the centers, the specific healthcare measures and a differentiation

by age, except those provided for people over 60 years of age, identity or sexual preference and cultural belonging of the people who are in the Immigration Stations and Temporary Centers.

4. The pattern of conduct on the part of the authorities indicated as responsible for the absence of coordination and repeated omission to design, establish and implement the measures that are necessary to ensure the rights of personal integrity and health of the population in the context of human mobility housed (deprived of liberty) in IS and TCs of the INM, despite the suspension measures already decreed in this Amparo trial and the serious threat to health that the spread of the COVID-19 virus pandemic represents for this highly vulnerable population, which violates the right to personal integrity and health of said population.
5. The omission of the authorities indicated as responsible for including alternatives to detention for generating a serious risk to the health and personal integrity of people in the context of human mobility.
6. The absence of the necessary conditions in the IS and TCs to carry out the effective execution of a Protocol that prevents the spread of COVID-19

4.5.2.1. Incident by default in compliance with the measures of sua sponte suspension directly in the court order

Regarding the monitoring of the suspension measures, on May 11, 2020, the complaining organizations filed an incident claim by default in compliance with all the suspension measures decreed by Immigration Stations and Temporary Centers located in Acayucan, Veracruz; Baja California; Baja California Sur; Ciudad Reynosa, Matamoros, Miguel Aleman and Nuevo Laredo

—all in Tamaulipas; Janos, Chihuahua; Guerrero; Hermosillo, Sonora; Hidalgo; Jalisco; Michoacan; Torreon, Piedras Negras, in the state of Coahuila; Puebla; Queretaro; Quintana Roo; San Luis Potosi; Tabasco; Tlaxcala; Tuxtla Gutierrez, Huixtla, Chiapas; Yucatan and Zacatecas. As well as by the Legal Subcommissioner of the National Institute of Immigration, the Head of the General Unit of Legal Affairs of the Ministry of the Interior and the President of the Republic. The non-compliance with said measures by the courts with residence in San Bartolo Coyotepec, Oaxaca; Boca del Rio, Veracruz; and San Luis Potosi was also pointed out, due to omissions present in the actuarial reasons in which the resolutions on the suspension were notified to various authorities.

Regarding this incidental procedure, on May 14, the Court admitted the aforementioned incident for processing. Due to the prevailing public health conditions caused by the SARS-CoV2 virus the advocacy initiation was delayed, and thus, the hearing was postponed until August 3, 2020. The Commissioner and the Director of Immigration Stations of the INM filed an appeal, which was dismissed by the Fourteenth Collegiate Administrative Court of the First Circuit.

From the analysis of the reports rendered by the responsible authorities, the Second Court determined that five assumptions were derived: first: authorities who indicated that they had no migrants detained in the Immigration Stations or Temporary Centers; second: authorities who reported that they did have detained migrants, but had left the station under an immigration condition; third: authorities who affirmed that they did have detained migrants but none of them belonged to a vulnerable group and, furthermore, argued that there was no risk of contagion for them, since they had implemented all the sanitary measures in accordance with the protocols issued by different governmental instances; fourth: authorities who only became aware of the precautionary

measure whose compliance they made subject to the event that migrants or persons subject to international protection were admitted for their accommodation; and, lastly: authorities who argued that they did not have power to address the effects of the suspension decreed.

In addition, the Court considered that the information reported by the authorities was not substantiated reliably with the appropriate evidence, except in the case of the Head of the INM Representation Office in the State of Hidalgo. The Court considered that the suspension measures were not issued with abstract effects or as instrumental measures that the authorities had to implement in the medium or long term but, on the contrary, specific effects were ordered that had to be fulfilled sequentially. At that time, it was considered insufficient for the authorities to state in a generic way that they had carried out a series of protocols in order to protect the rights of migrants or persons subject to international protection and that it was essential that the authorities provided the relevant evidence to demonstrate, in a timely manner, strict compliance with the effects ordered in the precautionary measure.

Thus, the court determined that the responsible authorities "did not adopt any measure tending to comply with the suspension granted directly in the court order in this Amparo proceeding, which, in the consideration of this constitutionality control body is a serious violation." The promoting organizations recognize this resolution.

Likewise, the Court determined that there are inconsistencies in the information provided by the immigration authorities in relation to the number of migrants who entered the immigration stations, since this does not coincide with the data indicated by the Ministry of the Interior, through the Unit of Immigration Policy, Registration and Identity of Persons, in the "Monthly Bulletin of Migration Statistics 2020" for the months of January to May.

In conclusion, the Court ruled that the responsible authorities were in default in compliance with the precautionary measure.

4.6 Effectiveness of Amparo trials to protect the life, health and integrity of migrants deprived of their liberty during the pandemic

In accordance with the reiterated criteria of the Inter-American Court of Human Rights (IACHR) on the requirements for the “effectiveness” of the remedy for human rights violations, as established in Article 25 of the American Convention on Human Rights (ACHR), it is possible to establish that the concept of "effectiveness" is linked to the so-called "suitability" of the remedy. The "suitability" of a remedy represents its potential to establish whether a human rights violation has been incurred and to provide what is necessary to amend it and its ability to provide results or responses to the human rights violations.

Thus, the IACHR has reiterated that for a State to comply with the provisions of the aforementioned Article 25, it is not enough that the remedies formally exist, but that they must be effective, that is, the person must be given the real possibility of filing a simple and speedy appeal.

In this sense, in order to determine the effectiveness of the amparo protection filed, the following must be taken into account: a) the recourse possibility to determine the existence of violations of fundamental rights; b) the possibility of amending them; c) the possibility of repairing the damage caused and allowing those responsible to be punished. Added to this, it must be verified whether the amparos are resolved within a reasonable period of time, that is,

if the elapsed time does not put the rights that are intended to be protected at risk.

Taking these parameters into consideration, the simplicity, promptness and effectiveness of the aforementioned amparo proceedings will be analyzed below, to avoid irreparable damage to the rights to life, health and integrity of people in the context of human mobility deprived of their liberty at Immigration Stations and Temporary Centers of the INM in the context of the COVID-19 pandemic. This analysis will be limited to the protection amparos of the Northern and Central Zones, to which broader protection measures were issued, since the ineffectiveness of those lawsuits in which the claims were dismissed is clear.

4.6.1 Amparos 278/2020 promoted by Alma Migrante in Tijuana and 509/2020 and 289/2020 by Asylum Access Mexico in Monterrey and Tijuana

In the case of these amparos—with the exception of the amparo promoted by Alma Migrante AC—, the promoting organizations consider that the trial has not been effective to protect the rights of migrants, since the suspension granted is regressive compared to the measures of protection issued in the amparos of Mexico City, in addition to the fact that the procedure has taken too long for which the speed requirements are not being met. The context of the health contingency in itself has hampered the substantiation of the trial, in contradiction to its own purpose, which is to avoid irreparable damage to the life, health and personal integrity of the people deprived of their liberty in the immigration detention centers during the pandemic.

In the case of amparo 278/2020 of the Fifth District Court on Amparo and Federal Trials of Tijuana, Baja California, the determination of the complaint filed against the suspension measures issued—as they are considered

ineffective— focuses on a constant weighing that the authority itself must make on the sufficiency of the Immigration Stations and Municipal Centers, despite the fact that in the context of the complaint it is shown that they have been documented as overcrowded places. Once again, an independent monitoring mechanism from the responsible authority is missing, which makes the suspension completely inefficient.

It should be noted, however, that it is the only resolution that orders the responsible authorities to refrain from limiting the rights of defense of migrants in the context of the pandemic, an order that is being violated in more than one scenario where immigrants interact with immigration authorities.

In addition, there is a lack of collaboration between the different authorities for the purpose of communicating with each other, which is why the responses lack coherence and effectiveness.

4.6.2 Amparo promoted by Without Borders, the Institute for Women in Migration (IMUMI), and the Foundation for Justice and the Democratic Rule of Law (FJEDD)

It should be remembered that to guarantee the effectiveness of a remedy, the American Convention establishes the duty of the competent authorities to comply with any decision in which the remedy has been deemed appropriate. This obligation is applicable to the precautionary or suspension measures issued in the amparo trial, since these have the objective of safeguarding the rights of the people while the claim is resolved definitively.

As decided by the First District Court in the incident of non-compliance with the suspension measures, the authorities provided deficient information in their reports and showed in them the lack of adequacy of the immigration

stations and the consequent failure to properly apply prevention protocols for COVID-19 infections.

Thus, it is considered that the greatest degree of effectiveness of the amparo model developed by the group of organizations is found in the lawsuit promoted in Mexico City by Without Borders, IMUMI and FJEDD since the District Court has actively taken measures aimed at guaranteeing compliance with the obligations regarding the protection of migrants and asylum seekers by the Mexican authorities.

The analysis carried out by the Court on the effectiveness of the measures that this same Court issued is considered timely and adequate, as well as the enforcement measures with which it required the authorities to provide an immediate response. In this case, the court gave the INM a 24-hour term to comply with the suspension resolution, which sets an important precedent for the protection of the rights of migrants.

4.6.3 Amparo filed by the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) in Mexico City

As of July 17, 2020, in the amparo promoted by the CMDPDH, a total of 40 reports of the suspension directly in the court order and 37 justified reports out of a total of 66 authorities that were identified as responsible in the initial lawsuit have been received.

Regarding the order of the Court to cease the acts of torture and cruel treatment of the persons detained or "housed" in the immigration stations and centers, the heads of such detention centers, who submitted their reports to the suspension, denied said acts for the most part, without presenting evidence in this regard.

Likewise, most of the heads of the Immigration Stations and Temporary Centers stated that the "housed" (detained) people have access to medical

services inside the station, to drinking water, three meals a day, personal care supplies, masks and hand sanitizer. Only one Immigration Station reported having permanent medical staff, but none of them attached evidence to prove it.

On the other hand, it merits special attention that the Court ordered the carrying out of inspections inside the immigration detention centers. Nevertheless, on this measure only one authority has spoken, the Head of the Department of Legal Affairs of the Office of Representation of the INM in Sinaloa, who indicated that the General Directorate of Immigration Control and Verification is the competent authority to carry out such inspections. Until now, no authority has shown compliance with this measure, so the CMDPDH is unaware of the current conditions of detention of the beneficiaries within the Institute's immigration stations and centers.

Now, the main element of defense provided by the immigration authorities refers to the "Protocol for the Prevention and Attention of Suspected and Confirmed Cases of Covid-19 in the Immigration Stations and Temporary Centers of the National Institute of Immigration" issued by the Direction of General Control and Verification of the National Institute of Immigration. However, this document was challenged by means of an extension in the trial of the organization Without Borders in Monterrey, since its content is highly questionable.

Amongst many of its shortcomings, this protocol fails to indicate procedures for detecting possible contagion of the COVID-19 disease in the beneficiary population inside and outside the stations and temporary centers. In the CMDPDH trial, the Court ordered the immigration authorities to take the necessary measures to detect cases within the stations, and on this measure, only two immigration stations stated that they keep a daily record of the temperature of the detained. No authority has indicated the application of

COVID-19 tests in persons deprived of their liberty within immigration stations, ports of entry to the territory, or immigration checkpoints.

In addition, the Court ordered that a detailed report be published to the Mexican society on the number of people who are in immigration stations and, where appropriate, their conditions of vulnerability. Only three immigration stations have presented a list of detained persons in their justified report, but none of them details the conditions of vulnerability of said population, nor has this information been made public.

One of the most important measures dictated by the Court was to release the beneficiaries who were detained in immigration stations and centers and in a vulnerable situation and, more than that, to be granted temporary residence rights to facilitate their access to healthcare and social benefits. Regarding this measure, no immigration authority has shown that it has complied with it. Even an authority, the Head of the Department of Legal Affairs of the Representation Office of the INM in Baja California, stated that it was not possible for him to comply with the suspension measure, since the immigration situation of the detained persons is irregular, therefore it is not possible to release them.

Only in 15 out of the 40 justified reports was it reported that at that time no person was detained, in the other reports it was indicated that there were no people in vulnerable situations, that there were people detained, or simply nothing was indicated. The authorities responsible for health matters, as well as the heads of the Ministry of the Interior and the President's Office declared themselves incompetent to order measures to protect people in the context of human mobility detained in immigration stations and temporary centers of the INM.

In addition, the Court issued specific protection measures for the beneficiary girls, boys and adolescents. In this regard, only three immigration stations

indicated that they have detained children and adolescents, two indicated that unaccompanied children and adolescents are in the custody of the National System for Integral Family Development (DIF as per its acronym in Spanish), and one station indicated that it does not have detained children and adolescents. The other stations failed to state whether children and adolescents were detained at their facilities.

Regarding the right to consular support for the beneficiaries, some immigration authorities limited themselves to pointing out that it is a right recognized for all “housed” persons, without presenting any evidence on the special measures in coordination with the consular offices adopted in response to the health emergency of the COVID-19 pandemic.

Finally, another transcendental measure in the amparos of Mexico City was the Court's instruction to the authorities responsible for establishing a strategy so that the beneficiaries who were released from the immigration detention centers could access economic benefits that would contribute to their livelihood. None of the authorities has declared itself competent to comply with this measure. Alarmingly, an authority, the Head of the Legal Affairs Department of the INM Representation Office in Sinaloa pointed out that financial support to the migrant population is provided by the United Nations High Commissioner for Refugees (UNHCR), not the immigration authority.

It is serious that a third of the authorities called to trial have not submitted their reports almost three months after the filing, that most of them have failed to inform the Court of knowledge of the detention conditions in which the beneficiaries are found, and that several have even indicated that the detention of people continues during the health emergency. Reprehensibly, all the authorities in this trial have deviated from their obligation to guarantee access to special programs to guarantee the health and housing of the beneficiaries once they have been released.

In conclusion, none of the suspension measures ordered by the Court has been effectively complied with by the responsible authorities. There is no legal certainty that the recipients of the amparo, people in the context of human mobility deprived of their liberty in Immigration Stations and Temporary Centers of the National Institute of Immigration, enjoy the guarantees granted by the judiciary to protect their life, health and personal integrity.

Taking these parameters into account, it is clear that the judicial remedy did not meet the effectiveness requirements. In the first place, the authorities have avoided their responsibility to present the information necessary to determine the existence of the claimed pattern of conduct, since they have limited themselves to denying the facts and annexing the health protocol issued by the immigration authority itself. Secondly, the Court order was not able to compel the immigration and health authorities to carry out the necessary actions to protect the life, health and personal integrity of the beneficiaries, as evidenced by the lack of response to various measures of the suspension. Lastly, the possibility of repairing the damage caused to the beneficiaries and of punishing the authorities responsible for it is severely limited due to the concealment of information on their detention conditions and legal situation.

In addition, having denied the suspension of the “accommodations” (detentions), the Court refused to issue the necessary measures to prevent the continuity of the pattern of conduct claimed. Despite the extraordinary measures of protection to the beneficiaries, immigration detentions continue and therefore, the risk of contagion prevails.

Consequently, the human rights violations committed against the beneficiaries are validated, as well as the guarantee of effective judicial protection for the petitioners.

4.7 Assessment of the effectiveness of the amparo remedy

The effectiveness of the remedy of amparo is limited to face the serious and urgent situation within the Immigration Stations and Temporary Centers in the country during this pandemic. The diverse and even contradictory results of the sentences show that, as the organizations defending migrants have denounced during the last decades, the internal mechanisms to guarantee the rights of migrants subject to detention are not efficient.

In this sense, the Judicial Branch apparently implemented a strategy of regional responses to the amparo model, since the responses in the Northern cities (Tijuana and Monterrey) were identical despite coming from different courts, as in the case of the amparos in Mexico City and the total rejection of the lawsuit in Tapachula, Acayucan and Tenosique.

With the exception of the case of amparo 426/2020 of the First District Court for Administrative Matters of Mexico City, the jurisdictional bodies have failed to guarantee due compliance with the measures that they order. That is why, although the protection measures issued in the Northern and Central regions were positive in light of the standards for the protection of human rights, the concrete application of such provisions has not been translated into a timely and effective protection that guarantees migrants to have an effective judicial protection in relation to the context of the pandemic they face in Mexico due to the lack of coercion by the courts for the administrative authorities to comply with them, and due to the lack of timely and sufficient information on the responses contained in their compliance reports.

It is worrying that the amparos in the North were not admitted because it was considered that the complaining organizations did not have the standing to submit the complaint. Despite the fact that the substantive allegations of the amparo proceedings deal with serious human rights violations, the effectiveness of the amparo is reduced in the face of urgent and serious situations that affect groups of people in conditions of multiple vulnerability. If

the demand of the judicial authorities that rejected the claims due to lack of personality were met, this would imply that the Judicial Branch expects that the amparos will be promoted individually by each one of the victims of human rights violations, and that said trials have solely an individual scope. It is impossible and restrictive of the rights of detainees to demand that they must—each one— file an amparo to demand the protection of their rights, particularly to health and life.

In addition, the lack of effectiveness of the amparo to provide a timely response to the measures issued by the jurisdictional bodies is notorious, since it has been frequent for the challenged authorities to evade compliance with the measures ordered by the judges, by transferring responsibility to other government entities and, despite this, the District Courts have failed to demand the taking of state responsibilities in their response agreements.

The ineffectiveness of this remedy implies that the representatives of the victims must exhaust other extraordinary remedies to demand compliance with the resolutions, which causes greater delay in the adoption of measures to protect individuals, generating irreparable damage. These omissions and lack of due diligence by the authorities sustain a situation of risk for migrants, in regard to their rights to health and life.

In addition to this, in the field of digital justice, organizations have detected that digital platforms do not contain all the information that the physical file of amparo has, which complicates access to all the data necessary to prepare advocacy and documentation. Likewise, from the resumption of Court work, variation has been observed in the definition of deadlines and terms granted to the responsible authorities, which generates procedural violations and lack of legal certainty to the detriment of the complainant organizations.

Due to all the above, it is clear that in general terms, in Mexico the internal judicial process is not a means that guarantees and protects in a timely manner the rights of migrants who are still at risk, detained in Immigration Stations and Temporary Centers of the INM in the context of the pandemic caused by the COVID-19 disease.

It is important that the Judicial Branch function properly for the protection of the rights of migrants in times of the pandemic. That the judges, in accordance with the principle of independence, resolve and enforce their resolutions avoiding any type of interference or external influence. The judges must guarantee the rights of the people for whom constitutional protection is requested and ensure that the amparo trial is really the effective remedy for the protection of the rights of migrants. The action of the Judiciary is essential in times of COVID-19 to guarantee the health and life of migrants who can be found in immigration stations.

The authorities from whom violating acts are claimed must respect and comply with the mandates of the Judicial Branch, abiding by the suspensions, responding to the demands for amparo protection and providing the necessary information to guarantee the rights of migrants who may be detained in immigration stations.



Luis Luján

V. Situation of people under the Remain in Mexico Program and people removed and/or deported by the US during the pandemic

5.1 Context of people under the “Remain in Mexico” Protocol, removed and deported from the United States in the face of COVID-19

Mexico shares with the United States of America (USA) one of the three main migration flows worldwide⁸⁸. Although the main group of people in a situation of human mobility in this migration corridor are Mexican nationals, Mexico is also a country of transit and destination for the migration of people of other nationalities who move to the United States of America, mainly from Central American countries⁸⁹.

People in a situation of human mobility face during their transit and Remain in Mexico, violations of various human rights such as life, integrity, freedom, security, and health, among others, which have been evidenced in various reports of the agencies of the Inter-American and Universal Systems for the protection of human rights.

This situation has notably worsened in the last three years due to restrictive measures to close the borders of the United States of America, including the recent months, due to the global pandemic of COVID-19. These types of measures increase the insecurity faced by migrants in Mexico by encouraging illegality and the search for alternative routes that tend to be less safe. This section reviews the increase in these border closure measures by the US since the beginning of the COVID-19 pandemic and its impact on migrants in Mexico.

⁸⁸ Cfr. CNDH-Mexico. Annual Activity Report 2019. Migrant People. Available at: <http://informe.cndh.org.mx/menu.aspx?id=40055>

⁸⁹ IOM. Report on Migration in the World, 2018. Available at: https://publications.iom.int/system/files/pdf/wmr_2018_sp.pdf

Even before the COVID-19 pandemic, the United States of America and Mexico had been entering into agreements that impede access to the US territory and the asylum procedure in that country. In this sense, the "United States-Mexico Joint Declaration" (hereinafter the "Joint Declaration") and the "Supplementary Agreement between the United States and Mexico" (hereinafter the "Supplementary Agreement") signed by the governments of the United States of America and Mexico in June 2019, exemplify these patterns marking a milestone in the formalization of these restrictive and retrograde policies.

From these instruments, the implementation and execution of the program known as "Remain in Mexico" ("MPP") is protracted. Its legal basis would be Section 235 (b)(2)(c) of the Immigration and Nationality Act of the United States of America⁹⁰, as a consequence of the implementation and execution of the chapter called "Instrumentation of Section 235 (b)(2)(C)" of the Joint Declaration. This program began to be implemented in January 2019, after alleged political agreements between Mexico and the United States of America concluded in December 2018, the content of which has not been made public⁹¹.

Based on these instruments, which for the Mexican legal system did not have and have not had the recognition of international agreements, Mexico was de

⁹⁰ It should be noted that the legality of this program remains subject to litigation in the United States and Mexico; In the United States, the complaining organizations in the case sustain that the MPP is illegal under the same fraction that is cited as a legal basis, not being allowed thereby; It is illegal because it has not been introduced in accordance with the administrative procedures provided by law and violates the obligations of the State regarding non-refoulement. See: <https://www.aclu.org/cases/innovation-law-lab-v-wolf?redirect=cases/innovation-law-lab-v-nielsen>. In Mexico, the legality of Mexico's participation in the program is currently pending a decision before the SCJN. See: <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6088>.

⁹¹ SER. Position of Mexico before the decision of the US Government to implement Section 235 (b)(2)(c) of its Immigration and Nationality Act. December 20, 2018. Available at: <https://www.gob.mx/sre/es/articulos/posicionamiento-de-mexico-ante-la-decision-delgobierno-de-eua-de-implementar-la-seccion-235-b-2-c-de-su-ley-de-inmigracion-y-nacionalidad-185774?idiom=es>.

facto constituted in a country receiving migrants requesting protection in the United States of America.

This circumstance has created a situation in which more than 65,000 people have been returned since 2019 by the United States of America within the framework of the “Remain in Mexico” Protocol, and many of them are concentrated on the Northern border of Mexico in cities with a high level of danger, in overcrowded conditions and vulnerability to multiple human rights violations⁹². Now, in the face of the COVID-19 pandemic, people subject to the MPP who continue to wait for their procedures from Mexico face a more precarious situation, as well as an indefinite wait, as will be detailed below.

Likewise, the Migration Agreement caused Mexico to deploy the National Guard for border control, especially on its southern border⁹³ in order to stop the migration flow whose final destination is the United States of America. This situation increased the number of immigration detection and detention operations, which in turn contributed to the increase in people detained in conditions that violated their human rights. In this sense, the situation of people under the “Remain in Mexico” program was already risky and sensitive prior to the presence of COVID-19 in our region.

Within this context of extreme risk for migrants, the COVID-19 pandemic began, declared by the WHO in March 2020. In response to the pandemic, the US, through its Centers for Disease Control and Prevention (“CDC”) and its Department of Homeland Security (“DHS”) declared that they would execute a policy of summary expulsion of people detained after crossing its southern

⁹² Human Rights First. A Year of Horrors: The Trump Administration’s Illegal Returns of Asylum Seekers to Danger in Mexico. January 22, 2020. Available at: <https://www.humanrightsfirst.org/resource/year-horrors-trump-administration-s-illegal-returns-asylum-seekers-danger-mexico>

⁹³ Mexican Government. Joint Declaration Mexico United States. June 7, 2019. Available at: https://www.gob.mx/cms/uploads/attachment/file/467956/Declaracion_Conjunta_Mexico_Estados_Unidos.pdf.

border in an irregular manner based on Section 265 of Title 42 of the US Code for reasons of "public health"⁹⁴.

This policy was implemented on March 21, its validity was extended in April and May, and currently it has been extended indefinitely⁹⁵. This policy establishes that a person who has crossed the US border in an undocumented manner may be immediately removed without undergoing the legal deportation procedure disposed by the Immigration Law with the corresponding procedural guarantees⁹⁶.

In particular, it is almost impossible to apply for asylum under this policy; according to agency guidelines leaked to the US press, the only way that a migrant person can avoid deportation is to voluntarily express a fear of torture that the officer considers "reasonably credible"⁹⁷. The application of this policy to certain classes of migrants is currently being litigated in US courts⁹⁸. This policy of expulsion to Mexico applies only to nationals of Mexico, Guatemala, Honduras and El Salvador; citizens of other countries can be removed directly to their countries by air, but they should not be expelled to Mexican territory.

Through the end of July, DHS carried out more than 105,000 removals under this policy⁹⁹. As of May, the DHS reported referring only 59 people to asylum

⁹⁴ Washington Post. Under coronavirus immigration measures, U.S. is expelling border-crossers to Mexico in an average of 96 minutes, March 30, 2020. Available at: https://www.washingtonpost.com/immigration/coronavirus-immigration-border-96-minutes/2020/03/30/13af805c-72c5-11ea-ae50-7148009252e3_story.html.

⁹⁵ New York Times. Trump Administration Plans to Extend Virus Border Restrictions Indefinitely, May 13, 2020. Available at: <https://www.nytimes.com/2020/05/13/us/politics/trump-coronavirus-border-restrictions.html>.

⁹⁶ See, for example: WOLA et al., U.S. Expulsion Policy Leaves Migrants in Situations of Extreme Vulnerability Amidst Border Closings, May 20, 2020. Available at: <https://www.wola.org/2020/05/united-states-migrant-expulsion-policy/>.

⁹⁷ ProPublica. Leaked Border Patrol Memo Tells Agents to Send Migrants Back Immediately — Ignoring Asylum Law, April 2, 2020. Available at: <https://www.propublica.org/article/leaked-border-patrol-memo-tells-agents-to-send-migrants-back-immediately-ignoring-asylum-law>.

⁹⁸ See for example: CBS News. U.S. policy of expelling migrant children without an asylum interview challenged in class-action lawsuit, August 14, 2020. Available at: <https://www.cbsnews.com/news/lawsuit-seeks-to-halt-u-s-policy-of-expelling-migrant-children-without-an-asylum-interview/>

⁹⁹ CBP. Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions, March 21, 2020. Available at: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>.

officers to assess non-refoulement (out of approximately 40,000 removals up to this moment). Of those people, only two approved the interview in order to apply for asylum in the USA¹⁰⁰.

Although the government of Mexico ruled that it would not receive unaccompanied children and adolescents of Central American origin, civil society organizations in border areas have documented removals of this groups to Mexico, in addition to other irregularities in the actions of the authorities. Among these, the execution of expulsions late at night or in the early morning, through border points lacking conditions that guarantee the safety and dignified attention to the removed persons, without prior notice of their execution or coordination with the immigration authorities of Mexico for reception purposes.

Since March 20 of this year, the US government has removed more than 2,000 unaccompanied children and adolescents under Title 42¹⁰¹. It is unknown precisely how many of these expulsions were made to Mexico with respect to this particular group. However, via request for access to information, the INM has indicated that from March 20 to June 5, 2020, 208 Central American girls, boys and adolescents were expelled to Mexico: 50 from Guatemala, 32 from El Salvador and 126 from Honduras. It should be noted that the INM does not provide information regarding all the points of entry where the removal of children and adolescents has been documented.

At the same time, the implementation of this “public health” order to deny entry to the country or to remove undocumented migrants immediately also impacted the population that expected to request asylum at the official points

¹⁰⁰New York Times. Trump Administration Plans to Extend Virus Border Restrictions Indefinitely, May 13, 2020. Available at: <https://www.nytimes.com/2020/05/13/us/politics/trump-coronavirus-border-restrictions.html>.

¹⁰¹Texas Tribune. ICE is making sure migrant kids don't have COVID-19, then expelling them to "prevent the spread" of COVID-19, August 10, 2020. Available at: <https://www.texastribune.org/2020/08/10/coronavirus-texas-ice-migrant-children-deport/>.

of entry to the US. By suspending the processing of asylum seekers at official points of entry, the population waiting on "lists" in various cities on the Northern border of Mexico also currently faces an indefinite wait, with no guarantees of health or safety¹⁰².

During the COVID-19 pandemic, deportations from the United States of America to various countries in the region have not stopped, despite sustained COVID outbreaks inside US immigration detention centers ¹⁰³, deaths of migrants within these centers due to coronavirus¹⁰⁴ and proven cases of people deported to their communities of origin with COVID¹⁰⁵ —including Mexico¹⁰⁶. For example, a migrant removed despite being a carrier of COVID-19 infected approximately 14 people in a shelter in Nuevo Laredo¹⁰⁷. At least one case has also been documented in which "the US authorities deport a person to Tijuana who had already tested positive for coronavirus."¹⁰⁸

¹⁰² Strauss Center. Metering Update, May 2020. Available at: https://www.strausscenter.org/wp-content/uploads/MeteringUpdate_200528.pdf.

¹⁰³ Until August 2020, almost 5,000 confirmed cases were reported among detainees; this undoubtedly represents an underreporting, since only 69 percent of immigration detention jurisdictions had reported figures (and these did not include the report for each detention center), and only 10 per cent of the detained population had taken a COVID test. See: OpenGlobalRights. "The pandemic shows that now is the time to end immigration detention", August 18, 2020. Available at:

<https://www.openglobalrights.org/the-pandemic-shows-that-now-is-the-time-to-end-immigration-detention/>

¹⁰⁴ CBS News. Third immigrant detained by ICE dies after contracting the coronavirus, July 13, 2020. Available at: <https://www.cbsnews.com/news/third-immigrant-dies-in-ice-custody-after-contracting-the-coronavirus/>. As of August, 103 deaths from COVID-19 had been confirmed among detainees and staff at immigration detention centers. See: OpenGlobalRights. "The pandemic shows that now is the time to end immigration detention", August 18, 2020. Available at:

<https://www.openglobalrights.org/the-pandemic-shows-that-now-is-the-time-to-end-immigration-detention/>

¹⁰⁵ New York Times. 'It was like a time bomb': This is how ICE contributed to the spread of the coronavirus, July 13, 2020. Available at: <https://www.nytimes.com/es/2020/07/13/espanol/mundo/coronavirus-deportaciones-ice.html> and Univision Kansas City. Trump Deportations Spread Coronavirus to Multiple Countries, May 13, 2020. Available at: <http://www.univisionkansascity.com/deportaciones-de-trump-propagan-el-coronavirus-a-varios-paises/>

¹⁰⁶ See for example: Telemundo. INM: 150 deported migrants arrive daily in Baja California, Available at: <https://www.telemundo20.com/noticias/mexico/inm-150-migrantes-deportados-llegan-diariamente-a-baja-california/2040367/>.

¹⁰⁷ Forbes. Immigrant deported from the US infects 14 with coronavirus in a shelter in Mexico, April 20, 2020. Available at: <https://www.forbes.com.mx/noticias-migrante-deportado-contagia-coronavirus-14-personas-albergue-mexico-covid-19/>

¹⁰⁸ The San Diego Union-Tribune. Immigrant who tested positive for COVID-19 in San Diego is deported to Tijuana, June 12, 2020. Available at: <https://www.sandiegouniontribune.com/en-espanol/noticias/bc/articulo/2020-06-12/migrante-que-dio-positivo-en-prueba-de-covid-19-en-san-diego-es-deportado-a-tijuana>

In the first stage of the emergency declared in connection with the COVID-19 pandemic, a quarter of the Mexican people deported by the US were admitted through the Tijuana (Baja California) border, a city that reports a very high prevalence of the disease¹⁰⁹.

In this way, the closure of the borders between the US and Mexico from the COVID-19 pandemic has increased the risk situation for migrants who were already in Northern Mexico, under "Remain in Mexico" or waiting on lists, currently facing an indefinite waiting time. This has also created a risk situation for people removed and/or deported to Mexico. All these groups of people also are at serious health risks due to the failure of the Mexican authorities to take adequate measures to receive and guarantee the rights of these people in Mexican territory.

5.2 Civil society actions to protect the rights of the migrant population removed from the US or under the Remain in Mexico program during COVID-19

In the context of the COVID-19 pandemic, the Mexican State has failed to take adequate measures to guarantee the rights to health and life of migrants in Mexico under the program "Remain in Mexico" and removed persons, put at risk by state neglect in the face of the global COVID-19 pandemic.

The absence of effective measures to guarantee human rights for this population is demonstrated in several areas. For example, as we will address in the following sections, deportations and expulsions to Mexico from the United States of America are carried out without any effective sanitary measures or

¹⁰⁹ El Sol de Tijuana. BC registers 8,316 cases of Covid-19 and 1,662 deaths, June 22, 2020. Available at: <https://www.elsoldetijuana.com.mx/local/bc-registra-8-mil-316-casos-de-covid-19-y-mil-662-defunciones-5397108.html>

protocols by Mexican authorities that effectively guarantee the right to health and life of deportees and removed persons¹¹⁰. Likewise, people subject to the MPP currently face an indefinite wait in Mexico due to the closure of the US Courts in charge of the procedures for asylum seekers subject to the MPP¹¹¹.

For that same reason various organizations have requested, through amparo trials, actions and measures, with respect to which federal judges have ordered compliance, in order to protect the rights of migrants, removed persons from the United States of America and persons under the "Remain in Mexico" Protocol.

In particular, we refer to the following amparo proceedings:

5.2.1 Amparo 293/2020 promoted by the Foundation for Justice and the Democratic Rule of Law and Derechoscopio before the Fifth District Court on Amparo and Federal Trials in the State of Baja California to safeguard the life, health and integrity of returned migrants from the USA or detained by immigration officers for their internment in Mexico

On April 15, 2020, the organizations Foundation for Justice and the Democratic Rule of Law AC and Derechoscopio AC filed an amparo trial before the Fifth District Court on Amparo and Federal Trials in the state of Baja California, which claimed acts and omissions of the President of the United Mexican States; the General Health Council of Mexico; the Head of the Ministry of Health of the Federal Public Administration; the Head of the Ministry of Health in Baja California; the Head of the Ministry of Foreign Affairs and the Head of the National Institute of Immigration; for not dictating and taking preventive measures in immigration matters to contain, stop and avoid the contagion and spread of COVID-19 in Baja California, in order to safeguard the life, health and

¹¹⁰ Mexican Center for Economic and Social Studies. Migrant populations in the face of the Covid-19 health crisis. Available at: <https://cemees.org/2020/05/11/las-poblaciones-migrantes-ante-la-crisis-sanitaria-del-covid-19/>

¹¹¹ El diario. US courts will remain closed until June 22, May 13, 2020. Available at: <https://diario.mx/juarez/seguiran-cerradas-cortes-de-eu-hasta-el-22-de-junio-20200512-1662114.html>

physical integrity of migrants returned from the US or detained by immigration officers for their admission to Mexico.

The acts claimed in the referred amparo can be seen in the following table:

Table 3. Acts claimed
a. The omission of dictating the essential preventive measures in immigration matters to contain and avoid the contagion and spread of the virus in Baja California.
b. The omission of dictating and applying the protocols in health matters that must be followed for the internment of migrants in Baja California, due to the attention to the health contingency.
c. The omission of dictating and applying the protocols in health matters that must be followed for the internment of migrants in Baja California, due to the attention to the health contingency.
d. Failure to design the necessary measures for the prevention and control of the epidemic of disease caused by the virus known as Coronavirus, with respect to people in mobility.
e. Failure to design the necessary measures for the prevention and control of the epidemic of disease caused by the virus known as Coronavirus, with respect to people in mobility.
f. Failure to design the necessary measures for the prevention and control of the epidemic of disease caused by the virus known as Coronavirus, with respect to people in mobility.
g. Failure to design the necessary measures for the prevention and control of the epidemic of disease caused by the virus known as Coronavirus, with respect to people in mobility.
h. Failure to design the necessary measures for the prevention and control of the epidemic of disease caused by the virus known as coronavirus, with respect to people in mobility.

i. The implementation of information note number 11 issued in Mexico City on March 21, 2020, on the regular internment of migrants "in order to minimize crowding at Border Patrol stations of the United States of America."

j. The omission of taking the necessary sanitary provisions in ports, airports and land points of entry to Baja California to comply with the provisions of the declaration of health emergency.

The effects of the suspension directly in the court order granted were:

Table 4. Effects of the suspension measure

To dictate, within the scope of its powers, the necessary measures to safeguard the life and integral health of people in the context of mobility, aimed at containing and detecting the contagion and spread of Covid-19, precisely in migrants returned from the United States or detained by immigration officers for their admission to Mexico and in all those who are in the immigration stations of Baja California. These measures must take into account the situation and specificities that prevail in the Southern and Northern borders of the country.

Regarding compliance with the suspension, on April 22, the complaining organizations presented a letter to the court, requesting that the results of compliance be disclosed. The head of the Court reported by means of an agreement that on April 22, the President of Mexico, the Minister of Foreign Affairs and the Minister of Health of Baja California were notified, but the delay was due to the fact that the notifications were "in transit."

In the same way, the Tijuana judge refused to give effect to the arrest warrant against the heads of the INM, the General Health Council and the Federal Ministry of Health. Instead, it offered the authorities a new opportunity to comply with the suspension through a digital warrant, under the warning of a fine.

At the beginning of June of this year, the complaining organizations presented an extension of the lawsuit against various acts and authorities, among which are the INM and SEGOB.

On June 12, the organizations were notified of the admission of this extension. In addition, in response to a special request they made, the Tijuana judge granted a new suspension (additional to that of April) for the following purposes:

"To issue and execute, within the scope of their powers, all those provisional measures that are necessary for the purpose of safeguarding the life and integral health of migrants returned or removed from the United States of America or detained by immigration officers for their admission to Mexico, facing the threat posed by the spread of Covid-19.

Measures that are enunciative, but not limitative, must guarantee: conducting tests to detect the virus, providing medical assistance, taking measures to avoid contagion such as "healthy distance", avoiding confinement or overcrowding, supervision of decent conditions with guarantee of their right to health, special attention to vulnerable groups (older adults, boys and girls); and, especially, taking into account the most guarantee-based measures that have been implemented by other countries that like Mexico are countries of transit or destination for migrants and asylum seekers in the current context of global emergency. "

In the same agreement, the judge denied the suspension directly in the Court order regarding the following effects:

"On the other hand, the request for suspension made by the complaining civil association is inadmissible, in the sense that the precautionary measure has the effect of granting a document for

humanitarian reasons, options for relocation to another state, the departure or release of people that are housed in immigration stations, as well as inadmissible that the precautionary measure is for the effect of having to deport or return the people and that the authority be ordered to suspend detentions and review and control activities. "

Likewise, the National Institute of Immigration has been required to provide precise information (and not generic) of what the measures adopted by that Institute were, as well as to display the protocols that —the authority alleges— are being carried out inside and outside of the IS, TCs and representative offices. Nevertheless, this request has not received a response.

As of the date of publication of this report, the complaining organizations have not received news about compliance with the suspension, nor have the authorities responded to the demand for the amparo trial. In this sense, regarding the migrants who are in Tijuana, the amparo trial has not been an effective remedy in light of Article 25 of the American Convention on Human Rights.

5.2.2 Amparo 570/2020 promoted by the Foundation for Justice and the Democratic Rule of Law AC, Integral Human Rights in Action and the Institute for Women in Migration before the Second District Court in the State of Chihuahua to issue measures for the benefit of people in mobility, especially those removed from the United States of America

On May 12, the organizations: Foundation for Justice and the Democratic Rule of Law AC, Integral Human Rights in Action and the Institute for Women in Migration filed an amparo trial before the Second District Court in the State of Chihuahua that claimed acts and omissions of the President of the United Mexican States; the General Health Council of Mexico; the Head of the Ministry of Health of the Federal Public Administration; the Head of the Baja California Ministry of Health; the Head of the Ministry of Foreign Affairs and the Head of

the National Institute of Immigration for the benefit of the migrant population and in need of international protection, especially those removed from the United States of America.

The acts claimed in the amparo can be seen in the following table:

Table 3. Acts claimed
a. Failure to dictate the essential preventive measures of a general nature for the benefit of people in mobility.
b. Failure to dictate the essential preventive measures of a general nature for the benefit of people in mobility, especially people removed from the United States of America and those who are under any situation in the State.
c. Failure to dictate and apply the health protocols that must be followed for the internment of people in mobility in Chihuahua, especially people removed from the United States of America and those who are under any situation in the State.
d. Failure to design the necessary measures for the prevention and control of the epidemic of disease caused by the virus known as Coronavirus, with respect to people in mobility.
e. The omission of taking the necessary and general health provisions in ports, airports and land points of entry to Chihuahua in order to comply with the provisions of the declaration of health emergency, especially with respect to people removed from the United States of America and those who are under any situation in the State.
f. Failure to design the necessary measures for the prevention and control of the epidemic of disease caused by the virus known as Coronavirus, with respect to people in mobility.
g. Failure to carry out a timely identification of people with international protection needs or other situations of vulnerability.

The suspension was granted directly in the Court order, some of its effects being that the General Health Council —based in Mexico City— dictate the necessary general measures for the benefit of migrants in order to contain the contagion of the COVID-19 virus in the state of Chihuahua. Likewise, to issue the protocols that must be followed for the admission of migrants, by virtue of the current contingency.

The Undersecretary of Human Rights, Population and Migration of the Ministry of the Interior must dictate for its part the general measures necessary for the benefit of migrants in order to contain the contagion of the COVID-19 virus in the state of Chihuahua; determine the necessary measures for the admission of migrants in Chihuahua; and issue the corresponding identification of people with international protection needs.

The Ministry of Health of the Federal Public Administration must provide the necessary measures for the benefit of migrants in order to contain the contagion of the COVID-19 virus in the State of Chihuahua and submit it to the General Health Council for consideration.

The Head of the Ministry of Health of Baja California, who in his capacity as spokesperson of the General Health Council of Mexico and representative of the Northeast Region of the country must submit for consideration of the General Health Council the measures that he deems necessary for the containment of the COVID-19 virus in migrants.

Regarding the INM, the agency must take the necessary sanitary provisions on highways, airports and any other access points in the State of Chihuahua; issue the protocols that must be followed for the admission of migrants, by virtue of the current contingency; and issue the corresponding identification of people with international protection needs.

The Ministry of the Interior of the Federal Government (hereinafter SEGOB as per its acronym in Spanish) must also provide the protocols to be followed for the admission of migrants, by virtue of the current contingency and identify people with international protection needs. The COMAR, for its part, must issue the corresponding identification of people with international protection needs, while the Constitutional President of the United Mexican States is obliged to allocate the corresponding federal resources in order to execute the extraordinary expenses that the care and protection of migrants entails.

Regarding the suspension:

The State Population Council (hereinafter COESPO as per its acronym in Spanish) indicated that they do not have jurisdiction in this matter, noting at the same time that their "Migrant Assistance Program" does not have powers related to the administration of shelters or immigration stations.

SEGOB pointed out in its report on suspension that it does not have powers in matters of internment of the population within the context of mobility, as well as their identification, highlighting that the INM, together with the COMAR are the authorities with jurisdiction to act.

The COMAR in turn rendered a report on compliance with the suspension, stating that it is unable to send names and immigration status of the persons because it considers them confidential information, but as a precautionary statement it annexed pending proceedings and pending resolutions. The judge has required them to send the immigration files within 24 hours. However, the COMAR filed complaints and challenged the judge's order to send a certified copy of the immigration files of people in mobility.

The INM rendered a report on compliance with the suspension in which they indicated that they had published agreements and general measures, and disseminated the suspension in immigration stations. The INM also indicated

that it had issued two protocols called "Systematic Operating Procedure for the New (sic) Coronavirus Outbreak"¹¹²—dated January 27, 2020— and "Action Protocol for the Prevention and Assistance of Suspected and Confirmed cases of COVID -19 in IS and TCs".

In addition, contrary to what was indicated by the COMAR, the INM state delegate indicated that there are no pending paperwork, procedures, or immigration applications.

It is worth noting that the judge required the INM to accredit the steps taken in 24 hours to comply with action protocols and agreements in immigration stations and Temporary Centers.

The Governor of Chihuahua released requests for information. He reported on actions to comply with the suspension and exhibits official letters sent to COESPO, DIF and the Ministry of Social Development in which he requested information. The judge gave him an additional term of 3 days to finish complying.

The Ministry of Health in Chihuahua released a request for information and reported having generated the corresponding instructions to the Director of Medical Assistance of Health Services in Chihuahua to establish medical brigades in the State. The Minister of Health of the Federal Government in his reports on compliance with the suspension indicated that he does not have authority to supervise the right to health of the migrant population, since the law does not indicate that it is among his powers to perform acts related to the operation of the IS and Temporary Centers. Nonetheless, the Federal Secretary—when rendering his justified report— presented a general guideline for the

¹¹² National Migration Institute. Systematic operating procedure in light of the new (sic) coronavirus outbreak. Available at: https://www.gob.mx/cms/uploads/attachment/file/548677/PSO_COVID19.pdf

COVID-19 care for migrants and people with international protection needs, as well as an operational plan for care.

The President of Mexico (through the Ministry of Foreign Affairs “SRE” as per its acronym in Spanish) challenged the suspension regarding the order to allocate federal resources to the government of Chihuahua. His arguments: (i) the SRE cannot allocate resources; (ii) the judge could not establish new rights that the migrant population and applicants for international protection did not have before the suspension. It should be noted that, although the physical document is signed by a person from the SRE with sufficient authority, the document was signed and submitted electronically by someone else. In addition, the appeal was submitted in an untimely manner, which would render the complaint inadmissible.

In the report rendered by the President of the United Mexican States on compliance with the suspension, the inability to allocate resources that are not previously contemplated in the Federation's Expenditure Budget is mentioned. Likewise, it indicated that the exercise, control and oversight and evaluation of public spending corresponds to the Ministry of Finance and Public Credit. He also argued that, since he lacks power in immigration matters, he cannot request the allocation of the budget.

However, in the face of the contingency of the COVID-19 pandemic, it should be noted that the Budget Act establishes:

"Article 46.- Dependencies and entities may request from the Ministry resources that allow them to take care of contingencies or, where appropriate, urgent operating expenses through ministerial agreements, as long as these are regularized under their respective budgets, invariably by issuing a certified account receivable.

The Regulation will establish the deadlines to regularize the ministering agreements and the requirements to extend them, without exceeding December 20 of each fiscal year, except in exceptional cases, which may not exceed the last business day of January of the following fiscal year. These transactions will be reported to the House of Representatives in the quarterly reports."

On the other hand, considering the important humanitarian assistance work that non-state shelters provide to people in migration transit, whose needs increased as a result of the pandemic, the aforementioned organizations asked the judge to extend the protection amparo to cover 4 shelters and provide them with basic supplies to care for migrants and material to prevent Covid-19 infections. These shelters are Centro Integral de Desarrollo la Última Milla, Casa Hogar Príncipe de Paz, Fundación Binacional Pasos de Fe y Esperanza and Mary Muller Casa Hogar.

On August 31, the Court ordered the Governor of Chihuahua and the State Council for the Protection and Migrants Aid, comprised by the Secretary General of the Government, the State Population Council, the Ministry of Health, the Ministry of Education, Culture and Sports, Ministry of Social Development, DIF, and State Delegation of the National Institute of Immigration to provide, within a maximum of 24 hours, the migrant population of said shelters with the necessary equipment for a decent stay and to meet their basic needs in terms of health and food, setting a relevant precedent for the assistance to be provided to shelters and the most unprotected people.

Likewise, in said amparo, taking into account the best interests of children, the judge ruled that unaccompanied migrant children and adolescents have the right to receive legal advice and accompaniment from Mexican or foreign non-

governmental organizations to attain their family reunification in United States of America.

5.3 Assessment of the effectiveness of amparo remedy

In the aforementioned amparos, it has been requested that the national authorities such as the General Health Council and Federal authorities such as the Ministry of Health, the Ministry of Foreign Affairs, the Ministry of the Interior, and the National Institute of Immigration, amongst others, dictate actions of a general nature for the benefit of people in the context of mobility in Baja California and Chihuahua, particularly those who have been removed from the United States of America as a consequence of the order issued on March 20, 2020 by the Centers for Disease Control and Prevention of that country ("CDC")—extended on April 20— and implemented by the Ministry of Foreign Affairs.

The foregoing requires coordination between the Federal and state governments in order to establish concerted actions that protect the health of the migrant population, asylum seekers and those subject to international protection, as well as the Chihuahua and Baja California population, who are recipients of the returns imposed by the US government and guaranteed by the Mexican government.

The District Judge, before whom the amparo trial was processed in Chihuahua has granted exemplary precautionary measures (suspension directly in the court order), so that the authorities dictate the necessary measures to safeguard the life and health of migrants. However, to this date, the authorities have not complied with the suspensions granted by Federal justice for the benefit of people in the context of mobility, which generates violations of their dignity and the right to health and puts their lives at risk. To this effect, in Chihuahua we cannot affirm that the amparo has been the effective remedy

under Article 25 of the ACHR, due to the responsible authorities' failure to comply and the lack of effective enforcement measures.

On the other hand, the suspensions show the need to have protocols for the reception or internment of people removed by the United States of America to Mexico, who are admitted in "filter hotels".

People must return to Mexico in conditions that guarantee their life and health, especially against a virus with potential fatality in people with comorbidities exacerbated by stressful situations, as indicated by the organization Doctors without Borders.

5.4. Request for precautionary measures before the Inter-American Commission on Human Rights (IACHR) with respect to Mexico and the United States to safeguard the life and personal integrity of seven people subject to "Remain in Mexico", their families and all persons subject to the "Remain in Mexico" program

On June 16, 2020, the Institute for Women in Migration, AC, the Latin America Working Group (LAWG), the Immigration Clinic of the University of Texas and the Transnational Clinic of the University of Pennsylvania requested precautionary measures from the Inter-American Commission on Human Rights (IACHR) in favor of J.L.A.M. and six other people subject to MPP and their families in Matamoros, Tamaulipas, Nuevo Laredo, Tamaulipas, and Ciudad Juarez, Chihuahua, as well as any person subject to the "Remain in Mexico" program, in light of the serious and urgent situation that these people face¹¹³.

This population faces a serious risk of contagion with COVID-19 given the absence of effective prevention measures by the Mexican authorities and the

¹¹³ Two of the named individuals and their families submitted their request for precautionary measures only for Mexico on August 5, 2020, following the rejection of the request in respect of the United States of America on July 31, 2020. The application regarding the USA was registered as MC-615-2020, and the application regarding Mexico was registered as MC-616-2020.

precarious access by this population to housing, food, drinking water and public health services, especially in contexts like the migrant camp in Matamoros, Tamaulipas¹¹⁴. Likewise, the population faces an extreme risk to their personal integrity due to the situation of insecurity that prevails in those states, in the face of which more than 1,000 acts of violence and the commission of serious crimes have been publicly reported to the detriment of people subject to MPP¹¹⁵. Mexico, in turn, is an accomplice of the US in accepting people in particular vulnerable situations, such as pregnant women, people with serious medical conditions, non-Spanish-speaking indigenous people, and others, who are at particular risk and who do not receive an effective protection while they wait in Mexico¹¹⁶. The MPP program also causes family separations, for example, when the US authorities separate families in detention and Mexico accepts back only part of a family unit, which generates serious risks to personal integrity and the right to identity¹¹⁷.

On the other hand, the participation of both countries in the MPP program generates extreme risks of return to territories where people can be persecution and torture victims —both in Mexico and in the country of origin—. This return to their country of origin is direct; for example, the use of buses

¹¹⁴ Cfr. CNN. Migrant camps on the US border confirm first infections by Covid-19, July 3, 2020. Available at: <https://cnnespanol.cnn.com/video/contagios-coronavirus-en-campamento-de-migrantes-matamoros-border-united-states-global-response-pkg-michael-roa/>; Tamaulipas online. The Rio Grande overflows; Migrants are alerted in Matamoros, July 27, 2020. Available at: <http://tamaulipasenlinea.mx/se-desborda-el-rio-bravo-alertan-a-migrantes-en-matamoros/>.

¹¹⁵ Human Rights First. A Year of Horrors: The Trump Administration's Illegal Returns of Asylum Seekers to Danger in Mexico, January 22, 2020. Available at: <https://www.humanrightsfirst.org/resource/year-horrors-trump-administration-s-illegal-returns-asylum-seekers-danger-mexico>. Cfr. Human Rights Watch. US: Investigate 'Remain in Mexico' Program Homeland Security Knowingly Returning Asylum Seekers to Harm, June 2, 2020. Available at: <https://www.hrw.org/news/2020/06/02/us-investigate-remain-mexico-program>. See complaint at: <https://www.hrw.org/news/2020/06/02/dhs-oig-formal-complaint-regarding-remain-mexico>. IACHR Press Release IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America, July 23, 2019. Available at: <https://www.oas.org/es/cidh/prensa/comunicados/2019/180.asp>.

¹¹⁶ Cfr. Reuters. U.S. Migrant Policy Sends Thousands of Children, including Babies, Back to Mexico, October 11, 2019. Available at: <https://www.reuters.com/article/us-usa-immigration-babies-exclusive/exclusive-u-s-migrant-policy-sends-thousands-of-babies-and-toddlers-back-to-mexico-idUSKBN1WQ1H1>; ACLU complaint to DHS (Sept. 26, 2019), https://www.aclutx.org/sites/default/files/aclu_oig_complaint_preg_mpp.pdf

¹¹⁷ Cfr. Women's Refugee Comm'n Letter, August 16, 2019. Available at: <https://www.womensrefugeecommission.org/images/zdocs/Separation-of-families-via-the----Migrant-Protection-Protocols----WRC-complaint-to-DHS.pdf>. Texas Public Radio. New Migrant Shelter in Mexico Comes With Threat of Family Separation, November 1 2019. <https://www.tpr.org/post/new-migrant-shelter-mexico-comes-threats-family-separation>.

paid by the Ministry of Foreign Affairs to transport people in MPP from cities like Nuevo Laredo and Matamoros to Tapachula and Ciudad Hidalgo, without information or guarantees to be able to travel back to the Northern border¹¹⁸, and indirectly, inasmuch as the absence of minimum survival conditions and the extremely dangerous situation in Northern Mexico leads people subject to the MPP to make the forced decision to return to their countries¹¹⁹ instead of facing the total lack of protection that leaves people on the streets, without access to health or food and at risk of being victims of serious crimes, including kidnapping, disappearance and murder.

This serious situation faced by people subject to the MPP, which has now been extended for an indefinite time due to the suspension of hearings before the US Immigration Courts, taking into account the pandemic and the risk of contagion, is caused by and is the responsibility of both of the US and Mexico, since both countries have taken an active role in returning people to this risk situation and have failed to take effective minimum measures to prevent or mitigate the various risks faced by this population. However, despite the situation of seriousness and risk that currently exists, especially in the face of the COVID-19 pandemic, the IACHR rejected the request for precautionary measures with respect to the United States on July 31, 2020, stating only and in a general way that the request did not meet the requirements of Article 25 of the IACHR Rules of Procedure, Paragraphs 1-13. As of the date of publication of this report, the request regarding Mexico is still pending before the IACHR in the status of “Request for Information”.

¹¹⁸ La Jornada. Mexican government spends 14 million pesos on transfer of asylum seekers rejected by the US, February 16, 2020. Send feedback Available at: <https://www.jornada.com.mx/2020/02/16/politica/004n2pol>.

¹¹⁹ L.A. Times. Stymied by U.S. Policies, Many Migrants on the Border are Heading Home, August 4, 2019. Available at: https://www.latimes.com/world-nation/story/2019-08-03/stymied-by-u-s-asylum-policies-many-migrants-on-the-border-are-headed-home?_amp=true.



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VI. Main requirements and good practices of shelters in Mexico for the admission and assistance of people in the context of mobility during the COVID-19 pandemic

During times of the COVID-19 pandemic, migrants in Mexico face the heightened risk of contracting the virus, of being excluded from adequate medical care and also susceptible to being affected by the violence that occurs in some Northern cities of the country due to conflicts between members of

organized crime, leaving them in the midst of infections, threats, shootings and abductions¹²⁰.

The shelters, particularly those with infrastructure deficiencies and that are not recognized by the state, have faced severe complications to take care of migrants in the pandemic, such as the lack of food, water, sanitizing supplies, sufficient space to guarantee a healthy distance, resources to secure the payment of rent and basic services, and lack of medical or psychological care if required by migrants.

In this context of pandemic and violence, some shelters keep their doors open, taking the measures that are within their reach without having government support. This is the case of the Casa del Migrante of Caborca, Sonora, the only place of protection in a high-risk area where due to the negligence of the health authorities and agencies, a person died after being misdiagnosed and denied timely medical care, saying that their test had been negative for Covid-19; nevertheless, the forensic services revealed the opposite: the deceased person tested positive for Covid-19¹²¹. This negligence in the diagnosis put the other people housed in the Casa del Migrante of Caborca at risk of latent contagion. The National Human Rights Commission (CNDH) requested precautionary measures from the Sonoran authorities to safeguard the health and life of the migrants housed in the shelter¹²².

¹²⁰ La Razón. Security to be reinforced in Sonora after violence in Caborca, July 24, 2020. Available at: <https://www.razon.com.mx/mexico/reforzaran-seguridad-sonora-violencia-caborca-395030>

¹²¹ Pueblo Sin Fronteras. We urge the authorities to pay attention to a shelter for migrants after the death of a Honduran migrant by COVID-19, July 24, 2020. Available at: <https://www.facebook.com/PuebloSF/photos/a.267391253287583/3778868005473206/?type=3&theater>

¹²² Contralínea.com.mx. CNDH issues precautionary measures for Casa del Migrante of Caborca, Sonora, August 6, 2020. Available at: <https://www.contralinea.com.mx/archivo-revista/2020/08/06/cndh-gira-medidas-cautelares-para-casa-del-migrante-de-caborca-sonora/>

6.1 Requirements

Supplies and conditions for the prevention of COVID-19

The shelters lack adequate facilities and specialized personnel for the diagnosis and medical care of people infected with COVID-19, being only spaces for compliance with the recommendations emanating from the "Stay at Home" health policy.

Nor are they equipped with sufficient personal protective equipment (hereinafter PPE) such as gloves, masks and supplies for the disinfection of facilities and people. PPE provisions come primarily from donations and contributions from civil society organizations and religious associations.

In the shelters, the water services expenses have been magnified, an essential element for the prevention of COVID-19. However, they do not have the necessary state support for the cancellation of debt derived from the service, a situation that endangers the right to water and the humanitarian aid that people in the context of mobility need in the face of the health emergency.

Food Security

In terms of food, the shelters have not received the necessary government support, so they have required the assistance of civil society organizations to create alliances with companies and agricultural producers in order to meet the food requirements of their beneficiary populations.

The first month, after the declaration of the health contingency, represented a great challenge for the supply of food in the shelters due to the bulk restrictions of purchases. This situation was more severe for the shelters that do not have legal recognition.

Legal Recognition of Shelters

Some shelters that have emerged due to immigration situations, run by religious associations, do not have the legal recognition to demand the state support that they require in the face of the COVID-19 pandemic. The legal recognition of shelters would allow them to request the cancellation of public service debts and access to purchases of large volumes of supplies for hygiene, PPE and food.

These unprotected shelters receive people in a context of mobility without major requirements. They are also reception places for people under the “Remain in Mexico” program and who have been removed from the United States in accordance with Title 42, Section 265 of the Code of the United States of America.

6.2 Good Practices

Since the onset of the COVID-19 pandemic, shelters have been forced to substantially modify their admission and assistance processes to prevent the spread of the virus within their facilities. However, they have had to face the challenges presented by the pandemic without having resources or government assistance¹²³.

The shelters have implemented preventative actions such as the suspension of new admissions, constant hygiene practices, and monitoring of the health of the population classified as risk groups.

Nevertheless, in order not to leave people in mobility unprotected outside the shelters, they have carried out food assistance actions for people under the “Remain in Mexico” program who have lost their temporary jobs as a result of

¹²³Contralinea. Shelters for migrants, forgotten and unprotected in the pandemic, June 14, 2020. Available at: <https://www.contralinea.com.mx/archivo-revista/2020/06/14/albergues-para-migrantes-en-el-olvido-y-la-desproteccion-en-la-pandemia/>

the pandemic or applicants for the status of refugee and with complementary protection in Mexico who suffer from the adjournment of their integration processes.

Without government contribution, shelters such as the Casa del Migrante of Saltillo have delivered groceries outside their facilities, respecting the healthy distance, in order to mitigate the situation of food insecurity of people seeking a refugee status in Mexico and under the "Remain in Mexico" program. Similarly, the organizations Al Otro Lado and Espacio Migrante have done this, through the delivery of prepaid cards to people who are in shelters in Baja California.

Another of the good practices developed by the shelters is the non-interruption of legal advice processes for people seeking a refugee status in Mexico. In accordance with the global guidelines for the prevention of COVID-19, informative material on the matter is handed out. Along with the follow-up that the shelters are providing, importance to mental health and collective and individual empowerment is also given through training processes.



VII. Immigration Adjustment

In the midst of the pandemic, the INM in Baja California withdraws the possibility of extending the validity of Visitor Cards for Humanitarian Reasons (TVRH as per its acronym in Spanish) for migrants to whom they were issued due to the vulnerability they presented when arriving in the 2018 caravan. The argument they present is that the cause for which this immigration document was issued to them no longer subsists; that is, the caravan in which they arrived a year ago. The authorities ignore the fact that the absence of the caravans and the presence of the pandemic has put migrants in the most vulnerable situation they have ever been in. And once again it unprotects them by hindering their

access to all the rights that depend on the right to regularization or adjustment.

In this sense, the Committee for the Protection of the Rights of All Migrant Workers and their Families and the UN Special Rapporteur on the Human Rights of Migrants recommend “promoting the regularization of migrants in irregular or undocumented conditions. This includes adopting other regular ways for migrants in vulnerable conditions, measures that allow for work visa extensions, and other appropriate measures to reduce the challenges faced by migrants and their families due to the closure of trade, and thus guarantee a continuous protection of their human rights”¹²⁴.

¹²⁴ UN. Committee for the Protection of the Rights of all Migrant Workers and their Families and the Special Rapporteur on the Human Rights of migrants. Joint note with guidelines on the impacts of the COVID-19 pandemic on the human rights of migrants, p. 3 and 4.



CONCLUSIONS



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Conclusions

Although there are several ongoing processes to demand that the Mexican government acts in an immediate manner to guarantee the rights to life, health, and integrity of people detained in immigration stations and migrants subject to the “Remain in Mexico” program, there are no effective mechanisms that have worked, so that the protection is immediate and effective.

It is necessary for the Mexican authorities to respond to the requests from the judiciary and the authorities that have ordered them to carry out concrete actions for the benefit of the migrant population, asylum seekers and those in need of international protection.

It is important to remember that “international standards establish that immigration detention should apply only in an exceptional manner and after having analyzed its need in each case. In all cases, States must avoid excessive prolongation of detention and must ensure that it is as brief as possible.” No migrant should be in immigration stations during the pandemic and the State should promote alternative measures to support this population.

The Inter-American Commission on Human Rights has indicated that inadequate conditions of immigration detention can generate “serious damages to the rights to personal integrity and to physical and psychological health of detained migrants.” In the context of the pandemic caused by COVID-19, the IACHR has urged States to “avoid the use of immigration detention strategies and other measures that increase the risks of contamination and spread of the disease generated by COVID-19 and the vulnerability of people in situations of human mobility.”

The IACHR has taken into account elements such as sanitary conditions, lack of access to adequate medical treatment, as well as the exposure of persons deprived of liberty to contagious diseases. Thus, the IACHR has assessed these elements as a whole from a comprehensive perspective to determine that persons deprived of their liberty face “sufficiently significant sources of risk” with the potential to affect the rights to life, personal integrity, and health of the detainees.

Finally, the Commission has considered that the serious situation in the immigration centers in which migrants are kept in detention compromises the rights to life and personal integrity of detained migrants.

The detained persons are in an extremely serious risk situation, due to the highly precarious conditions in the immigration centers. These include a deteriorating situation that progressively worsens. This situation prevents detainees from being able to carry out self-isolation, as has been recommended by the WHO and by the Mexican State itself in the framework of the COVID-19 pandemic.

Added to this serious situation is the lack of protocols regarding fires and the responses by the authorities of the detention centers to the demonstrations that have taken place in some of the country's immigration stations, due to the inadequate conditions of detention and the fear caused by the high risk of COVID-19 contagion.

As an example of the responses adopted by the authorities regarding this highly serious situation, there are the brutally repressed demonstrations by the Federal Police and the Mexican National Guard in the immigration stations in Tapachula and Tenosique and where possible acts of torture could be presumed. As well as the fire in Tenosique, where the authorities locked up the detainees, claiming the life of an applicant for international protection and causing the poisoning of at least 14 other detainees.

The foregoing demonstrates a high risk that virus contagion may spread exponentially among people who are still in immigration stations, which can seriously affect the human rights of detainees, due to the serious risks to life, health and personal integrity that this entails.

Additionally, there is a serious risk that fear and despair among the detained population will grow and the demonstrations will continue and, consequently, the repressions by the authorities within the immigration stations who are still

not adopting protocols against fires and riots and against COVID-19, seriously impacting the rights of detained migrants. Thus, a sufficiently serious source of risk is constituted that could affect the rights to life, personal integrity and health of those still detained.

We also consider that the Ministry of Health and the General Health Council, within the framework of the epidemic in Mexico and the extraordinary powers assigned to them by the Constitution could set a precedent at an international level if measures of a general nature are issued to protect the life, health and dignity of the aforementioned vulnerable group, particularly those who are being removed from the United States of America.

The government of Mexico has to realize that by admitting the expulsions that are carried out from the United States, it violates the rights of migrants and asylum seekers coming from that country, and it is its responsibility to provide them with protection in Mexico, access to a due process and to health, as well as to offer them a stay for humanitarian reasons within the framework of the COVID-19 health crisis that we face.

No measure to combat COVID-19 in Mexico will be effective if the entire population is not taken into account, including migrants, asylum seekers and those subject to international protection.



**PETITIONS TO THE
MEXICAN STATE**



Petitions to the Mexican State

- I. ON DETENTION IN IMMIGRATION STATIONS AND THE RIGHTS TO PERSONAL LIBERTY, PERSONAL INTEGRITY, LIFE AND HEALTH:

TO THE NATIONAL INSTITUTE OF IMMIGRATION:

1. Releasing people who are still detained in immigration stations and temporary centers, through a coordinated mechanism of detention alternatives.
2. Suspending detentions to avoid risks of contagion by Covid-19 and guarantee that the policy of non-detention of migrants in immigration stations remains to avoid risks of contagion from Covid-19.
3. Urgently favoring the immigration regularization of all persons released from immigration stations and temporary centers, as well as those who require it in order to have access to other rights and services.
4. Guaranteeing supplies and conditions of hygiene, cleanliness, health and basic services in the immigration stations.
5. Avoiding immigration controls and other intimidating measures that discourage access to healthcare institutions by migrants.
6. Having reaction protocols in cases of fires and medical equipment to attend emergencies.
7. Designing criteria so that when detainees are released, support and assistance actions are provided, as well as information mechanisms to avoid health risks for their return to their place of origin to be safe.

TO THE NATIONAL GUARD AND POLICE ELEMENTS:

8. Respecting the right to protest of migrants, without carrying out acts of repression that threaten freedom of expression and personal integrity and that put their lives at risk.
9. Ensuring that the personnel know and respect the protocols on the use of force.

10. Initiating administrative sanctioning procedures against personnel who committed abuses against migrants in immigration stations in the cases documented in this report.
11. Guaranteeing the reparation of the damage in cases of abuse and human rights violations documented against migrants in this report.

TO THE MINISTRIES OF HEALTH, THE GENERAL COUNCIL OF HEALTH AND GOVERNORS

12. Guaranteeing access to health for migrants, under conditions of equality and without discrimination on grounds of nationality or immigration status.
13. Guaranteeing migrants free access, without additional requirements, to adequate and sufficient medical care, as well as to the necessary medicines, particularly in cases of Covid.
14. Guaranteeing migrants access to free tests to detect Covid-19.
15. Establishing a mental health care program for migrants who are in the Northern and Southern borders of Mexico, considering that, in the context of a pandemic, anxiety and other psychological conditions increase.

II. ON PEOPLE REMOVED AND/OR DEPORTED FROM THE US AND THE "REMAIN IN MEXICO" PROGRAM

16. Stopping the admission of people who are victims of expedited expulsions from the US in accordance with Title 42, or alternatively, ensure that the Mexican government has strict control of the people who enter Mexico as removed, deported or through the MPP program of the United States, keeping records of all people, regardless of the point of entry at the border. Ensure the transparency of this information, broken down —among others— by type of

departure from the US (deportation, expulsion under Title 42, entry by MPP or other), immigration documentation in Mexico (Multiple Migration Form, TVRH, Mexican visa or other), point of entry, nationality, age, sex and condition of vulnerability.

17. Designing admission protocols for migrants removed from the United States, where the protection of their rights is guaranteed under equal conditions and without discrimination, as well as access to free healthcare services. Said protocols must establish sanitary measures for the prevention of Covid contagions, and support and assistance actions, as well as information mechanisms to avoid health risks, and guarantee them a safe return to their place of origin when they so wish.
18. Designing an inter-institutional public policy to teach and train migrants to learn a trade and acquire new knowledge that they can use in a job; as well as integrating them to economic activities so that they can earn an income to subsist while they wait in Mexico for the resolution of their immigration procedures.
19. Creating coordination mechanisms among countries to guarantee an assisted return of migrants to their country of origin when they so wish.
20. Facilitating the renewal of official documents in Mexico, such as the CURP, IMSS, ISSSTE, etc., so that people can access healthcare, employment and other services, while waiting for their appointments in the US, taking into account that the procedures are being delayed because of the pandemic. In cases of people in situations of multiple vulnerability, such as pregnant women, there is a reinforced duty of the State.

III. ON THE RIGHT OF ACCESS TO JUSTICE AND THE JUDICIARY

21. It is necessary for the Judiciary to function adequately to protect the rights of migrants in times of a pandemic. That the judges, in accordance with the principle of independence, resolve and enforce their resolutions avoiding any type of interference or external influence. The judges must guarantee the rights of the persons for whom constitutional protection is requested and ensure that the amparo proceedings are really an effective remedy to protect the rights of migrants. The performance of the Judiciary is essential in times of COVID-19 to guarantee the health and life of migrants who can be found in migration stations or in conditions of multiple vulnerability. The authorities from whom violating acts are claimed must respect and comply with the mandates of the Judicial Branch, abiding by the suspensions of the acts claimed, responding to the demands for protection.
22. The authorities designated as responsible in the amparos must guarantee access to information and provide detailed and complete information in their responses so that they fully comply with the judicial decisions, without lengthening the processes involved in an amparo trial, to guarantee the rights of migrants who may be detained.
23. Establishing coordination mechanisms between federal and local authorities and speed up communication and compliance with judicial decisions.

IV. ON THE NEEDS OF SHELTERS

To the Mexican Government

24. Supporting the operation of shelters during the pandemic, so that they can contribute by housing migrants in conditions of safe distance and safety, through the forgiveness of tax payments and service bills such as water, electricity, etc. and supporting the construction of spaces, so that the shelters can keep housing more migrants while keeping the safe distance in the accommodation.
25. Strengthening the supply of shelters with medical supplies, personal protective equipment for the prevention of the spread of COVID-19 and food with high nutritional value.
26. Creating conditions for the legal recognition of shelters that have not yet obtained said status and that carry out humanitarian work.
27. To institutionally strengthen the border municipalities by the Federal government with a preventative, non-reactive approach and the non-criminalization of people in the context of mobility.
28. Carrying out an analysis of the context, needs and good practices of the shelters so that the Federal government recognizes, supports and incorporates the good practices already developed in the governmental shelters.
29. Carrying out joint efforts between the civil society and the government, creating continuous and expeditious communication channels and spaces.
30. Designing specific protocols for the prevention and containment of COVID-19 in shelters, especially to safeguard the population belonging to groups at a higher risk of contagion.
31. Carrying out physical and mental health campaigns to serve the migrant population housed in shelters.

V. ON THE NEEDS OF MIGRANTS OUTSIDE SHELTERS AND IMMIGRATION REGULARIZATION

32. Supporting migrants who lost their jobs in the border areas, due to the pandemic, in order to help them make their housing rent payments and avoid having to seek accommodation in shelters.
33. Facilitating the processing and admission of permanent residence applications, since said document allows migrants to access jobs or study opportunities. To guarantee the completion of these procedures without intermediaries, that is, without the need for the payment of lawyers by migrants.
34. That the INM refrains from collecting from migrants their original refugee recognition resolutions.
35. Designing a public policy that integrates migrants into economic activities so that they can earn income to survive during their stay, particularly when they do not have access to shelters due to the reduction of their capacity because of the epidemic.

VI. PUBLIC HUMAN RIGHTS ORGANIZATIONS

36. The CNDH must investigate the human rights violations committed against all the victims in the protests and riots documented in the report, in order to establish the responsibilities of public servants, listen to the victims, document their testimonies, and guarantee their right to participate in the complaint filed and issue a recommendation on the events that occurred, establishing the measures for comprehensive reparation of the damage and guarantees of non-repetition.
37. That the personnel of the National Mechanism for the Prevention of Torture make visits to the immigration stations that are operating to

prevent mistreatment and verify the protection of the rights to integrity, personal, health and life.

VII. EXECUTIVE COMMISSION OF ATTENTION TO VICTIMS

38. The CEAV has the responsibility of recognizing Mr. Barrientos' family members as victims, registering them and providing them with all the assistance and reparation measures and guaranteeing all the rights in their favor established by the General Law for Victims. Victims must have the necessary means required for the death of Mr. Barrientos to be investigated and to be able to access justice, truth, and comprehensive reparation.

VIII. CROSS-CUTTING REQUESTS TO ALL AUTHORITIES

39. Guaranteeing equal treatment and without discrimination to all migrants, avoiding the use of stereotypes, stigmatization and criminalization to access the right to health, support and assistance services, and protection of their personal integrity.

40. Designing an inter-institutional plan or program to respond to migrants, meet their needs, protect and guarantee their rights for the duration of the pandemic.

41. Designing joint protocols to meet the needs of migrant children, particularly those unaccompanied.

42. Designing care and response protocols to attend the next caravans in the context of Covid, guaranteeing the safety and integrity of migrants.

43. Establishing coordination mechanisms between Federal and local authorities to meet the needs of the migrant population throughout the duration of the epidemic.
44. Designing an information campaign in the migrant transit and reception communities, aimed at authorities and society in general to avoid stigmas and stereotypes against migrants related to the risk of Covid contagion, particularly in the execution of collective movements such as caravans.
45. Designing care protocols for migrants in conditions of multiple vulnerability, such as pregnant women, children, and people with pre-existing diseases in order to meet their particular health needs in the context of Covid.

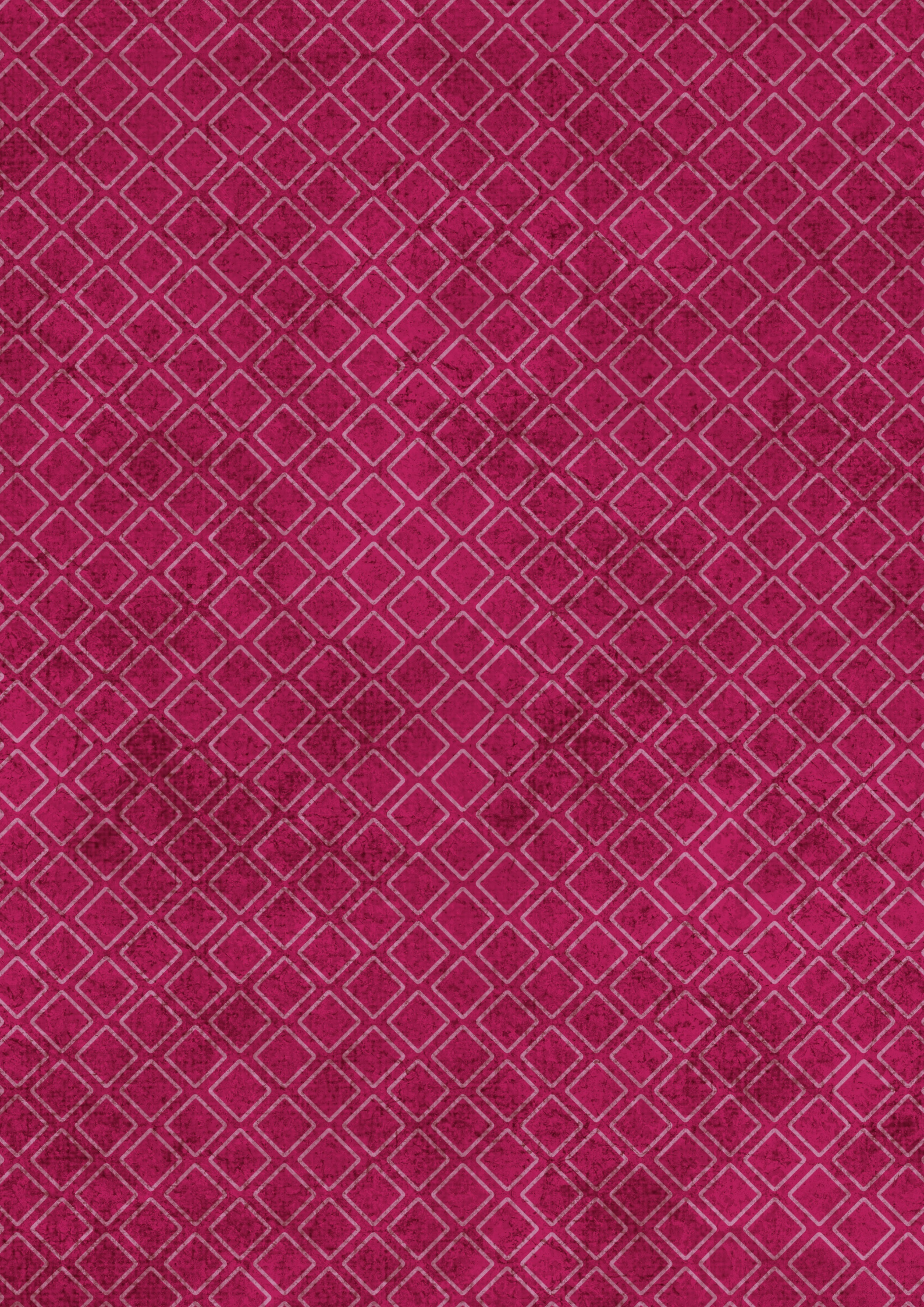
PETITIONS TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA

1. Rescinding the policy of arbitrary removal of migrants under 42 U.S.C. Sec. 265 and guaranteeing the processing of migrants in accordance with current immigration regulations and due procedural guarantees.
2. Rescinding the “Remain in Mexico” or “MPP” policy and guaranteeing the entry of people subject to the MPP to the United States to carry out their immigration and asylum procedures in freedom in the United States territory. Guaranteeing the reopening of cases and the termination of previous deportation orders for people who were subject to the MPP, so that they can have access to an immigration procedure in the United States with the guarantees of a due process.

3. Establishing a policy for the protection of migrant children, especially unaccompanied children, and not removing them from the country. Guaranteeing family unity and taking effective measures to avoid family separation as a consequence of any immigration procedure or as a consequence of immigration detention. Ensuring the non-detention of migrant children and best interest principle. Guaranteeing the completion of the asylum application procedure or other types of protection.

REQUESTS TO INTERNATIONAL ORGANIZATIONS

1. Generating channels for dialogue between the civil society and the government in order to promote discussion and collaboration.
2. Demanding the government to adopt measures and protocols that prevent and treat cases of COVID-19 that may be generated in shelters.
3. Follow-up and monitoring of compliance with the requests contained in this report.



APPENDIX 1

Limitations of the Mexican amparo proceedings in practice Precautionary measure in the Mexican amparo trial

I. General framework

1. As it is well known, in the absence of sanitary measures for migrants in Mexico before the COVID-19 pandemic, various organizations have filed several amparo lawsuits. We explain below the concept of amparo.
2. The amparo trial is provided for in Articles 103 and 107 of the Political Constitution of the United Mexican States and developed in the Amparo Law as a protection mechanism for “[...] persons against general norms, acts or omissions by the public powers or individuals [...]”^[1] in the cases indicated in said regulatory framework.
3. The substantiation of the amparo lawsuit contemplates the “suspension of the claimed act”^[2]. Said suspension is essentially a precautionary measure that prevents the act or norm claimed as violating of human rights from being executed, continuing to be carried out or affecting the complaining party until revoked^[3] or until the judgement that ultimately resolves it is issued^[4].
4. Even though in the context of the Coronavirus health emergency precautionary "protection measures" have been granted that may be harmonized with international standards, this has not been the general rule, not necessarily because such legal structures have poor regulation, but because the responsible authorities —State agents—

have resisted compliance with judicial decisions, or where the case may be, have done so poorly.

5. As a consequence of this, it is important to bear in mind that the suspension of the act is not the definitive resolution, but as indicated, it operates as a precautionary measure while the merits of the matter are finally resolved. Whether the decision is upheld depends on the information that is passed on to the judge. The judge dictates the suspension, and the authorities respond by means of reports. In most cases, the authorities have responded very briefly, in such a way that the judge does not have in their hands all the information to make a decision, so in some way, the burden of proof is on the NGOs requesting the amparo.

III. Characterization of the amparo procedure and suspension of the acts

6. The substantiation of the indirect amparo procedure, applicable in the case of emergency, is as follows:
 - a. Within twenty-four hours from the filing of the claim, the judge must determine whether to reject, prevent or admit (Article 112 of the Amparo Law); If prevention is made due to deficiencies, irregularities and omissions in the claim, it must be prevented to correct them within a period of five days (Article 114 of the Amparo Law);
 - b. If there are no deficiencies, the judge will admit the claim and designate the day and time for holding the constitutional hearing within the following thirty days (Article 115 of the Amparo Law); if the court deems it necessary, the hearing may

- be adjourned for another thirty days (Article 115 of the Amparo Law);
- c. The judge will transfer the claim to the responsible authorities and the interested third party (Article 115 of the Amparo Law). The responsible authority will have fifteen days to submit its report with justification and if the judge deems it necessary, another ten days for such purposes may be granted (Article 117 of the Amparo Law);
 - d. Between the date of notification to the complainant of the authority's report and the holding of the constitutional hearing, there must be a period of at least eight days, because, if not, it could be deferred (Article 117 of the Amparo Law). During the constitutional hearing, evidence may be presented, which must be offered five days in advance (Article 119 of the Amparo Law);
 - e. The constitutional hearing will be public and in there the list of records, the evidence offered and submitted will be conducted, arguments will be formulated, and a judgement will be issued (Article 124 of the Amparo Law).
 - f. Regarding the suspension of the claimed act, this can be decreed *sua sponte* or at the request of a party (Article 125 of the Amparo Law), and it may be requested at any time as long as the judgement on the merits is not issued in the indirect amparo trial (Article 130 of the Amparo Law).
7. Regarding the suspension of the act, it is important to bear in mind that in terms of the amparo protection there are three types of suspensions: the suspension directly in the court order, the provisional suspension and the definitive suspension. In terms of

Subsection d), Section I, Article 97 of the Amparo Law, in the indirect amparo, the appeal of complaint may be presented against the resolutions issued by a District Judge in the matter of amparo protection where the suspension directly in the court order or the provisional suspension is granted or denied. Regarding the definitive suspension, in the indirect amparo as established in Subsection a), Section I, Article 81 of the Amparo Law, an appeal for review is admissible against the resolutions issued by a constitutional amparo judge in which they grant or deny the definitive suspension. In the latter case, the agreements issued at the incidental hearing must also be challenged.

8. Both the complaint and the review that are filed when challenging a resolution issued in the suspension incident will be resolved by a Collegiate Circuit Court, in terms of Sections II and III of Article 37 of the Organic Law of the Judicial Branch of the Federation
9. The deadlines for resolution, in a formal sense, according to jurisprudence and the law are the following:
 - a. Regarding the duration of the indirect amparo, the Supreme Court of Justice of the Nation has determined that there is no fixed term for a District Judge to issue a judgement^[5]. It has not even given an approximate duration, as opposed to the matter of direct amparo, in which it has determined that an approximate term is 6 months of duration, under normal conditions that do not delay the trial, until the issuance of the judgement^[6]. In fact, with respect to the indirect amparo, the High Court stated that it is not possible to legally or judicially

establish a fixed term, since not all trials have the same degree of difficulty and the courts do not have the same operating conditions. The nature of the violation, the intrinsic characteristics of a matter, the legal difficulty and the issues involved should be analyzed on a case-by-case basis. However, the Court suggests that the tentative duration of an amparo proceeding is obtained from the data provided by the General Directorate of Judicial Statistics of the Federal Judicial Council. With this information, the duration of a trial can be determined at a specific time and judicial circuit. Therefore, the resolution of an indirect amparo, considering the second instance, which is the review, could take more than six months, depending on the circumstances.

- b. As previously stated, the appeal is admissible to challenge the resolutions of the District Judges that grant or deny direct or provisional suspension. In the case of the complaint, Article 101 of the Amparo Law establishes that once the complaint is filed before the District Judge who issued the resolution, the parties will be required to indicate the records that must be sent to the collegiate court passing a judgement. Three days are given to comply with the requirement. Once this is done, the records will be sent to the body that will resolve the matter.
- c. According to the last paragraph of the aforementioned Article 101, the Collegiate Court must pass judgement on the complaint within the following forty days, but if it is about those resolutions in which the suspension directly in the court order or the provisional suspension is granted or denied, then the

Collegiate must issue the sentence within a period of forty-eight hours, that is, two days, as a maximum period. Therefore, considering the deadlines provided in the Amparo Law, once a complaint related to the suspension incident is filed, three days will pass to indicate records and approximately another three or five days to conform the file and send it to the Collegiate, approximately two or three days to deliver the file and two more days to resolve the matter. So, it will be approximately fifteen days to issue a sentence in an emergency case.

- d. Regarding the term to pass judgement in an appeal for review in the indirect amparo, the general rule is ninety days for the Collegiate Court to issue a judgement, as provided in Article 92 of the Amparo Law.
- e. Regarding the review that is filed against the refusal to grant the definitive suspension or, rather, to grant it, the section of the Amparo Law that regulates the review does not establish a term shorter than the generic ninety days.
- f. In relation to the tentative period for a judgement to be issued, once the review has been filed, the section of the Amparo Law that regulates it establishes various procedural moments with their respective deadlines: once the appeal has been filed and it has been distributed among the parties, in three days, once the file is conformed, it will be sent to the Collegiate (Article 89 of the Amparo Law); within three days after the receipt, the President of the Court will determine the validity of the appeal and admit it or reject it (Article 91 of the Amparo Law); once the

appeal is admitted, whoever obtained the favorable ruling in the indirect amparo will have five days for accession (Article 82 of the Amparo Law). Once all of the above has been done, it will be delivered to the corresponding Magistrate Judge to prepare the draft sentence and this must be issued within a maximum period of ninety days (Article 92 of the Amparo Law. Based on this, an approximate calculation can be made of the time it would take without major eventualities to issue a judgement in an appeal for review.

- g. The result would be: five days for the generation of the file, three more days for the submission of the file, three more days for its admission, five days for accession and ninety days (three months) to pass judgement, which gives an approximate of three and a half months, deducting non-business days.

- 10. From the previous report, it is until the constitutional hearing is held, the evidence presented and assessed, and the arguments made that the judge is in a position to issue the judgement on the merits. However, previously, the act that is claimed could have been suspended, if it falls within the assumptions of suspension, whether directly in the court order, a provisional or definitive one.
- 11. If the complainant is dissatisfied with the judgement issued by the District Judge, an appeal for review may be filed in terms of Subsection e), Section I, Article 81 of the Amparo Law. When the judgement is challenged —if applicable— the agreements pronounced at the constitutional hearing itself must also be

challenged. The time that both the judge and the collegiate body may take to fully resolve an indirect amparo lawsuit was previously stated.

III. Exercising the authority to bring the matter under its own jurisdiction

12. As previously explained, when one of the parties is dissatisfied with the decision made by a District Judge in a constitutional hearing, the appeal for review is admissible. Once it is filed and it has been admitted by the Collegiate Circuit Court that has been responsible for hearing it, it is possible to request the Supreme Court of Justice of the Nation to exercise the authority to assert its jurisdiction, according to the second paragraph of Subsection b) Section VIII, Article 107 of the General Constitution of the Republic. To request this power, only the Supreme Court itself, a Collegiate Circuit Court, the Attorney General of the Republic and the Federal Executive Branch can do it through the Legal Counsel of the Government.

13. However, the First Chamber of the Supreme Court implemented a mechanism for complainants to request the Court that one of the judges endorse any request to exercise the assumption of jurisdiction with the purpose that the defendants inform the High Court of all those cases that may be of interest and significance. In the latter case, people can submit their request to the First Chamber, through its secretariat, which will request the Collegiate Court to hear the case to suspend the resolution of the matter, meanwhile one of the judges will decide whether to endorse the request of any of the non-legitimized parties. To do this, the request is sent to a commission of secretaries, called the Fundamental Rights Commission, which initially analyzes the merits of the request. If they decide that it has

merits, they send it to the members of the First Chamber so that in a private session they can decide whether or not to accept the opinion of the secretaries of the commission, when given a positive assessment. A favorable opinion of the Commission of Secretaries does not guarantee that the judges decide to endorse a request from a non-legitimized party and exercise the power to take over a matter.

14. When the Supreme Court decides to exercise the authority to assert its jurisdiction, in theory, it would be subject to the period of ninety days provided in Article 92 of the Amparo Law. This must be the case, since when the Court takes a matter that falls within the jurisdiction of a Collegiate Court, it implies that the High Court is replacing the lower court and assumes jurisdiction over the appeal. However, the Supreme Court does not respect the deadlines established in the Amparo Law and, in general, issues sentences with a long delay. In the case of the Foundation for Justice and the Democratic Rule of Law, the Court has taken over cases that have taken more than six years to resolve, counting from the filing of the lawsuit, until the day the Court passes judgement in the appeal for review. As previously stated, regarding the indirect amparo there is no fixed term for a lawsuit to be resolved in a short period of time. The time a trial lasts depends on its own characteristics and complexity.

IV. Procedural complications of judgements issued by District Judges

15. It generally happens that with several cases, although they deal with similar facts and identical human rights violations, amparo trials are referred to different judges and different Collegiate Courts, depending on the jurisdiction (Federal, state, territorial and

material)^[7]. This is a problem, because it is common for judges to adopt different and sometimes contradictory criteria. This is serious, since there is a different circumstance regarding the enforcement of justice for complainants. The reason for this is that in the matter of amparo there are no erga omnes effects, but the effects of an amparo are only relative and protect only the person who won the amparo trial and was granted constitutional protection, as provided by the first paragraph of Section II, Article 107 of the Political Constitution of the United Mexican States. So, protecting one complainant does not necessarily protect another, even if the facts are similar or identical and the violations of fundamental rights are the same.

16. In the event of contradictory judgements issued by the collegiate courts of one same circuit, the contradiction may be reported to the Plenary of the corresponding Circuit, in order to decide which criterion should prevail. The complaint for the contradiction can be presented by the Attorney General of the Republic in criminal cases, the Collegiate Courts themselves and their members, the Federal Executive Branch through the Legal Counsel of the Government, as well as the parties involved in the cases. This is based on Section XIII, Article 107 of the General Constitution of the Republic.

V. Jurisprudence and its creation, as well as its binding force

17. As established in Article 215 of the Amparo Law, jurisprudence is established by reiteration of criteria, by contradiction of thesis and by substitution. As established in Article 217 of the same law, the case law of the Supreme Court is mandatory for all Circuit Plenaries, Collegiate

Courts and judges of all kinds. The case law of the Circuit Plenary is mandatory for all courts and judges, except for the Supreme Court. The case law issued by Collegiate Courts is compulsory for all judges, except for other Collegiate Courts, the Circuit Plenary and the Supreme Court.

18. According to Articles 222 to 224 of the Amparo Law, the jurisprudence by reiteration is issued by the Supreme Court, in plenary session or in Chambers, and the Collegiate Circuit Courts. In the case of the Court, this type of case law is generated when the same criterion is sustained in five uninterrupted sentences by a contrary one, resolved in different sessions, by a majority of at least four votes. In the case of collegiate bodies, the requirements are the same, except for the vote, which must be unanimous. The jurisprudence by reiteration is mandatory. The process of generation of case law by reiteration is usually slow due to the amount of precedents needed and the vote required for a criterion to gain binding force. As long as there is no case law, isolated theses are merely guiding.

19. Articles 225 to 227 of the Amparo Law regulate jurisprudence by contradiction of thesis. This type of jurisprudence is established by elucidating the discrepant criteria held between the chambers of the Supreme Court, between the Circuit Plenary sessions or between the Collegiate Circuit Courts. The Plenary of the Court resolves the contradictions of criteria taking place between the Circuit Plenary sessions of different Circuits, between the Circuit Plenary sessions in specialized matters in the same Circuit, or its collegiate courts of various specialties, as well as between Collegiate Courts from different circuits. The Circuit Plenary sessions will resolve the

contradictions of criteria that occur between the Collegiate Courts of the corresponding circuit. As can be seen, in order for case law to exist by contradiction, it must go through the litigation of cases before the District Courts, the delivery of various sentences by the Collegiate Courts, or the Circuit Plenary or the Court. This type of case law takes a long time to generate. The complaints of contradiction of criteria will be presented before the bodies mentioned in this paragraph, according to their hierarchy and jurisdiction.

20. Substitution jurisprudence is regulated in Article 230 of the Amparo Law. Any jurisprudence may be substituted, whether it has been generated by reiteration or by contradiction of criteria. Substitution occurs when, once a specific case has been resolved, a Collegiate Court or the Circuit Plenary sessions and the Supreme Court chambers consider that the prevailing criterion should be modified, just because of the last specific resolved case. Like the jurisprudence by reiteration and contradiction, a long process is required for one case law to be replaced by another.
21. The second and third paragraphs of Section II, Article 107 of the Constitution establish the general declaration of unconstitutionality. This is carried out when the bodies of the Judicial Branch of the Federation establish jurisprudence by reiteration in which the unconstitutionality of a general rule has been determined. In these cases, the Supreme Court will notify the above to the legislative authority issuing the law. If the respective legislature does not modify the law to eliminate the problem of unconstitutionality within ninety calendar days, the Highest Court will issue the general declaration of unconstitutionality. The latter must be approved by a majority of at

least eight votes out of eleven that make up the Plenary of the Supreme Court. This power does not apply in tax matters. This is the only exception to the principle of relative effects of amparo judgements and it would be the only way for the declaration of unconstitutionality of a law to have erga omnes effects, that is, general effects.

VI. Conclusion

22. Notwithstanding the regulatory complexity in judicial practice, it is noted that for compliance with the suspensions that have been granted in immigration matters, for example, the one deriving from the amparo proceeding 426/2020 of the First District Court in Administrative Matters in Mexico City, the Mexican State has improperly interpreted the decision of the amparo judges—for the effect of refraining from its compliance—. It has limited the access to information in the trial itself and, in a good majority of cases, has challenged the suspension resolutions, which complicates the adoption of appropriate precautionary measures.
23. In the current context, extreme difficulties have been experienced in submitting applications for amparo protection, mainly through the electronic platform. The system goes down and asks to go to submit it physically, which in times of pandemic, becomes practically impossible. Only after many hours of trying is it possible to gain access.
24. The substantive resolution of an indirect amparo, according to the experience of some of the organizations signing the measures, may

take more than 5 years, because the terms are delayed, due to the resources that can be presented, the difficulty of obtaining the truthful information from the authorities, because generally the complaining party is the one who has to prove the facts, and because the sanctions that should be applied in the event of non-compliance by the authorities are not necessarily applied.

25. The amparo in Mexico, despite being one of the legal structures that grants maximum protection to a person, is conceived in practice as a technical remedy, which contravenes the right to a simple remedy established in the American Convention on Human Rights, whose process, as already noted, is complex, highly specialized—it necessarily requires technical knowledge and makes it not very accessible to people placed in vulnerable situations, which makes it inoperative for special situations like the current pandemic.
26. To the foregoing, which by itself is a denial of access to an effective remedy, the delay in the resolution of an amparo lawsuit is added—nine months on average, only for the first instance—and the omission of State agents to define a comprehensive and cross-cutting public policy based on the repeated number of cases and issues on the same matter that are put to the consideration of the judges of the Judicial Branch of the Federation.
27. Hence, it is important that the Inter-American Commission on Human Rights dictate the corresponding measures, so that the human rights of people in the context of mobility that have been violated are immediately repaired by the Mexican State and so that they are not put at risk of suffering an irreparable violation.

[¹] Cf. Article 1 of the *Amparo* Law, Regulating Articles 103 and 107 of the Political Constitution of the United Mexican States (*Amparo* Law). Published in the Official Gazette of the Federation (DOF as per its acronym in Spanish) on April 2, 2013. The latest reform was published in the DOF on June 15, 2018.

[²] Cf. Article 125 and following of the *Amparo* Law.

[³] Cf. Article 139 and following of the *Amparo* Law.

[⁴] Cf. Article 74 and following of the *Amparo* Law.

[⁵] The thesis of the First Chamber is as follows:

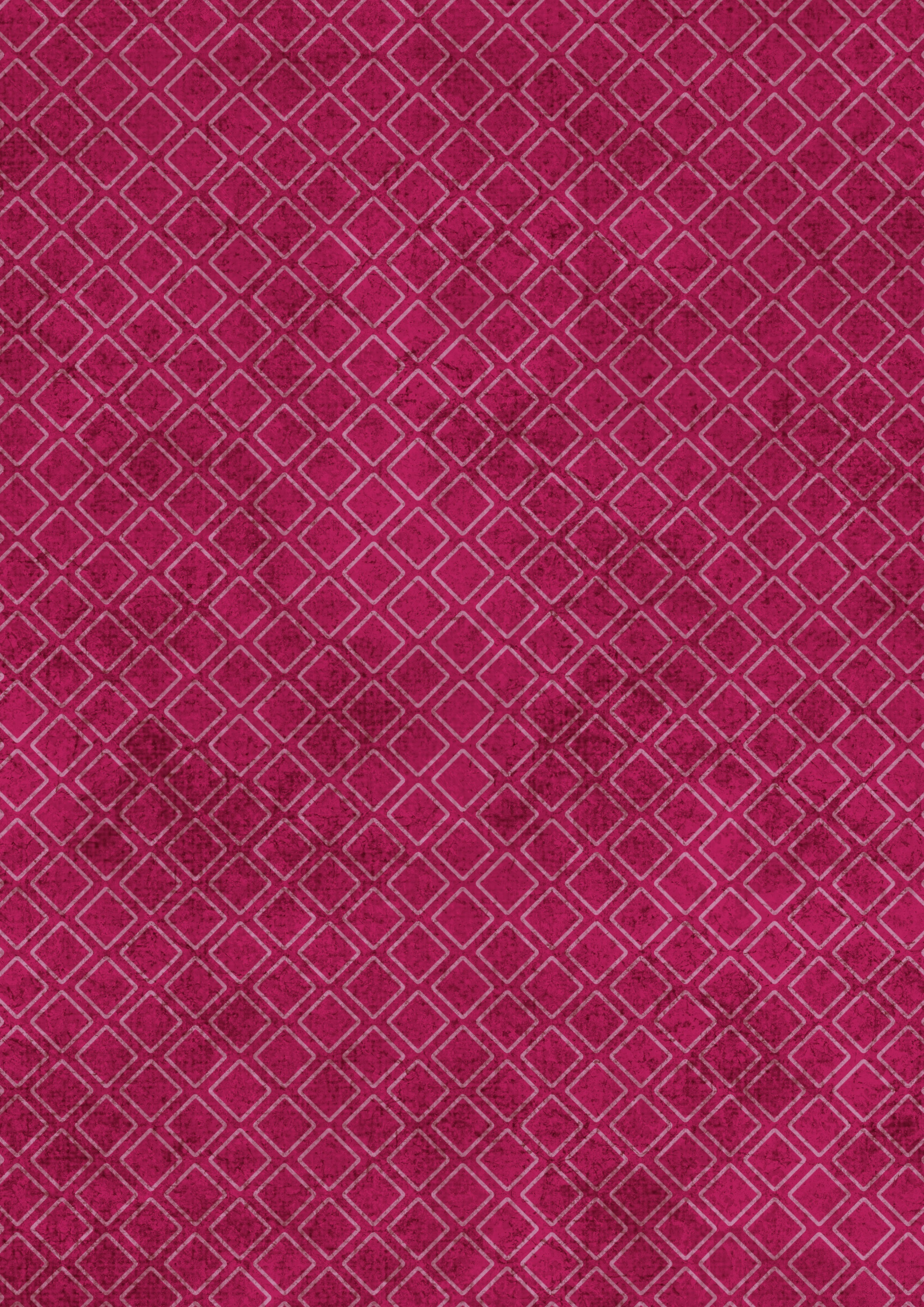
GUARANTEE FOR THE SUSPENSION OF THE ACT CLAIMED IN INDIRECT AMPARO. TENTATIVE PERIOD FOR THE CALCULATION OF THE DURATION OF THE TRIAL WHEN NECESSARY TO SET THE AMOUNT OF THE BAIL BOND. In accordance with the provisions of Articles 124 and 125 of the *Amparo* Law, the suspension of the act claimed in the indirect amparo is conditional on the complainant providing a sufficient guarantee to repair the possible patrimonial damage that with said legal structure could be caused to the injured third party in the event that a protective judgement is not obtained, and for this it may be necessary to calculate, in each case, a probable term for the processing and resolution of the trial. This is due to the impossibility of legal and jurisprudential provision to set a fixed term, since not all cases have the same degree of difficulty and not all jurisdictional bodies are in the same operating conditions. However, such impossibility does not imply that a tentative period cannot be established deriving from an objective parameter, which is constituted by the operational results of the jurisdictional bodies, since with such results the average time of resolution of indirect *amparos* can be calculated in a time and in a certain Circuit. In this understanding, the statistical data managed by the General Directorate of Judicial Statistics of the Federal Judiciary Council must be taken into account, with respect to the average time for resolution of indirect *amparo* trials in both instances, and in order to set the term in calendar months, as this is the custom in judicial practice on this issue. It is appropriate to divide that amount by thirty, which is the average days that the months of the year have, which will give a total time calculated in the months that should be considered as the tentative term for the conclusion of the trial, and the estimation of whether that period is adequate, insufficient or excessive for each particular case is part of the power of whoever decides on the suspension, a power that must be exercised in an adequate, rational and logical manner, based on an appreciation of the circumstances of the specific case, taking into account —among others— the nature of the violation and the intrinsic characteristics of the matter, as the legal difficulty and complexity of the issues involved. If they have been previously addressed or if they are novel. Jurisprudential thesis by contradiction 1^a./J. 46/2012 (10^a), of the First Chamber of the Supreme Court, of August 2012, of the tenth period, with electronic registration number 2001334.

[⁶] The thesis is as follows:

SUSPENSION IN DIRECT AMPARO. PROBABLE PERIOD IN WHICH IT MUST BE RESOLVED TO SET THE GUARANTEE IN ACCORDANCE WITH THE CURRENT AMPARO LAW. When the *amparo* trial from which the complaint is derived is processed in terms of the current *Amparo* Law, to establish the probable term in which it will be resolved, in order to set the guarantee that the complainant must grant for the suspension of the act claimed, the various deadlines indicated for the processing and issuance of the respective resolution must be complied with. These are: five days for the processing before the responsible authority (Article 178), three days for the admission of the claim (Article 179), fifteen days to allege or promote adhesive *amparo* protection (Article 181), three days to deliver the file (Article 183); these in terms of the procedure, and for the pronouncement of the sentence ninety days following the order that will act as citation for sentence, in accordance with the aforementioned Article 183, clarifying that all terms must be computed in business days (Article 22). Thus, as a general rule and in consideration of the deadlines that the law establishes for the processing of the *amparo* trial in the direct route, the sum of these yields the amount of 116 business days, which divided by the business days of the calendar month, which generally are 22 per month, gives an approximate of five months, a period to which one more month must be added. It is a well-known fact that there are extraordinary issues that generally arise in the process, such as the delay in the service of the interested third party derived from failure to locate them, or the need to summon them by means of a warrant, or the fact that the petitioner has to be warned in terms of Article 177. For this reason, the six-month period is a general term that must be met to set the guarantee and the suspension granted continues being valid. This within the understanding that due to the establishment in the current *Amparo* Law and the deadlines both to process and to resolve the direct *amparo* trial, the

criterion based on the calculation that was established in accordance with the workloads of the jurisdictional bodies where the corresponding judgement was processed is exceeded. This is contained in the case law by contradiction number 1a./J. 46/2012, supported by the First Chamber of the Supreme Court of Justice of the Nation, visible in the Judicial Weekly Bulletin of the Federation and its Gazette, Tenth period. Book XI, Volume 1, August 2012, page 363, Title: "GUARANTEE FOR THE SUSPENSION OF THE ACT CLAIMED IN THE INDIRECT *AMPARO*. TENTATIVE PERIOD FOR THE CALCULATION OF THE DURATION OF THE TRIAL WHEN NECESSARY TO SET THE AMOUNT OF THE BAIL BOND. "

^[7] Cf. Article 32 and following of the *Amparo* Law.



REPORT ON THE EFFECTS OF THE COVID-19 PANDEMIC ON MIGRANTS AND REFUGEES

HUMAN RIGHTS VIOLATIONS DOCUMENTED BY
DEFENSE ORGANIZATIONS AND SHELTERS IN MEXICO

Mexico City, August 2020

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LA JUSTICIA
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