NATIONAL HUMAN RIGHTS COMMISSION

REPORT ON UNACCOMPANIED CENTRAL AMERICAN CHILDREN AND ADOLESCENTS IN THE CONTEXT OF INTERNATIONAL MIGRATION IN THEIR TRANSIT THROUGH MEXICO AND WITH NEED OF INTERNATIONAL PROTECTION

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CNDH

MÉXICO

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List of Abbreviations and Acronyms

ACHR	American Convention on Human Rights
BIC	Best Interests of Children
C-001/2010	Circular N° 001/2010, which instructs the procedure for the care of unaccompanied migrant children and adolescents
CA	Children and Adolescents
CAMEF	Center for the Care of Minors in Border Regions [*Centro de Atención a Menores Fronterizos*]
CNDH	National Human Rights Commission [*Comisión Nacional de los Derechos Humanos*]
COMAR	Mexican Commission for Refugee Assistance [*Comisión Mexicana de Ayuda a Refugiados*]
CONAPRED	National Council for the Prevention of Discrimination [*Nacional para Prevenir la Discriminación*]
CONEVAL	National Council for the Evaluation of Social Development Policy [Consejo Nacional de Evaluación de la Política de Desarrollo Social]
CPEUM	Political Constitution of the United Mexican States [*Constitución Política de los Estados Unidos Mexicanos*]
CPO	Child Protection Officer
CRC	Convention on the Rights of the Child
CSO	Civil Society Organizations
DGRDNNA	General Office for the Restitution of Rights of Children and Adolescents [*Dirección General de Restitución de Derechos de Niñas, Niños y Adolescentes*]
DOF	Federal Official Gazette [*Diario Oficial de la Federación*]
EOSNDIF	Organic Statute of the National System for the Comprehensive Development of the Family [*Estatuto Orgánico del Sistema Nacional para el Desarrollo Integral de la Familia*]
GC-6 (2005)	General Comment No. 6 (2005) Treatment of unaccompanied and separated children outside their country of origin
GC-14 (2013)	General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration

GPPRDNNA	Practical Guide for the Protection and Restitution of the Rights of Children and Adolescents [*Guía Práctica para la Protección y Restitución de Derechos de Niñas, Niños y Adolescentes*]
HRW	Human Rights Watch
IACmHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
INM	National Institute for Migration [*Instituto Nacional de Migración*]
INSYDE	Institute for Security and Democracy [*Instituto para la Seguridad y la Democracia, A.C.*]
IOM	International Organization for Migration
LGBTTTIQ	Lesbian, Gay, Bisexual, Transvestite, Transgender, Transsexual, Intersex and Queer
LGDNNA	General Act on the Rights of Children and Adolescents [*Ley General de los Derechos de Niñas, Niños y Adolescentes*]
LM	Migration Act [*Ley de Migración*]
LSRPCYAP	Refugee, Supplementary Protection and Political Asylum Act [*Ley sobre Refugiados, Protección Complementaria y Asilo Político*]
MOOSNPINNA	Manual for the Organization and Operation of the National System for the Comprehensive Protection of Children and Adolescents [*Manual de Organización y Operación del Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes*]
NTCA	Northern Triangle of Central America
OAS	Organization of American States
OC-21/14	Advisory Opinion 21/2014 Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection
PFPNNA	Federal Protection Agency for Children and Adolescents [*Procuraduría Federal de Protección de Niñas, Niños y Adolescentes*]
Protocol of Action	Protocol of Action to ensure respect for the principles and protection of the rights of children and adolescents in administrative immigration proceedings
RLGDNNA	Regulations for the General Act on the Rights of Children and Adolescents [*Reglamento de la Ley General de los Derechos de Niñas, Niños y Adolescentes*]
RLM	Migration Act Regulations [*Reglamento de la Ley de Migración*]

RLSRYPC	Refugee and Supplementary Protection Act Regulations [*Reglamento de la Ley sobre Refugiados y Protección Complementaria*]
RSD	Refugee Status Determination
SAC	Social Assistance Center
SCJN	Mexican Supreme Court of Justice [*Suprema Corte de Justicia de la Nación*]
SEDESOL	Ministry of Social Development [*Secretaría de Desarrollo Social*]
SEGOB	Interior Ministry [*Secretaría de Gobernación*]
SEP	Ministry of Public Education [*Secretaría de Educación Pública*]
SIPINNA	National System for the Comprehensive Protection of Children and Adolescents [*Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes*]
SNDIF	National System for the Comprehensive Development of the Family [*Sistema Nacional para el Desarrollo Integral de la Familia*]
SS	Ministry of Health [*Secretaría de Salud*]
STyPS	Ministry of Labor and Social Prevision [*Secretaría de Trabajo y Previsión Social*]
UCACIM	Unaccompanied Children and Adolescents in the Context of International Migration
UNHCR	United Nations High Commissioner for Refugees
UDHR	Universal Declaration of Human Rights
UNICEF	United Nations Children's Fund
UPM	Migration Policy Unit [*Unidad de Política Migratoria*]

I. INTRODUCTION

1. Based on Article 102, Section B, of the Political Constitution of the United Mexican States; Articles 1, 3 and 6, Sections I, II and III, Article 15, Sections VII and VIII, Article 24, Section IV, Articles 44, 46 and 51 of the National Human Rights Commission Act; and Article 174 of its Internal Regulations, the National Human Rights Commission presents the opinion contained in this document on "Unaccompanied Central American Children and Adolescents in the Context of International Migration during their Transit through Mexico and in Need of International Protection."

2. This document seeks to contribute to the elaboration of a diagnosis of the current situation of UCACIM as individuals with rights, in the understanding that increasing the visibility of their situation is the first step towards offering them comprehensive care.

3. Almost 27 years after the Convention on the Rights of the Child was passed (November 2, 1989) and 26 years after Mexico ratified it (September 21, 1990), the CNDH calls for recognizing the obligation of national state institutions to ensure that UCACIM receive care and special assistance that are essential to their protection, development and survival.

4. Increasingly, we hear news, comments, and reports from international or national agencies, social organizations and government offices stating that children and adolescents who are forced to cross borders because of the violence they experience in their countries of origin, or the lack of opportunities in terms of education, health, housing, food, and even the breakdown of families, must face the journey without their parents or unaccompanied by people responsible for their care.

5. This "Report on Unaccompanied Central American Children and Adolescents in the Context of International Migration in their Transit through Mexico and with Need of

International Protection" not only analyzes the context of the international mobility of UCACIM seeking refuge and supplementary protection, but also addresses their rights in Mexico, studying the relevance of the CPO's role as a guarantor of the best interests of children and describes their situation based on the complaints received by this national agency.

6. In this report, the CNDH systematizes the information provided by the authorities about governmental programs aimed at UCACIM in transit through Mexico, as well as about the children requesting refugee status in Mexico, implemented from 2010 to August 2016, at both federal and state levels.

7. This report seeks to alert Mexican society and inform public opinion on the pressing reality faced by UCACIM in their transit through Mexico, to demand that State institutions comply with their obligation to provide comprehensive protection, and to formulate proposals to ensure that omissions, such as those set forth herein, are not repeated.

8. For the purposes of this document, the following terms are used:

- Social Assistance Center: The LGDNNA states that the Social Assistance Center is the establishment, place or space for alternative or residential care for children and adolescents without parental or family care provided by public and private institutions, and associations.[1]

[1] Article 4, Section V, of the General Act on the Rights of Children and Adolescents [*Ley General de los Derechos de Niñas, Niños y Adolescente*].

- Migrant: The LM[2] defines a migrant as an individual who leaves, travels through or arrives in a State other than that of his or her residence for any reason whatsoever.[3]

- Child and Adolescent: Any human being under the age of 18, unless by virtue of law applicable to him or her, the person has attained legal age earlier.[4] In Mexico, the LGDNNA defines children as persons under the age of 12 while adolescents are those between 12 and 18 years of age.[5]

- Unaccompanied Children and Adolescents: According to GR-6 (2005) of the Committee on the Rights of the Child, unaccompanied children and adolescents are minors who are separated from both parents and/or their legal guardian, and are no longer in the care of an adult who is legally or customarily responsible for them. Meanwhile, the Migration Act defines an unaccompanied migrant child or adolescent as any national or foreign person under the age of 18 who is in national territory and is not accompanied by a blood relative or person who legally represents the minor.[6]

- Separated Children and Adolescents: According to OC-21/14, these are children who are separated from both parents and other relatives, and are not in the care of an adult who is legally or customarily responsible for them.

- Supplementary Protection. The LSRPCYAP established this as the protection SEGOB extends to foreigners who are not acknowledged as refugees. It consists of not returning the person to another country's territory where his or her life would be

[2] Published in the Federal Official Gazette [*Diario Oficial de la Federación*] on May 25, 2011.
[3] Article 3, Section XVII, of the Migration Act [*Ley de Migración*].
[4] Article 1 of the Convention on the Rights of the Child, and Article 1 of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
[5] Article 5 of the General Act on the Rights of Children and Adolescents [*Ley General de los Derechos de Niñas, Niños y Adolescentes*].
[6] Article 3, Section XVIII, of the Migration Act [*Ley de Migración*].

threatened or in danger of being subjected to torture or other cruel, inhumane or debasing treatment or punishment.[7] It should be noted that both Article 87 of the Refugee and Supplementary Protection Act Regulations [*Reglamento de la Ley Sobre Refugiados y Protección Complementaria*], and Number 52, Section IX of the Migration Act [*Ley de Migración*], the INM grants this sector of the population the status of permanent residence indefinitely.

- Refugee: A refugee is a person outside his or her country of origin who has well-founded fears of being persecuted on the basis of race, religion, nationality, membership to a particular social group or political opinion.[8] The expanded definition includes persons fleeing their country due to civil unrest, war or mass violations of human rights.[9] The United Nations Committee on the Rights of the Child calls for this definition to be interpreted taking into account the age and gender of the individual, as well as in the light of the specific reasons, forms and manifestations of the persecution suffered by minors, such as recruitment into armed forces, sexual exploitation or genital mutilation.[10]

- Intervening Representation: Taking child protection legislation into consideration, the informal accompaniment that the state protection agencies offer in all administrative and legal procedures involving UCACIM should also be considered legal.

[7] Article 2 of the Migration Act [*Ley de Migración*]; Article 3, Section XXI of the Refugee, Supplementary Protection and Political Asylum Act [*Ley sobre Refugiados, Protección Complementaria y Asilo Político*].
[8] Article 1, Subsection A, paragraph 2 of the Convention Relating to the Status of Refugees.
[9] Conclusions and Recommendations: "The Colloquium on Asylum and International Refugee Protection in Latin America" [*El Coloquio sobre asilo y la protección internacional de refugiados en América Latina*], Meeting held in Mexico from May 11-15, 1981 (Tlatelolco Conclusions), Conclusion No. 4.
[10] UNICEF and National DIF, *"General Comments from the Committee on the Rights of the Child"*, General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, April 2001, pages 87 and 88.

- Substitute Representation: The LGDNNA states that the state protection and agencies must provide substitute representation in the absence of the person exercising the original representation (parents or those with parental authority or guardianship) for CA, or when otherwise determined by the competent court or administrative authority, based on the BIC, and should be understood as guardianship.

II. METHODOLOGY

9. In order to identify the problem of UCACIM, it was decided to administer a questionnaire with basic questions about their general situation. They were told that their responses were voluntary and that they were not to feel pressured to participate. It was decided to give this questionnaire during the months of May, July and August, 2016 in different parts of the country in order to obtain a simple sample of what is happening to UCACIM, in the understanding that while this situation exists year-round, it is heightened during certain peak periods such as from May to August. This is based on what this national agency has observed during its regular visits to migrant centers and shelters. We believe that the information obtained directly from UCACIM in these months will shed light on the problems they face.

10. In the months in question, a total of 650 questionnaires were administered to UCACIM, 74 of whom were accompanied, 521 were unaccompanied, 45 were separated and 10 did not reply. Among them, there were 148 females and 502 males. The questionnaires were given at the following shelters and migrant stations:

- "México mi Hogar" Shelter, Ciudad Juárez, Chihuahua
- "Viva Mexico" Temporary Shelter for Migrant Minors run by the DIF Chiapas Comprehensive Care System in Tapachula
- Shelter for migrant minors run by the DIF in Cd. Cuauhtémoc, Chiapas
- "Hermanos en el camino" Shelter, Ixtepec, Oaxaca

- Shelter run by the state DIF Comprehensive Care System in Tijuana, Baja California
- Shelter run by the Municipal DIF Comprehensive Care System in Tapachula, Chiapas
- Shelter run by the Municipal DIF Comprehensive Care System in Tenosique, Tabasco
- Shelter run by the Municipal DIF Comprehensive Care System in Palenque, Chiapas
- Shelter run by the Municipal DIF Comprehensive Care System in Villahermosa, Tabasco
- “La 72” Home-Refuge Shelter for Migrants, Tenosique, Tabasco
- Center for the Care of Minors in Border Regions (CAMEF) in Reynosa and Matamoros, Tamaulipas
- Shelter run by the Veracruz State DIF Comprehensive Care System in Xalapa
- Fundación Casa Alianza México I.A.P.
- “Casa del Migrante” of the Dioceses in Coatzacoalcos, Veracruz
- “Siglo XXI” Migrant Station in Tapachula, Chiapas
- Migrant Station at Cd. Cuauhtémoc, Chiapas
- Migrant Station at Tuxtla Gutiérrez, Chiapas
- Migrant Station at Palenque, Chiapas
- Migrant Station at Saltillo, Coahuila
- Migrant Station at Hermosillo, Sonora
- Migrant Station at Tampico, Tamaulipas
- Migrant Station at Reynosa, Tamaulipas
- Migrant Station at Matamoros, Tamaulipas
- Migrant Station at Acayucan, Veracruz
- Migrant Station at San Luis Potosí
- Migrant Station at Tijuana, Baja California

- Migrant Station at Puebla, Puebla
- Migrant Station at Tlaxcala, Tlaxcala
- Migrant Station at Tenosique, Tabasco
- Migrant Station at Villahermosa, Tabasco
- Migrant Station at Chetumal, Quintana Roo
- Transit Station at San Cristóbal de las Casas, Chiapas
- Transit Station at Cd. Cuauhtémoc, Chiapas
- Transit Station at Comitán de Domínguez, Chiapas

11. Notwithstanding the above, the documents produced by the National Human Rights Commission in recent years were also used as sources of information, such as Recommendations on Children,[11] which will be analyzed below. Other sources of information are the programs and campaigns that were implemented, including the "Forum on International Protection for CA" held in July 2014 with the collaboration of SNDIF, IOM, UNHCR and UNICEF; the "Children and Adolescents in Movement" campaign carried out with the support of the IOM and UNHCR in Tapachula, Chiapas, on April 30, 2015, which led to 23 training and dissemination actions; and the Forum for Analysis: "How to guarantee the exercise of the rights of children and adolescents in mobility contexts" held in Saltillo, Coahuila, on October 15-16, 2015.

12. The "Draft Decree reforming various articles of the Migration Act referring to migrant children" [*Iniciativa con proyecto de decreto por el que se reforman diversos artículos de la Ley de Migración en materia de infancia migrante*] was also consulted. This document was presented to the Senate Committee on April 26, 2016, and formed the basis for the discussions at public hearings which began on September 7, 2016 in the Senate, in an effort to listen to the different actors and sectors involved in the protection

[11] A reference to children has the international connotation of any human being under 18 years of age, including adolescents.

of the rights of children in the context of international migration. The *"*Expert Opinion of the United Commissions on Migrant Affairs and Legislative Studies on the Minutes of the Draft Decree reforming Article 112, paragraph 1 and Sections I, II and III of the Migration Act*"* [*Dictamen de las Comisiones Unidas de Asuntos Migratorios y de Estudios Legislativos, de la Minuta con Proyecto de Decreto por el que se reforman el primer párrafo y las fracciones I, II y III del artículo 112 de la Ley de Migración*], passed on October 13, 2016, by the Senate, was likewise examined.

13. The statements made by the countries participating in the High-Level Round Table: "Call to Action: Protection Needs in the Northern Triangle of Central America", San Jose Action Statement, held on July 7, 2016, in San Jose, Costa Rica, were analyzed, specifically the commitments undertaken by Mexico. Also studied was the "Tirana Declaration" of September 8, 2016, which arose from the High-Level International Conference on "Challenges for Ombudsman Institutions with respect to mixed migratory flows" held on September 7-8, 2016, in Tirana, Albania.

14. In addition, information was requested from the INM, which in due course provided the corresponding responses.

15. Information generated by government institutions[12] was analyzed, in terms of each institution's programs and agenda. Reports made by civil society and international organizations were also consulted.

[12] It should be noted that the figures in this report are updated to July 2016. The data were obtained from the statistical reports issued by the SEGOB Migration Policy Unit, which state that *"Figures may differ from those published in Government and Labor reports due to the information validation process."* In view of this, it was deemed appropriate to stop at the second quarter of the year since sufficient time has elapsed for its validation. Therefore, there is greater certainty using these figures than those published in later months.

III. BACKGROUND

16. Today, migratory flows are increasing around the world with UCACIM fleeing wars, social violence, criminal organizations, poverty, or in search of a place of residence that would allow them a better life. Latin America, and especially Central America, is no stranger to this situation, particularly the countries in the Northern Triangle of Central America (Guatemala, El Salvador and Honduras) whose children have significantly contributed to the migratory flows northward over the last 10 years in order to have opportunities for development and life.

17. According to the UNHCR information consulted, "*The causes for children and adolescents to leave are objective and structural. Three main causes can be identified: 1) because of the context of violence, crime and citizen insecurity that prevails in the area; 2) for economic reasons stemming from social inequality and financial vulnerability; and 3) because of movements aimed at family reunification (....) Hence, 48.6% of the children and adolescents have left their countries due to a violent situation, 22.2% due to family reunification and 29.2% due to economic reasons. The forms of violence CA experience in their countries are: 1) violence experienced in the private sphere, which would correspond to their home or household environment; and 2) violence experienced in the public sphere, prevalent in the neighborhood, district or province."*[13]

18. Nicolás House in Monterrey, Nuevo León, published a report in 2015 on the economic inequalities found in the NTCA, the poverty their inhabitants suffer and the human development index in that region. Specifically, El Salvador, Guatemala and Honduras are ranked 115, 125 and 129, respectively, in world well-being indexes (out

[13] UNHCR, *"Uprooted (Arrancados de raíz)"*, August 2014, pages 38 and 43.

of a total of 160 countries) that identify the degree or lack of development, as well as the quality of life of their inhabitants.

19. The above-mentioned document uses another measurement concept: *"Another indicator to measure inequality, but focused on income distribution, is the Gini Coefficient, in which Central American countries are among the 4 most unequal countries in the world. Out of the 144 countries rated, Honduras ranks 9th, Guatemala 11th and El Salvador 29th."* [14] This report highlights the various natural disasters that have hit the region over the last 30 years, with earthquakes in El Salvador in 2001, Hurricane Mitch in 1998, and Hurricane Thomas in 2010. The problems experienced in the region are the result of local and global historical situations that have broadly affected its population, creating living conditions and violent contexts that promote and stimulate human mobility.

20. As stated by UNICEF, *"[i]n the Americas, migrants aged 0 to 19 represent 23 percent of the entire international migrant population in that region. Migrants aged 15 to 19 account for 39 percent of the international migrant population under 20 years of age in the region and the 0-4 age group represents 13 percent."* [15]

21. In 2013, the INM took 9,630 children and adolescents into custody.[16] According to SEGOB's UPM records, the INM took 9,090 adolescents aged 12 to 17 into custody in 2014; 17,911 in 2015; and 8,370 between January and July 2016. All of them were UCACIM. As to children aged 0-12, the institute detained 1,853 in 2014; 2,457 in 2015;

[14] Ríos Infante, Victoria, *et. al*., "Central American Migration in the Metropolitan Area of Monterrey" [*Migración Centroamericana en la Zona Metropolitana de Monterrey*], Casa Nicolás, Centro de política comparada y estudios internacionales de la Universidad de Monterrey, Centro de Derechos Humanos and Facultad Libre de Derecho de Monterrey, Fourth Report, 2015, page 9.
[15] UNICEF, *"La Travesía. Migración e Infancia"* [The Crossing: Migration and Children], November 2011, page 8.
[16] In the SEGOB's UPM report for that year, there is no information regarding their sex, their ages or whether the migrant children and adolescents were accompanied.

and 956 between January and July 2016.[17] Thus, 10,943 UCACIM were detained in 2014; 20,368 in 2015 and 9,326 by July 2016.[18]

Statistics on UCACIM detained by the INM from 2014 to July 2016

	2014	2015	2016 January to July
Unaccompanied adolescents aged 12 to 17	9,090	17,911	8,370
Unaccompanied children aged 0 to 11	1,853	2,457	956
Total	10,943	20,368	9,326

Table created by CNDH personnel based on information from the statistics compiled by the Migration Policy Unit.

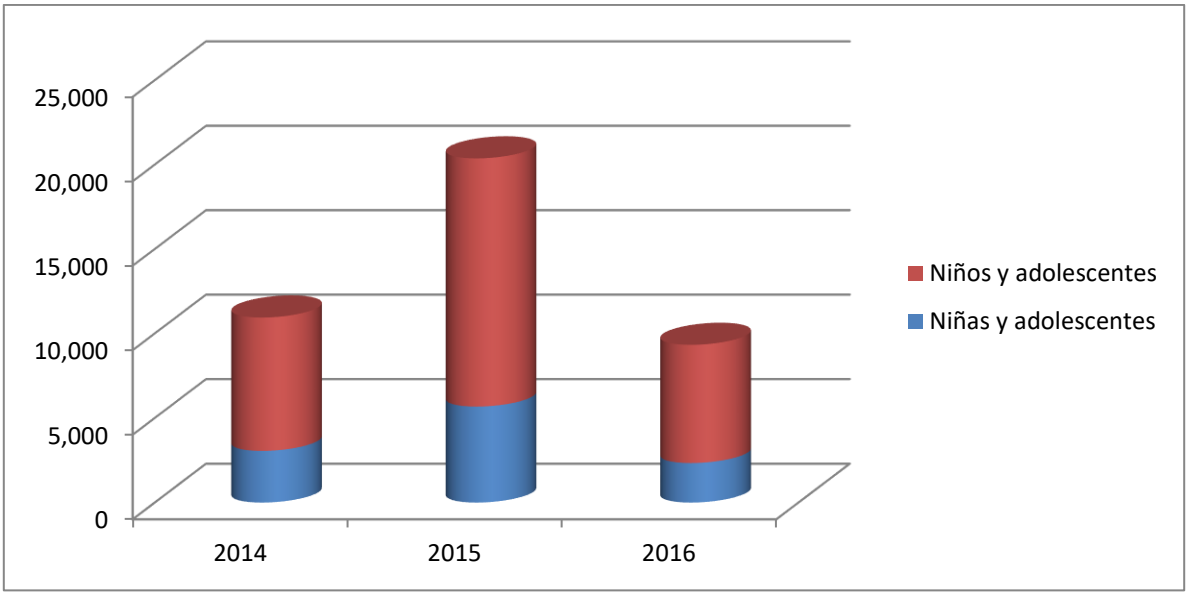
22. It should be noted that the above-mentioned statistics show that adolescents represent 86.23% of all the UCACIM detained by the INM while 13.76% are children.

23. Likewise, from the information gathered by the UPM, 3,055 girls and female adolescents and 7,888 boys and male adolescents were detained by the INM in 2014; 5,673 girls and female adolescents and 14,695 boys and male adolescents were detained in 2015; and 2,337 girls and female adolescents and 6,989 boys and male adolescents were detained between January and July 2016.

[17] Migration Policy Unit [Unidad de Política Migratoria], Monthly Migratory Statistics Bulletin [Boletines Mensuales de Estadísticas Migratorias], 2013, page 137; 2014, page 140, 2015, page 140 and 2016, page 113. Accessed on: September 19, 2016.

[18] At the meeting held between the INM Commissioner and the Senate Foreign Affairs Committee on August 3, 2016, the commissioner stated that some 9,000 migrant children and adolescents were attended to. This number went up to approximately 40,000 the following year. However, the Institute itself reported that 9,630 were detained in 2013 and 36,174 in 2015, figures that the CNDH used for this report.

Comparison of detained UCACIM, by sex



Graph created by CNDH personnel based on information from the statistics compiled by the Migration Policy Unit.

24. It should be noted that between 2014 and 2015, the number of unaccompanied female adolescents stood at 6,792 while the number of unaccompanied male adolescents was 20,209. In other words, 74.84% of the adolescents detained by the INM in this period were male.

25. The CNDH has 650 testimonies from UCACIM lodged at SAC and various IMN migrant stations, reflecting the reasons why they left their countries of origin. The following testimonies are just three examples:[19]

[19] Testimonies gathered by CNDH personnel at the INM migrant stations in Acayucan, Veracruz, Villahermosa, Tabasco, and at the DIF Chiapas "Viva Mexico" Temporary Shelter for Migrant Minors in Tapachula, on May 23 and 24, 2016, respectively.

Elvira "N", Honduran, 17: *"I left out of necessity to help my mom."*

Josse "N", Honduran, 16: *"I left my country because I didn't want to end up in the gangs [*maras*] or drug trafficking."*

Luis "N", Honduran, 17: *"I had problems with gangs. I went to the Mexican Commission for Refugee Assistance offices in Tapachula, Chiapas, and they sent me to the DIF shelter in the state of Chiapas…"*

A. CONTEXT (NORTHERN TRIANGLE OF CENTRAL AMERICA)

26. NTCA countries account for 97.67% of the UCACIM who enter Mexico without documents attesting to their legal residence in Mexico, as seen in the statistics below. Therefore, it is important to briefly mention the current context in which CA live and grow up in these three countries, the reality they face today and what forced them to migrate unaccompanied and expose themselves to serious and manifold risks.

1. The Situation in Guatemala

27. To speak of Guatemala, one of our two southern neighboring countries, is to speak of a context that is very similar yet very different from ours. Its name comes from the Náhuatl word *Quauhtlemallan* meaning "place of many trees". Its territory covers 108,889 km^2 and it has a population of approximately 16 million, most of whom live in rural areas.

28. An IACmHR report states that "*According to data from the most recent census, taken in 2002, 40% of the population identifies as indigenous; other sources say that*

60% of the population belongs to that category. Today, it is a multiethnic, pluricultural, multilingual society in which indigenous Maya, Xinka and Garífuna people and Ladinos coexist. The Maya group comprises 22 distinct sociolinguistic communities. Guatemala's cultural diversity is evinced by the 25 different languages spoken on its soil: Spanish and 24 indigenous tongues."[20]

29. According to Guatemala's National Institute of Statistics document entitled *"The Republic of Guatemala: 2014 National Survey on Living Conditions*",[21] 59.3% of the population lived in poverty, with total poverty increasing by 2.9 percentage points between 2000 and 2014, going from 56.4% in 2000 to 59.3% in 2014.

30. In its projections for 2014, this same institute stated that its population would amount to 15.6 million people, with children under the age of 15 accounting for just over one third of the population.[22]

31. From 1980-1996, Guatemala went through a civil war, which led to massive forced displacement. Due to this hostile environment, there is a surplus of weapons from this civil war, which is why in 2015 it was ranked 11th in the world based on its rates of violent deaths.[23] On page 17 of its October 2016 report "*Home Sweet Home? Honduras, Guatemala and El Salvador's Role in a Deepening Refugee Crisis"*, Amnesty International revealed that "*of the 5,718 people murdered in Guatemala in 2015, roughly one fifth were under the age of 19 (…).*"

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[20] Inter-American Commission on Human Rights, *"Situation of Human Rights in Guatemala"*, Report, December 31, 2015, page 23, paragraphs 28 and 29.

[21] https://www.ine.gob.gt/sistema/uploads/2015/12/11/vjNVdb4IZswOj0ZtuivPIcaAXet8LZqZ.pdf, accessed on: July 14, 2016.

[22] National Living Conditions [*Encuesta Nacional de Condiciones de Vida*], Instituto Nacional de Estadística, 2014 Tomo I, https://www.ine.gob.gt/sistema/uploads/2016/02/03/bWC7f6t7aSbEI4wmuExoNR0oScpSHKyB.pdf, Accessed on: June 29, 2016.

[23] Internal Displacement Monitoring Center, *"New Humanitarian Frontiers: Addressing criminal violence in Mexico and Central America"*, Report, Geneva, Switzerland, 2015, page 8.

32. Many of the children and adolescents who migrate from Guatemala are indigenous, come from the poorest regions in the country and usually lack food and access to health care and other basic services. More specifically, they come from the northern region of the country, like the Departments of Huehuetenango and San Marcos, where 60% of its population is of indigenous origin, mainly Mayas, a percentage higher than the national average of representation of ethnic groups (49%).[24]

33. Indigenous CA commonly suffer from discrimination and social exclusion. Moreover, the deep-rooted phenomena of discrimination against women and inequality in gender relations lead to fewer educational and employment opportunities for Guatemalan girls and women.

34. These combined factors of poverty, inequality and discrimination compel children and adolescents to leave their country. Given this situation, many Guatemalan children and adolescents temporarily migrate to southern Mexico in order to work and many UCACIM from Guatemala are detained by Mexican immigration authorities in the states of Chiapas and Tabasco.

35. The University of Lanús refers to this situation as follows: "… children and adolescents *[from Guatemala] often spend a period of time in Mexico before embarking on the journey "North". Of the children and adolescents we interviewed, several reported that before starting their journey across Mexico to the United States, they worked in Chiapas for 15 days or more, on farms or in jobs the* coyotes *got for them.*

[24] Ceriani, Pablo, *coord., "Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges",* University of California Hastings College of the Law and University of Lanús, Report, Argentina, February 2015, page 15, available online at: https://cgrs.uchastings.edu/sites/default/files/Childhood_Migration_HumanRights_FullBook_English.pdf

They do this because they need to obtain money to pay extortions, illegal charges and other expenses on the way that are not covered by the payment made to the coyote.[25]

36. The UNHCR's report "*Uprooted (Arrancados de Raíz)*" mentions, for instance, the entry points to these states: "*Once in Guatemala, there are three possible routes: north through Guatemala, El Ceibo, Tenosique and El Naranjo; center through La Mesilla and El Carmen; and south through Tecún Umán. The Guatemala-Chiapas border is certainly the largest and busiest gateway along Mexico's southern border. With its 654 kilometers and 17 surrounding municipalities, it is a space for social integration between towns and communities on both sides of the border, and it represents the entry point of one of the busiest and most vulnerable flows in the entire continent. It is through this point where 60% of the CA enter Mexico, another 15% through Tabasco and almost 20% who do not know or do not remember the place where they entered."*[26]

37. The University of Lanús refers to the increased migration of Guatemalan children due to violence: "*In 2010, 49.4% of homicides in Guatemala took place in the five departments with the highest levels of migration (Guatemala, San Marcos, Huehuetenango, Quetzaltenango and Jutiapa). Guatemalan children, especially girls, experience high levels of intrafamilial violence, including incest. Between 2003 and 2012, intrafamilial violence grew by more than 500%; the largest proportion of its victims were female. Sexual abuse by family members is common, but it often remains hidden, both because children and adolescents are fearful and ashamed to report it, and because they lack confidence that the authorities can protect them. Violence associated with gangs and organized crime has also risen, disproportionally affecting youth. Children and adolescents flee to escape violence in the home or coercion to join violent groups."*[27]

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[25] *Ibid.*, page 174.
[26] UNHCR, *"Uprooted (Arrancados de raíz)"*, *op. cit.*, pages 51 and 54.
[27] Ceriani, Pablo, *coord., "Childhood and Migration in Central and North America…", op. cit.*, page 15.

38. This group of children crosses their country's border often in hopes of staying in the state of Chiapas to work on the coffee plantations or in homes as domestic workers. However, there are no reliable statistics as to the number of migrant children and adolescents of Guatemalan origin who remain to work in the southern region of Mexico.

2. The Situation in Honduras

39. Honduras is bordered to the north and east by the Caribbean Sea, to the southeast by Nicaragua and to the south by the Gulf of Fonseca and El Salvador and to the west by Guatemala. It is divided into 18 departments, which are in turn divided into 298 municipalities. Its territory, including its islands, spans approximately 112,492 km^2.

40. According to information from Honduras's National Institute of Statistics, in 2013, the country had a population of 8,303,771 inhabitants, 4,436,223 of whom live in urban areas and 3,867,549 in rural areas. Of the total population, 39,979 people over the age of 10 had literacy skills, 14,772 of whom live in urban areas and 25,207 in rural areas. [28]

41. According to World Bank data,[29] in 2014 close to 63% of the population lived in poverty. In rural areas, approximately 6 out of every 10 households live in extreme poverty. It goes on to say that it is the country that faces the highest levels of economic inequality in Latin America. Another major challenge is the crime and violence as it has

[28] Instituto Nacional de Estadística (INE), "17th Population and Housing Census" [*XVII Censo de Población y VI de Vivienda*] 2013, Honduras, http://www.ine.gob.hn/images/Productos%20ine/censo/Censo%202013/Presentacion%20Censo%202013.pdf, accessed on: June 17, 2016.

[29] World Bank, "*Honduras: Overview",* accessed on: June 17, 2016 http://www.bancomundial.org/es/country/honduras/overview

one of the highest rates of homicides in the world, with 67 murders per 100,000 inhabitants that year.

42. Casa Alianza de Honduras, an institution that specializes in working with vulnerable children and adolescents, reports that the country has 66.2% of its population living below the poverty line and 45.3% living in extreme poverty. The average daily income for 21.5% of the population is 19 lempiras (1 US dollar), which is why Honduras ranks 106th in the world in terms of Human Development, with an index of 0.604, just above Haiti, Guatemala and Nicaragua in Latin America.

43. Quoting the International Labour Organization, the World Bank states that almost half a million children in Honduras are employed, earning a monthly income of just 1,739 lempiras (equivalent to 92 US dollars), and 157,329 are unemployed or underemployed. Among young people aged 19 to 24, 457,111 are employed and earn an average monthly income of 3,208 lempiras (equivalent to 170 US dollars) and 225,888 are unemployed. This means that a broad sector of youth does not have a chance at earning enough to survive.[30]

44. In the cited report, Casa Alianza also stated that "*The Observatory of Violence of the Autonomous University of Honduras recorded a rate of 86 homicides per 100,000 inhabitants in late 2012, reaching a figure that exceeds ten times the minimum established by the World Health Organization for it to be considered an epidemic. In this reality, gender-related violence also notoriously prevails in the country. An average of 51 women are murdered every month, one every 15 hours and 30 seconds in 2012.*"[31]

[30] Robledo Granados, P. and Rivera L. G., "*Violencia Sexual e Infancia en Honduras"* [Sexual Violence and Children in Honduras], Observatorio de Derechos de Niños, Niñas y Jóvenes en Honduras, Casa Alianza Honduras, (coordinators), Honduras, March 2013, page 9.
[31] *Idem.*

45. Based on information from the IACmHR regarding the human rights situation in Honduras, statistics on sexual abuse of children in general are alarming. "[*It*] *has increased by 200% [in 2014 and 2015], according to the statistics kept by the authorities of the Public Prosecutor for Children and organizations dedicated to providing assistance to child victims of such crimes. On average, 35 children or adolescents become victims of sexual violence every month and the most common crimes are rape, 'special rape' and lewd and lascivious conduct. Most of these crimes occur in the home environment.*" The IACmHR country report also pointed out that "...*while children and adolescents are particularly vulnerable to recruitment by gangs or suffer from various forms of physical violence, young and teenage girls are additionally particularly vulnerable in this context to sexual and gender violence."*[32]

46. Furthermore, in 1998, this country was devastated by Hurricane Mitch, causing serious damage to its infrastructure and economy. These damages were valued at 3.8 billion US dollars.

47. The general situation in this country can be summed up as follows: In terms of violent deaths, "*Honduras is in 2nd place (behind Syria) (…) As a result of criminal violence the Honduran city of San Pedro Sula has the highest homicide rate in the world, 171 per 100,000 inhabitants per annum. (…) Honduras provides an example of just how many groups can be involved in criminal violence. They include: drug-trafficking organizations –of which the Cachiros and the Valles are the most prominent; extrajudicial death squads; so-called* clikas *which represent the two main Central America gang formations (Mara Salvatrucha and Barrio 18); various other local gangs, such as the Chirizos or its predecessor, Gato Negro.*"[33]

[32] Inter-American Commission on Human Rights, "*Situation on Human Rights in Honduras*", 2015, page 52, paragraph 104.
[33] Internal Displacement Monitoring Center, *"New Humanitarian Frontiers…, op. cit.,* page 8.

48. Different studies agree that CA from Honduras mainly flee from two types of violence: violence committed by organized crime and violence experienced at home. Gangs and other criminal organizations threaten, harass, beat, rape, dismember and kill Honduran children and adolescents with impunity, and threaten to harm their families. Unbridled violence within families, which includes child abuse and incest, as well as gender-related violence, force many children and adolescents to flee for their lives. This helps explain the increased number of girls migrating alone. On page 17 of its October 2016 report "*Home Sweet Home? Honduras, Guatemala and El Salvador's Role in a Deepening Refugee Crisis*", Amnesty International affirms that 727 of the 5,148 murder victims in 2015 were under the age of 19.

49. Thus, for example, "*[b]etween 2005 and 2012 there was a massive increase (246%) in the number of femicides or feminicides (both terms are used to define gender-motivated killings of women) of Honduran women and girls, many of whose bodies showed signs of sexual abuse or mutilation. In addition, 9,881 Hondurans under the age of 23 have been murdered since 1998; 767 of them were killed between January 28 and October 31, 2014 alone. (…) Six thousand Honduran children and adolescents live on the streets without any access to services; many of them have taken to the streets to escape violence in the home."*[34]

50. The complex economic, political and social situation is such that thousands of Honduran children and adolescents have been left behind by parents who have gone to Mexico or the United States. "*Typically, extended family members provide informal care for children in this situation, but no one has legal responsibility for them. Without parents to protect and support them, and in the context of either failed or inefficient public social policies, these especially vulnerable children and adolescents are targeted*

[34] Ceriani, Pablo, *coord., "Childhood and Migration in Central and North America…", op. cit*., page 112.

by gangs. Caregivers themselves may also abuse or neglect them. Despite the dangers involved, children and adolescents will often choose to migrate rather than remain in circumstances of such great vulnerability."[35]

51. *"It should be noted,"* says the UNHCR in its report "*Uprooted* (*Arrancados de Raíz*)", *"that the presence of the gangs is spread throughout the three countries of the NTCA. However, it is in Honduras where one finds the greatest number of people involved in the criminal activities of these gangs."*[36]

3. The Situation in El Salvador

52. Located on the coastline of the Pacific Ocean, El Salvador has a total area of 21,041 km^2. It is bordered by Guatemala to the west, by Honduras to the north and to the east, and by the Gulf of Fonseca to the southeast, which separates it from Nicaragua. The country is organized into 14 departments, 39 districts and 262 municipalities.

53. According to the data obtained by the multi-purpose household survey carried out by the Directorate General of Statistics and Census of El Salvador, in 2014, its total population "*was 6,401,415 persons, of whom 3,989,266 lived in urban areas and 2,412,149 in rural areas. It goes on to state that 581,185 persons over the age of 10 do not know how to read or write, with the urban area accounting for 7% of illiteracy and the rural area for 17.7%."*[37]

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[35] *Ibid.*, page 145.
[36] UNHCR, *"Uprooted (Arrancados de raíz)"*, *op. cit*., page 15.
[37] Dirección General de Estadística y Censos de El Salvador (DYGESTYC*), "*Multi-Purpose Household Survey [*Encuesta de Hogares de Propósito Múltiples*]", Gobierno de la República de El Salvador, Ministerio de Economía and Dirección General de Estadística y Censos, Publicación EHPM 2014, http://www.digestyc.gob.sv/index.php/temas/des/ehpm/publicaciones-ehpm.html, Accessed on: June 17, 2016.

54. In the 1970s and 1980s, a civil war broke out and destroyed the social fabric, which brought about a wave of forced migration mainly to the United States of America. People with criminal records were later repatriated from the United States to El Salvador in the 1990s, particularly gang members. This was especially noticeable in Los Angeles, where with its surplus weapons and large numbers of gang-affiliated deportees, the gangs that would later be known as the Mara Salvatrucha and Barrio 18 emerged.

55. One report states that "*In 2012, the government of El Salvador with support from the Catholic Church agreed a truce with the two gangs who are believed to have 60,000 members in the country. For a while murder rates plummeted, but the truce had little effect on the practices of extortion, forced recruitment or the migration of unaccompanied minors. The truce was effectively abandoned in 2014, leading to a rise in homicides, extortion and the recruitment of children. Extreme violence has returned. In March 2015, an average of 16 people were murdered each day, a 52 per cent rise over the same period in 2014."*[38]

56. Gang violence and organized crime have proliferated in the country and disproportionately victimized children and adolescents. In its 2008 Special Report on *Transnational Criminal Gangs Known as "Maras"* the CNDH says: "*Legislative public policies (…) implemented by police forces, which were implemented in Honduras and El Salvador from 2002 on, led to an increase in the migratory exodus of the "*mareros*" towards Guatemala where they had already found an entry to Mexico in the city of Tecún Umán, mainly through Ciudad Hidalgo, Chiapas. Because of the conditions that*

[38] Internal Displacement Monitoring Center, *"New Humanitarian Frontiers…, op. cit.,* page 10.

have allowed them to recruit followers and even imitators, we can now see a greater concentration of gang members in this part of our southern border."[39]

57. In view of the violence in El Salvador, Amnesty International mentioned in its 2015-2016 report by way example that: "*[h]uman rights defenders of lesbian, gay, bisexual, transgender and intersex (LGBTI) communities and those defending and promoting sexual and reproductive rights faced increasing risks and particularly suffered violence and intimidation from state agents, individuals and private groups."*[40]

58. Amnesty International also said that the "*levels of gang-related violence and organized crime surged, and homicide rates soared. According to official records, 4,253 homicides were registered in the first eight months of (2015), compared with 3,912 for the whole of 2014. Criminal violence forced many Salvadorians to leave the country, and also led to the internal displacement of thousands of families...."*[41] Furthermore, on page 17 of the "*Home Sweet Home? Honduras, Guatemala and El Salvador's Role in a Deepening Refugee Crisis"* report that was published in October 2016, Amnesty International stated that in 2015, there were 1,227 murder victims under 19 years old.

59. The CNDH has also documented cases in which Salvadoran victims, mother and child, said they decided to apply for the RSD because they were being persecuted by a gang of criminals that also charged the mother for permitting her to work.

60. Violence within families in El Salvador impels children to flee since seven out of every ten children experience physical violence in the home, as the UNHCR has said on several occasions. Moreover, it has been argued that "*Girls in El Salvador endure*

[39] Informe Especial de la Comisión Nacional de los Derechos Humanos sobre las pandillas delictivas trasnacionales conocidas como "Maras" [Special Report on Transnational Criminal Gangs Known as "Maras"], Mexico, 2008, page 9.
[40] Amnesty International "*Report 2015/16",* page149.
[41] *Idem.*

frequent sexual abuse, much of it occurring within the home. Additionally, El Salvador has the world's highest rate of femicide/feminicide. More than 25% of these killings are of girls under the age of 19."[42]

61. In this context, they face discrimination and experience the habitual deprivation of their right to develop. Specifically, girls and female adolescents do not have access to education, vocational training, job opportunities and health care. In the context of the poverty in El Salvador, children also migrate in search of educational and employment opportunities to survive and thrive in a social context permeated by violence and child discrimination.

62. The parents of many Salvadoran children and adolescents, as well as those from Honduras and Guatemala, have emigrated to the United States of America, leaving these CA vulnerable to abuse, exploitation and neglect while in the care of extended family members or friends.

63. Thus, it has been proven that "*[s]ome Salvadoran children and adolescents migrate in order to seek their parents, desiring the care and nurture that is absent in their lives, as well as to escape situations of neglect, abuse or other harm. In light of the absence of adequate avenues for regular migration based on family reunification, unaccompanied children seeking to reunify with family have no choice but to take dangerous routes, during which the confront multiple dangers and risk being repatriated from the U.S. or Mexico without due consideration of their rights, needs and interests."*[43]

64. Violence, as can be seen, is the common denominator forcing UCACIM in the three countries that form the NTCA to leave behind their roots, customs, possessions and

[42] Ceriani, Pablo, *coord., "Childhood and Migration in Central and North America…, op. cit*., pages 211 and 212.
[43] *Ibid.*, page 215.

desires, among other things. However, during their transit through Mexico, they are exposed to similar or more dangerous conditions. Their invisibility so as not to be detained by Mexican immigration authorities make them easy prey for organized crime groups, people smugglers, human traffickers, or unscrupulous public servants who profit from their fears or needs.

B. POWERS OF THE AUTHORITIES INVOLVED

65. There is a solid normative framework on UCACIM in Mexico that applies national and international standards and gives several federal and local authorities certain powers and responsibilities to ensure the comprehensive protection of these migrants.

66. Among the international normative framework that protects UCACIM we find the Convention on the Rights of the Child, General Comment N°14 (2013) "*On the right of the child to have his or her best interests taken as a primary consideration*" and General Comment N° 6 (2005) *"Treatment of Unaccompanied and Separated Children Outside their Country of Origin"*, both issued by the Committee on the Rights of the Child; Advisory Opinion OC-17/2002 *"Juridical Condition and Human Rights of the Child",* of August 28, 2002, and Advisory Opinion OC-21/2014 *"Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection"*, of August 19, 2014, both resolutions adopted by the IACtHR; as well as the Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of 1967. Mexico is bound to honor these Conventions and Protocols, while the General Comments and Advisory Opinions are used as guidelines that, taken together with the pro-persona principle of Article 1 of the CPEUM allow the authorities to better safeguard the human rights of this vulnerable group.

67. As to national legislation, we can differentiate between laws that regulate their stay in the country, which set out how to obtain the protection of the Mexican State

regardless of their status as children and adolescents, and those that, although recognizing them as migrants, place more emphasis on their status as CA and, as a result, accord them various rights and access to programs that provide comprehensive assistance and protection. Among the former is the Migration Act (LM) that regulates the flow of Mexicans and foreigners in and out of the country, situations handled by the INM, while the Refugee, Supplementary Protection and Political Asylum Act (LSRPCYAP) establishes the procedure to determine refugee status through the COMAR.

68. Given the nature of these institutions, their approach to the UCACIM is, as already pointed out, to treat them as persons in context of international migration and applicants for refugee status, respectively, within the framework of the administrative procedures followed in accordance with said law.

69. The LM, in turn complemented by the Migration Act Regulations (RLM), the Protocol of Action [*Protocolo de Actuación*] and the INM Guidelines on the Protection of Migrants, empowers that institution to detain persons in context of irregular international migration and initiate administrative immigration procedures during which time they remain in detention centers, and decide their legal status. Although during this procedure the UCACIM are protected through certain measures, such as channeling them to SACs, taking their best interests into consideration and receiving the assistance of a CPO, these actions are always carried out within the framework of the administrative immigration procedure whose purpose is to resolve the regular or irregular situation of the people within the country and available to said Institute.

70. The LSRPCYAP and the RLSRYPC establish the powers that the COMAR has over persons wishing to obtain refugee status, including receiving their applications, issuing proof of applicant status and deciding whether or not to grant refugee recognition or, where appropriate, supplementary protection. It should be noted that this legislation

does not preclude establishing special measures for vulnerable groups, including UCACIM, such as directing them to specialized agencies for their protection, interviewing them personally adapting the process to their age and level of maturity, and prioritizing their proceedings. These special measures are only valid while their application is being processed and resolved; if refugee status is not granted, the international protection provided by these measures expires.

71. In summary, the following tables give a general overview of the powers and obligations that child protection laws granted to the INM and the COMAR.

AUTHORITY	POWERS AND OBLIGATIONS	LEGAL FRAMEWORK
INM	- Direct the UCACIM Immediately to the DIF.	Art. 112, Section I of the LM
	- Interview the UCACIM through specialized personnel who will handle their immigration process and inform them of their rights.	Art. 112, Section IV of the LM; Art. 7, Sections I and II of the C-001/2010; Art. 12, Section I of the INM Guidelines on the Protection of Migrants; Arts. 4.1 and 5.1 of the Second Title, chapters IV and V of the Protocol of Action
	- Using specialized personnel, evaluate the BIC of UCACIM, thereby establishing the measures that best suit them. In the case of RSD applicants, the BIC will be determined in conjunction with the COMAR.	Arts. 172, 173, and 177 RLM; Art. 12, Section II of the INM Guidelines on the Protection of Migrants
	- Document UCACIM as visitors for humanitarian reasons when in the BIC, while offering temporary or permanent legal or humanitarian alternatives to assisted return.	Art. 74 LM, and Art. 144, Section IV, subsection a) of the RLM
	- Assisting the UCACIM to return in light of their BIC and their vulnerability.	Art. 120 LM, and 3.1 of the Third Title, Chapter III of the Protocol of Action
	-Until adequate places are available in the SACs, the UCACIM will remain in the migrant stations, in separate	Art. 107, Section I, and 112, Section I of the LM

	accommodations from the adults. They will also be provided with legal, medical and psychological assistance. - Issue a joint protocol with the PFPNNA that ensures that the BIC is a priority consideration during the administrative immigration procedures. - Using specialized personnel, identify the UCACIM who need protection, inform the COMAR and the PFPNNA. - Through specialized personnel, identify UCACIM who are victims of crimes. - To enter and remain employed by the IMN, public servants must receive training in migratory and human rights issues.	Art. 105 RLGDNNA Art. 174 RLM, and Art. 108 RLGDNNA Art. 173, Section III of the RLM Art. 25 LM, and Art. 192, Section I RLM
COMAR	- In coordination with the INM, determine the BIC of migrant children and adolescents requesting refugee status. - Maintain up-to-date records of all applicants and refugees. - Encourage the dissemination and promotion of the international rights of refugees and provide training for immigration officers and public servants working in the field. - During RSD proceedings all necessary measures will be taken to guarantee institutional assistance to applicants, refugees and whoever receives supplementary protection and require special attention. - Inform UCACIM applicants and refugees of their rights and obligations. - Direct UCACIM applicants to specialized institutions for their protection. -When an applicant in a vulnerable situation is provisionally admitted or is in	Art. 20, LSRPCYAP, Art. 36 of the RLSRYPC, and Art. 177 of the RLM Art. 15, Section IV of the LSRPCYAP, and Art. 15, Section X of the RLSRYPC Art. 15, Section XIII of the LSRPCYAP, and Art. 15, Section XXI of the RLSRYPC Art. 20, of the LSRPCYAP, and Art. 15, Section XII of the RLSRYPC. Art. 15, Section V of the LSRYPC, and Art. 15, Section XIV of the RLSRYPC

	a migrant station, the Ministry will assess the measures that are best for the applicant, depending on the particular circumstances. In the case of UCACIM, their best interests must be determined.	
	-If a UCACIM applicant is in a migrant station, measures must be taken to guarantee communication with their legal representative or, where appropriate, with a person of trust. COMAR public servants must go migrant centers to assess their level of vulnerability and determine what institutional assistance is needed. Additionally, the INM may be asked to effect a transfer to a specialized institution of their choice taking into consideration the particularities of the case as well as the capacity of the chosen institutions	Art. 15, Section XIII of the RLSRYPC Art. 20 of the LSRPCYAP, and Art. 15, Section XIII, and Art. 34 of the RLSRYPC
	-All interviews with UCACIM must be conducted in person and be adapted to the age and maturity of the interviewee. These interviews must be carried out by trained public servants who will determine the BIC.	Art. 21 último párrafo, de la LSRPCYAP, 34 y 62 del RLSRYPC.
	- The COMAR will give priority to RSD requests from UCACIM and must provide them with clear and simple information about the procedure.	
	-When UCACIM applicants are channeled to a specialized institution, the COMAR will request information from the INM regarding the medical and psychological or social work care that, if applicable, received during their stay at migrant stations, in order to provide continuity.	Art. 21, final paragraph of the LSRPCYAP, and 35 of the RLSRYPC
	-UCACIM refugees will receive support from public institutions in the exercise and respect of their rights, health care, education, and where applicable, the recognition of their studies. They will obtain identity and travel documents issued by the SRE and can request family reunification as well as secure immigration documents.	Art. 35, final paragraph of the RLSRYPC

	- Provide institutional assistance to UCACIM to help them assimilate in the country, taking into consideration their social and cultural context, establishing collaboration agreements with local and federal agencies and states, as well as with civil society organizations.	Art. 64 of the RLSRYPC Art. 44 of the LSRPCYAP Art. 54 and 55 of the LSRPCYAP, and Art. 15 Sections XXIII and XXIV of the RLSRYPC

72. Among those regulations that recognize children in the context of international migration, but which are mostly protective to emphasize their status as CA, there is the LGDNNA. In addition to having a special chapter on this vulnerable group, this piece of legislation recognizes all the rights associated with that status because regardless of their situation as migrants, they are children and adolescents first and foremost. Therefore, all the agencies that are created or referred to in the cited legislation, such as the PFPNNA, protection agencies in every state, the SNDIF, the Mexico City and Local Protection Systems, as well as Comprehensive, National, Local and Municipal Protection Systems have the obligation to guarantee full respect for their human rights and provide the comprehensive protection due to them.

73. In general, among the powers accorded the PFPNNA is the ability to enter into agreements with state protection agencies in each state to effectively exercise intervening and substitute representation, and to work together to comply with the special protection measures that CA require.

74. Among other duties, this law also establishes that the state protection agencies will provide legal counseling and intervene unofficially in the intervening representation,

arrange the application of protective measures, coordinate their execution and provide follow-up, and supervise the proper functioning of the SACs.

75. Also within this group of rules that establish greater protection for UCACIM because of their CA status, there are laws on the rights of children and adolescents in each of the 32 states. An analysis shows that state protection agencies were created in each state and, with a few exceptions, given the task of providing intervening and substitute representation to CA. The state of Coahuila provides none of these features while Yucatán has not granted any agency the power to provide substitute representation, and Chiapas has delegated substitute representation to its municipal protection agencies.

76. It should also be noted that in the states of Aguascalientes, Chiapas, Chihuahua, Mexico City, Coahuila, Durango, State of Mexico, Jalisco, Morelos, Oaxaca, Quintana Roo, Sonora, Tlaxcala and Zacatecas additional rights have been added to those set out in Article 13 of the LGDNNA.[44] Some of these are the right to special protection when facing situations of multiple discrimination, the right to privacy of their personal information during administrative and jurisdictional proceedings, and protection and social assistance when they are deemed vulnerable. Of note is the list of rights set forth in Article 13, Section XXII of the Law on the Rights of Children and Adolescents for the state of Nuevo León as these rights apply to unaccompanied refugee children and adolescents, while its Article 117 states that "*Appropriate measures shall be taken to ensure that the child or adolescent seeking refugee status or who is considered a refugee according to the applicable federal legislation, whether alone or accompanied by a person exercising parental authority, guardianship or custody or any other person, receives adequate protection and humanitarian aid for the enjoyment of the relevant rights set forth in this Law.*"

[44] These rights embodied in the aforementioned state legislation can be seen in Annex 1 of this report.

77. It is important to point out that none of the state CA rights laws indicates which authority is in charge of determining the BIC or the procedure for said determination.

78. Regarding the protection of children in the context of international migration, 30 states have confirmed the rights of this vulnerable population as established in Chapter 19 of the LGDNNA. Coahuila and Mexico City are the only states that have yet to do so.

79. The LGDNNA does not contemplate municipal protection agencies, but of the 32 state CA rights laws that were analyzed, Campeche, Coahuila, Chiapas, State of Mexico, Oaxaca, Queretaro, Sonora, Tabasco and Veracruz do legislate them. Campeche, Queretaro, Sonora and Veracruz have empowered these protection agencies to provide intervening representation and substitute representation, and Chiapas restricts it to only intervening representation, as seen in Annex 2 of this report.

80. On the other hand, the LGDNNA requires municipalities to have a care program and an office or public servants to act as both an initial contact for CA and a liaison with local and federal authorities. The Laws of CA Rights for Colima, Hidalgo, Oaxaca and Sinaloa establish that the city councils must appoint a public servant to serve as an initial contact who, on identifying any infringement of CA's rights, must immediately contact the state protection agency. Additionally, the states of Nayarit and Quintana Roo stipulate that a state protection agency representative should be named in each municipality to ensure effective protection and the restitution of the rights of children and adolescents.

81. On analysis of the laws of the rights of children and adolescents of each state, this national agency has observed that not all of them regulate intervening and substitute representation, and that none of them have set out procedures to determine the BIC.

This national commission believes that both situations are of extreme importance for the comprehensive care of UCACIM, given how vulnerable they are while transiting through Mexico. It would therefore be advisable that, with full respect for the municipal, state and federal jurisdiction, the 32 protection agencies together with the federal one agree on a single, homogeneous procedure to provide certainty on how the BIC should be determined, based on the PFPNNA guidelines as maintained in this report, and also establish precisely which authority or public servant will be the initial contact for the designation of intervening or substitute representation.

82. It is important to provide the initial contact with the necessary infrastructure and specialized personnel that said group of CA in the context of international migration requires for comprehensive protection with full respect for their human rights.

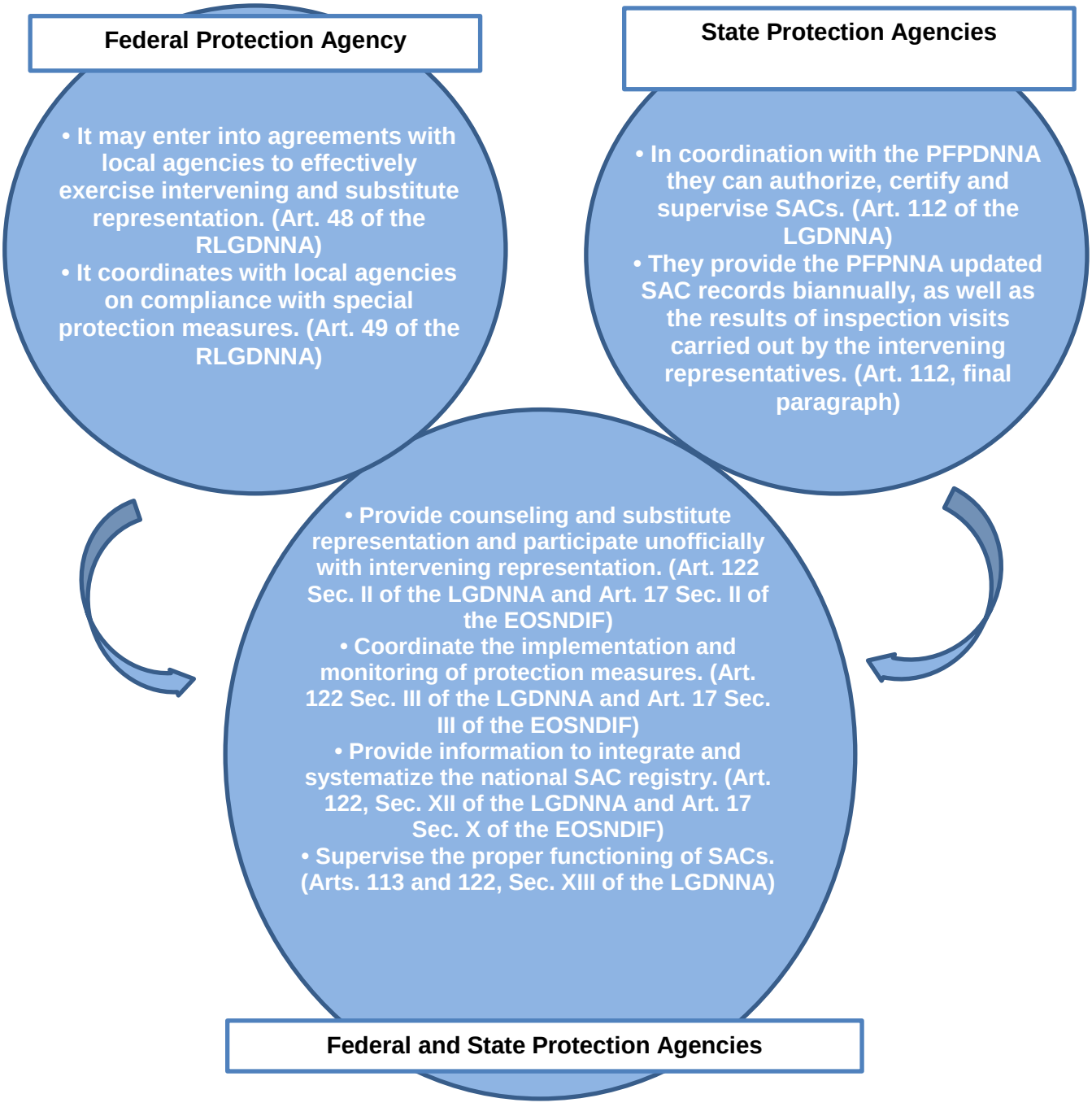
83. To summarize the analysis of the CA Rights Laws of each state, we present the following numerical table:

	Number
States with CA rights laws	32
States with CA protection agencies	32
State CA rights laws that establish who determines the BIC	None
State CA rights laws that add other rights to those established in the LGDNNA	14
State Rights Laws providing rights for children in the context of international migration	30

State protection agencies that provide intervening representation	30
State protection agencies that provide substitute representation	30
State protection agencies that establish original representation	29
State CA rights laws that provide for municipal protection agencies	9
State CA rights laws that contemplate having a municipal public servant as an initial contact	5

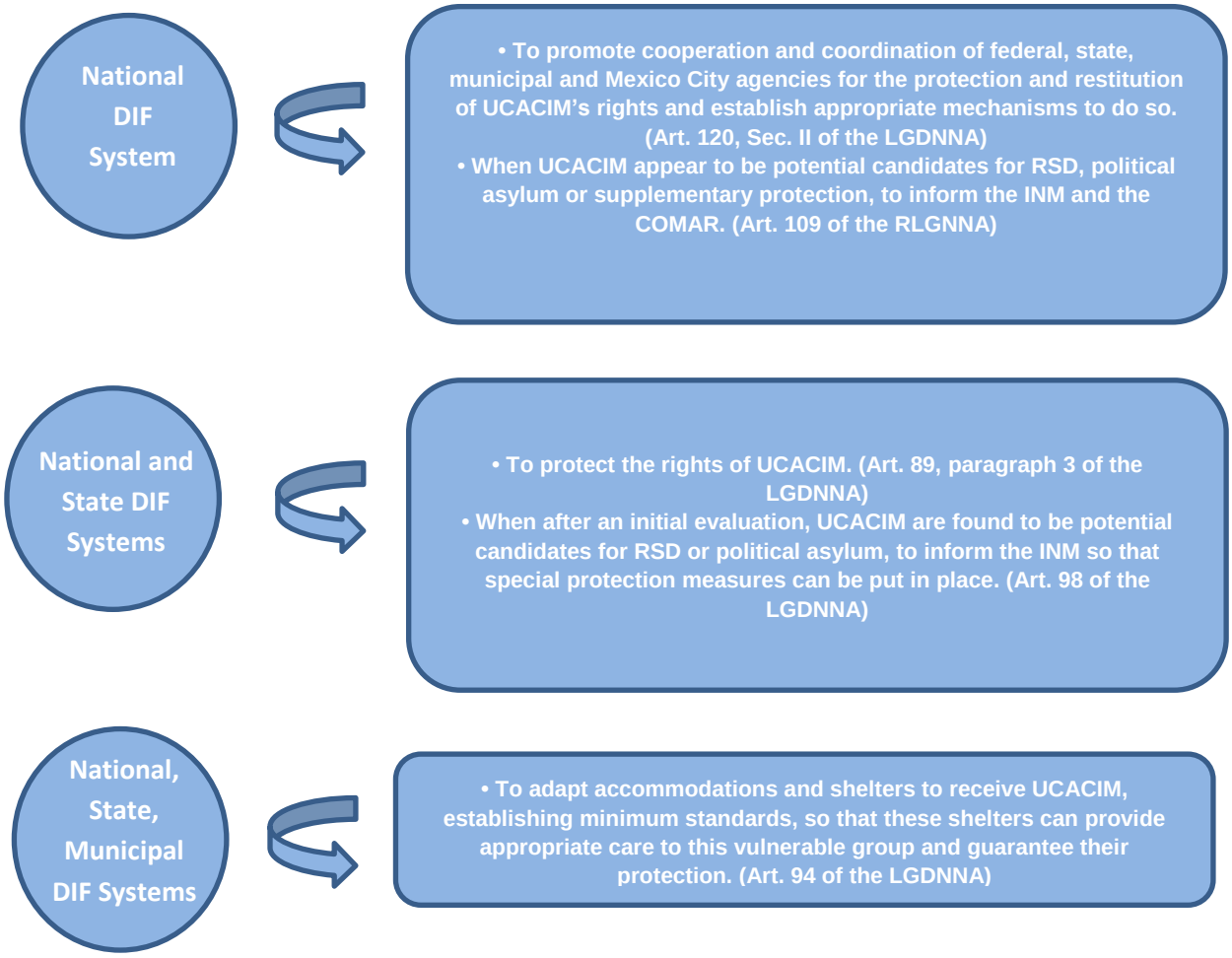
84. For this national agency, there is no doubt that the protection agencies play a vital role in the comprehensive protection of children and adolescents, a circumstance that also applies to UCACIM, as they provide counseling on substitute and intervening representation in all those procedures in which UCACIM are involved. Moreover, these agencies arrange, enforce and follow up on the protective measures that have been established for this vulnerable group. This national commission believes that for the protection agencies of the 32 states and the PFPNNA to have a homogeneous and effective rights protection program for this vulnerable group, the latter must coordinate said programs, without detriment to the powers that each of the state offices has within its scope of competence.

85. Below is a graph summarizing the exclusive powers of the federal and state protection agencies of the rights of children and adolescents have in terms of migrant children, as well as those that are established in both LGDNNA regulations and in the EOSNDIF.


Federal Protection Agency
• It may enter into agreements with local agencies to effectively exercise intervening and substitute representation. (Art. 48 of the RLGDNNA)
• It coordinates with local agencies on compliance with special protection measures. (Art. 49 of the RLGDNNA)
State Protection Agencies
• In coordination with the PFPDNNA they can authorize, certify and supervise SACs. (Art. 112 of the LGDNNA)
• They provide the PFPNNA updated SAC records biannually, as well as the results of inspection visits carried out by the intervening representatives. (Art. 112, final paragraph)
• Provide counseling and substitute representation and participate unofficially with intervening representation. (Art. 122 Sec. II of the LGDNNA and Art. 17 Sec. II of the EOSNDIF)
• Coordinate the implementation and monitoring of protection measures. (Art. 122 Sec. III of the LGDNNA and Art. 17 Sec. III of the EOSNDIF)
• Provide information to integrate and systematize the national SAC registry. (Art. 122, Sec. XII of the LGDNNA and Art. 17 Sec. X of the EOSNDIF)
• Supervise the proper functioning of SACs. (Arts. 113 and 122, Sec. XIII of the LGDNNA)
Federal and State Protection Agencies

86. Another protection mechanism the LGDNNA provides for UCACIM is implemented by the national, state and municipal Systems for the Comprehensive Development of the Family (DIF), which, among other things, is in charge of providing adequate accommodation for this population group, as stated in Articles 94 and 98 of the LGDNNA. The DIF also carries out initial evaluations and informs the INM and the COMAR if the UCACIM appear to be potential candidates for RSD.

87. By way of summary, the following diagram sets out the powers that the LGDNNA and its regulations provide to migrant children and adolescents that are exclusive to the DIF national system, those that are parallel in both the national and state DIF systems according to their scope of competence, and those that touch both those systems as well as municipal DIF systems:



88. It should not go unnoticed that as a public policy seeking to provide greater protection for CA and, consequently, for UCACIM, Article 125 of the LGDNNA also creates a National System for Comprehensive Protection that is responsible for establishing the instruments, policies, procedures, services and protective measures to be implemented nationwide.

89. Each state will create its own local system to protect the rights of children and adolescents. Each system will have the power to make local policies in accordance with national policy and assist in the implementation and consolidation of the National Protection System.

90. Likewise, municipalities will have their own municipal protection system and it will be the state CA rights laws that will determine the form and terms by which said systems will participate in the local system.

91. The National System for Comprehensive Protection makes provision for the creation of an Executive Secretariat in charge of the operational coordination of this protection system. Its many functions include the following: to enter into coordination, collaboration and consultation agreements with public and private agencies, to advise and support state governments, as well as federal authorities that might require it to fulfill their duties, and to act as a liaison with civil society, academia and other social and private institutions.

92. To both illustrate and summarize the above, the diagram below presents the responsibilities of the municipal, state and national systems for comprehensive protection and of the Executive Secretariat.

National System for Comprehensive Protection (Art. 125 LGDNNA)

- To carry out coordinated training on knowledge and respect for the rights of CA.
- To involve public, social, private and civil society sectors in the implementation of public policies on the protection of the rights of CA.
- To create mechanisms that guarantee the direct and effective participation of CA in drawing up programs that ensure and comprehensively protect their rights.
- To set up coordination mechanisms with other national systems that develop programs, actions and policies that benefit CA.
- To ensure the participation of CA in the exercise of their rights, taking into consideration the special measures required.
- To promote the establishment of budgets for the protection of CA rights in all three levels of government.

- To give training on the knowledge and respect for the human rights of CA.
- To involve the public, social and private sectors in the implementation of public policies on the protection of the rights of CA.
- To create the necessary mechanisms that guarantee direct and effective participation of CA in the process of developing local programs and policies that ensure and comprehensively protect their rights.
- To assist the local protection agencies with protection measures deemed urgent and coordinate actions that fall within their powers.
- To implement and articulate its public policies in accordance with national policy.

Municipal Protection System (Art. 138 LGDNNA)

- To ensure the participation of CA social and private sectors.

- To design and implement coordinated and permanent comprehensive training programs on knowledge and respect for the rights of CA.
- To coordinate actions among the relevant agencies and entities of the federal public administration system.
- To compile the agreements taken at the SNPI, and keep track of these and the legal instruments derived from them.
- To design, manage and update the National Information System.
- To coordinate with the Ministry of Finance and Public Credit (SHCP) and the Chamber of Deputies when analyzing public investments focused on CA human rights. The aim here is to identify budgetary programs that contribute to the attainment of rights for children and highlight the thematic gaps in the comprehensive care of this population.

93. As seen above, several authorities are involved in the protection of CA, and their responsibilities overlap. This has led to confusion because it is unclear when each should intervene.

94. In addition to the above and specifically in the area of protection of unaccompanied migrant children, the responsibilities of the INM, the COMAR, PFPNNA, the DIF National System and the Executive Secretariat of SIPINNA also overlap, as seen in the table below.

OVERLAPPING RESPONSIBILITIES	LEGAL BASIS	AUTHORITIES INVOLVED
To have specialized staff interview and inform UCACIM of their rights.	Art. 112, Section IV of LM; Art. 7, Sections I and II of the C-001/2010; Art. 21 final paragraph of the LSRPCYAP; 35 of the RLSRYPC; Art. 12, Section I of the INM Guidelines on the Protection of Migrants; Arts. 4.1 and 5.1 of the Second Title, Chapter IV and V of the Protocol of Action	INM COMAR
To assess the BIC of UCACIM by using specialized personnel and to ensure that the BIC prevails in whatever decisions are taken regarding their legal status.	Arts. 172, 173, 177 RLM; Art. 20 of the LSRPCYAP; Arts. 36 and 37 of the RLSRYPC; Art. 12, Section II of the INM Guidelines on the Protection of Migrants	INM COMAR
	Art. 112, Section IV of the LM; Art. 174 of the RLM; Art. 20 of the	INM COMAR

Through the use of specialized staff, to identify the UCACIM who need protection.	LSRPCYAP; Arts. 98 and 123, Section V of the LGDNNA; Art. 2.3.2.4 of the First Title, Chapter II; Art. 9.4 of the Second Title, Chapter IX, of the Protocol of Action	DIF SYSTEMS PFPNNA
To channel the UCACIM immediately to SACs.	Art. 112, Section I of the LM; Arts. 15, Section XIII and 62 of the RLSRYPC Art. 174 RLM; 98, de la LGDNNA; 108 y 109 del RLGDNNA.	INM COMAR INM DIF SYSTEMS
Canalizar a NNACMNA posibles solicitantes del RCR de manera inmediata a la COMAR. **To guarantee the comprehensive care of UCACIM during any administrative procedure. Such care should at least include medical and psychological assistance, follow-up on academic activities, and monitoring of the social and cultural environment.**	Art. 122, Section I of the LGDNNA; Art. 17, Section XXVI of the EOSNDIF; Art. 20 of the LSRPCYAP; Art. 15, Section XII of the RLSRYPC; and Art. 112, Section IV of the LM Art. 122, section II of the LGDNNA; 17, section I of the EOSNDIF; 15, section V of the LSRPCYAP; 15, section XIV of the RLSRYPC	PFPNNA COMAR DIF SYSTEMS INM PFPNNA COMAR
To counsel UCACIM involved in administrative procedures. **To issue protection measures for UCACIM during administrative procedures to ensure they receive the assistance they require.**	Art. 29, sections I and II of the LM; 173, final paragraph and 176 of the RLM; 20 y 21 de la LSRPCYAP; 15 sections XII and XIII of the RLSRYPC; 89, 98, first paragraph, 120, section I and 123 of the LGDNNA; and 106 of the RLGDNNA Art. 78 and 85 of the MOOSNPINNA; Arts. 99 and 100 of the LGDNNA	DIF SYSTEMS INM COMAR PFPNNA Executive Secretariat of the SIPINNA INM DIF SYSTEMS
To design, manage, update and safeguard UCACIM databases. **To promote training of public servants involved in UCACIM human rights issues.**	Art. 120, Section IV and Art. 125, Section XVI of the LGDNNA; Art. 5, Section XII of the MOOSNPINNA; Art. 25 of the LM; Art. 192, Section I of the RLM; Art. 15, Section XIII of the LSRPCYAP and Art. 15, Section XXII of the RLSRYPC	Executive Secretariat of the SIPINNA INM SNDIF COMAR

95. While there is a strong legal framework, it is also clear that many aspects are not clear enough to establish the each authority's scope of action, which could result in

undermining comprehensive protection for UCACIM. By way of example and in an effort to contribute to explaining the intervention of each authority, the following is an analysis of some of the issues that need to be clarified.

1. Determination of the best interests of the child

96. Currently the determination of the BIC of UCACIM is carried out by the INM in accordance with the provisions set out in Articles 172, 173 and 177 of the RLM, and Article 12, Section II of the INM Guidelines on the Protection of Migrants. However, this situation must be examined in terms of the comprehensive protection of the population in question since the INM is also the authority which decides on their detention and handles the ensuing administrative immigration proceedings. Therefore, it is necessary to consider whether actions like detention, which go against the rights of UCACIM, are in fact carried out by the authority best suited to determining the BIC in proceedings involving this vulnerable group.

97. Similarly, the INM, with support from the COMAR, determines the BIC of the UCACIM in RSD proceedings as provided in Article 20 of the LSRPCYAP, and Articles 36 and 37 of the RLSRYPC. It is not apparent from a reading of these articles how this should be carried out or how each authority should intervene in the process. Therefore, if this is the measure of greater international protection that the Mexican State provides to persons in the context of international migration, it is undeniably necessary to examine the intervention of the detaining, and where appropriate, deporting authority to see whether it is the correct agency to determine the BIC in this procedure.

98. It is important to note the significance of determining the BIC in cases involving UCACIM. The authority in charge of this must be certain about the procedure to be carried out since the procedure is vaguely set down in Articles 172, 173 and 177 of the RLM; Article 12, Section II of the INM Guidelines on the Protection of Migrants; Article

20 of the LSRPCYAP, Article 36 of the RLSRYPC; Articles 98 and 123, Section IV of the LGDNNA. As such, it is insufficient to provide a proper assessment of the BIC.

99. Regardless of the authority that makes this determination, the CNDH believes that in order to guarantee adequate determination of BIC of UCACIM, it is necessary to observe the provisions set forth in GC-14 (2013) and GC-21/14. These provisions allude to the procedure to determine the BIC, a situation to be discussed in the following section of this report.

100. An analysis of the authority granted by the LGDNNA and its Regulations for the SNDIF, the PFPNNA and the protection agencies of each state (Articles 120, Section I and 122, Section I of the LGDNNA) shows that they are responsible for the protection and comprehensive securement of rights for UCACIM,[45] as well as for ensuring restitution in the event that those rights are violated. While every authority must safeguard the BIC, it would be advisable that as soon as initial contact is made, the protection agencies should be the ones to determine these best interests and rights.

2. Databases

101. Another point of special interest is the UCACIM database. According to Article 99 of the LGDNNA and Article 43 of its Regulations, the SNDIF is responsible for the design, management, updating and safeguarding of the UCACIM databases. The same legislation, however, says in Article 100 that the INM must provide and collaborate with

[45] The "Dictamen de las Comisiones Unidas de Asuntos Migratorios y de Estudios Legislativos, de la Minuta con Proyecto de Decreto por el que se reforman el primer párrafo y las fracciones I, II y III del artículo 112 de la Ley de Migración" [Opinion of the Joint Committees on Migratory Affairs and Legislative Studies, on the Minutes on the Draft Decree reforming the first paragraph and Sections I, II and III of Article 112 of the Migration Act], approved on October 13, 2016 by the Senate of the Republic, contains provisions in Section I, fourth paragraph that the migration authority must immediately notify different agencies to help guarantee and protect the rights of UCACIM. However, there is no obligation to notify the protection agencies, which according to the LGDNNA are in charge of providing comprehensive protection and securing the rights of this vulnerable population.

the previously mentioned system, and, along with the SNDIF, bears responsibility for safeguarding the databases of migrant children and adolescents. Several authorities are involved in the same area, and apparently charged with similar duties since it is the responsibility of both the SNDIF and the INM to protect this database, which could lead to conflicting viewpoints.

3. Information

102. Articles 78 and 85 of MOOSNPINNA state that the Executive Secretariat of SIPINNA is responsible for designing, managing and updating the National Information System, and that this national system mainly consists of information from the PFPNNA and the SNDIF. In the absence of a detailed distribution of powers and responsibilities regarding such an important reporting mechanism, it is essential that both the SNDIF and the INM methodically determine how they will coordinate in order to avoid the revictimization of UCACIM. Although it is not established in the legislation, it is inferred that such information can only be gathered in person or through interviews of the unaccompanied children conducted by the corresponding authorities. In addition, the way in which such important data should be gathered, such as *"likelihood of receiving international or supplementary protection… identification as a victim, witness or perpetrator of any crime in his or her country of origin, habitual residence, country of destination or in national territory…"* (Article 43, Sections X and XI of the RLGDNNA) is not specified.

103. In view of the above, the CNDH believes that the fact the mentioned authorities obtain, offer and safeguard databases that will be incorporated into the National Information System may lead to the duplication of functions. Moreover, it is not possible to maintain the corresponding secrecy since several authorities are involved in its design, administration and security.

4. Training

104. Articles 120, Section IV and 125, section XVI of the LGDNNA; Article 5, Section XII of the MOOSNPINNA; Article 25 of the LM and Article 192, Section I of the RLM; Article 15, Section XIII of the LSRPCYAP, and Article 15, Section XXII of the RLSRYPC, grant separate powers to the Executive Secretariat of the SIPINNA, the INM, the COMAR and the SNDIF to carry out training activities on knowledge and respect for the human rights of UCACIM.

105. These actions must be coordinated and permanent so that the efforts are not inadequate or dispersed since each authority works in a distinct field. Hence, the coordination must necessarily fall on a single agency, so that its public servants can specialize in issues pertaining to UCACIM and can enhance other efforts.[46]

106. The above is of the utmost importance for the proper protection of UCACIM since the INM, COMAR and DIF systems are charged with identifying the particular protection needs of UCACIM so that they can provide them with the appropriate care.[47] It is, therefore, essential for public servants in these institutions to have a comprehensive knowledge of both the rights of children and the administrative procedure for migration and RSD. This can be achieved through the concerted action of the authorities with the obligation and those charged with training them.

107. Since Article 9, Section XII of the MOOSNPINNA requires the Executive Secretariat of SIPINNA to "*design and implement, in a coordinated and permanent*

[46] One of the commitments made by the Mexican State at the High Level Roundtable: *"Call to Action: Protection Needs in the Northern Triangle of Central America" San Jose Action Statement"* ties in with the aforementioned paragraph, specifically in: *"Strengthening institutional capacities and training of state officials, to maintain quality systems"*. July 7, 2016, San Jose, Costa Rica.
[47] Idem. Related to the commitment: "*Strengthening cooperation in order to improve basic assistance and support programmes for asylum seekers and refugee, including access to services".*

manner, comprehensive training programs on knowledge and respect for the rights of children and adolescents," it would be appropriate for the Secretariat to coordinate the training programs on the respect to migrant children's rights it gives to all the agencies involved. This would make it possible to study the content of these programs and adapt it to ensure the comprehensive protection of their fundamental rights.

108. It does not go unnoticed that the Fifth Transitory Article of the RLGDNNA establishes that the guidelines, agreements, protocols, methodologies and other general administrative provisions that must be issued in accordance with the LGDNNA and its Regulations, must be published within one hundred and eighty days as of the entry into force of the Regulations. Although the INM has issued the Protocol of Action to ensure respect for the principles and protection of the rights of children and adolescents engaged in administrative immigration procedures, there are no other instruments that provide due care for UCACIM, which are indispensable for their proper protection, such as the PFPNNA guidelines for the determination of the best interest, and protocols that establish how intervening and substitute representations should be carried out, among others.

109. Arising from a study of the national legislation on the subject, it is also necessary to observe the provisions of Article 96 of the LGDNNA, which stipulates the prohibition of "… *returning, expelling, deporting, returning, rejecting at the border or refusing to admit, or in any other way transferring or removing a child or adolescent when his or her life, safety and/or freedom are in danger due to persecution or threat, widespread violence or massive violations of human rights, among others, as well as where he or she may be subjected to torture or other cruel, inhuman or degrading treatment.*" Given that the concepts of "*transferring or removing*" are not clear, the terms lend themselves to confusion or subjective interpretations. Moreover, it is not specified how the evaluation of UCACIM should be carried out in these cases. This situation should be

clarified and the actions to be implemented, the authorities involved and the types of measures to be taken should be established.

110. From the examples described above, it is clear that even though there is a robust legal framework for the comprehensive protection of the rights of UCACIM, the outlook remains unclear, and that could have a negative effect on the protection of their rights. Agreement among the agencies involved is needed to establish a focal point that will effectively coordinate each of their efforts; otherwise there will be a duplication of actions or the wrongful exercise of some of them, which would unfortunately undermine the exercise of the human rights of UCACIM and their best interests.

111. On the other hand, it should not be overlooked that the authorities involved in the protection of UCACIM have also been given the power to coordinate, which has been made very clear in various laws and regulations aimed at protecting this vulnerable group. The following table illustrates this.

COORDINATING POWERS	LEGAL BASIS
The Executive Secretariat of the SIPINNA will coordinate actions among the agencies and competent bodies of the Federal Public Administration deriving from the LGDNNA.	Art. 130, Section I of the LGDNNA
In coordination with the PFPNNA, the INM will issue a protocol, so that within the administrative immigration procedures of UCACIM, the BIC will be privileged.	Art. 105 of the RLGDNNA
The INM will assist the COMAR in the determination of the BIC of UCACIM applying for RSD.	Art. 177 of the RLM and Art. 37 of the RLSRYPC
The DIF systems, in coordination with the INM and the COMAR should identify UCACIM that require international protection, whether as refugees or otherwise, through	Art. 98 of the LGDNNA and Art. 109 of the RLGDNNA

an initial assessment with guarantees of safety and privacy so as to provide them with the necessary appropriate and personalized treatment through the adoption of special protection measures.	
The PFPNNA will coordinate with the INM, the COMAR and the DIF systems to implement and monitor the protection measures for the comprehensive restitution of UCACIM rights, in order to act in a timely and articulated manner.	Art. 122, Section III of the LGDNNA
The SNDIF will design, integrate and manage the UCACIM databases for their incorporation into the National Data System, which will share with the PFPNNA, while the INM and the DIF systems will send information they have.	Art. 99 and 100 of the LGDNNA

C. THE BEST INTERESTS OF THE CHILD

112. The BIC is one of the guiding principles of the human rights of UCACIM. Any authority who comes in contact with this sector of the population must consider these interests a priority when making decisions that involve children and adolescents, as this will lead to adequate comprehensive assistance and protection.

1. General Information

113. Article 25.2 of the UDHR establishes that "*motherhood and childhood are entitled to special care and assistance. All children (…) shall enjoy the same social protection.*"

114. Meanwhile, paragraph 9 of the preamble to the CRC states that "*the child, by reason of his physical and mental immaturity, needs special safeguards and care, including legal protection.*" Under the terms of this convention, a child means every human being under the age of 18. Article 2.2 of this convention also affirms that States Parties must take all appropriate measures to ensure that the child is protected against

all forms of discrimination or punishment on the grounds of the status, expressed opinions or beliefs of the child's parents, legal guardians or family members.

115. Considering that as persons UCACIM have human rights, they need special protection and care because they are in the process of maturing. The concept of the best interests of the child is established in Article 3.1 of the CRC, which stipulates that "*in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration*."

116. Article 4, paragraph eight of the CPEUM makes reference to the same concept: "*The State, in all decisions it makes and actions it carries out, will safeguard and comply with the principle of doing what is in the best interest of children, thus fully guaranteeing their rights."*

117. At the national level, one of the obstacles encountered in the interpretation and implementation of this rule of procedure, principle and right, is that the LGDNNA, the LM and the LSRPCYAP, and their respective regulations, do not specifically clarify the scope of the concept. This ends up limiting the protection and exercise of the BIC, particularly in the case of UCACIM when it comes to guaranteeing, recognizing and protecting them.

118. Therefore, it is necessary to take another look at what is established in various international instruments and documents that clarify the applicability of the BIC. Paragraph four of the GC-14 (2013) on the right of the child to have his or her best interests taken as a primary consideration says that "*The concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights recognized in the Convention and the holistic development of the child (understood as*

embracing the child's physical, mental, spiritual, moral, psychological and social development)." [48]

119. This same international instrument notes that there is no hierarchy of rights. Consequently, those set forth in the Convention are directly related to the BIC and none of them should be undermined by a negative interpretation. One example of this is the situation UCACIM in transit through Mexico face when the Mexican administrative immigration authority restricts their freedom apparently to protect their right to safety and physical integrity.

120. The CNDH has obtained several testimonies in which the UCACIM who are detained at migrant stations do not understand properly, and are not given a clear explanation of, their situation. Thus, they end up with negative feelings and in violent and disappointing situations[49] while from the adult point of view of the Mexican authorities they are protecting the children and adolescents.

Jonathan "N", Honduran, 17: *"I'm sad. They haven't told me why I'm here. I think this place is very bad because the staff speaks to me as if they are angry and in a bad mood."*

Eduardo "N", Guatemalan, 17: "I'm really nervous because they say I'm here for my own safety and because I don't have papers to be in Mexico legally."

Pedro "N.", Guatemalan, 15: *"I'm really anxious being here. They told me that it's for my safety."*

[48] General Comment No. 14, *"On the right of the child to have his or her best interests taken as a primary consideration"* (Art. 3, para. 1), Committee on the Rights of the Child, United Nations, May 29, 2013, paragraph 4.

[49] The testimonies were gathered by CNDH personnel at migrant stations in Acayucan, Veracruz, and Hermosillo, Sonora, May 23, 2016.

121. GC-14 (2013) stresses the need to take into account best interests as a threefold concept, based on the following aspects:

a) **A substantive right**: The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. The State has an intrinsic obligation to fulfill those rights. In this regard, the whole issue of the various rights of the UCACIM that should be recognized by Mexican immigration authorities should be revisited, starting with non-detention. This should be a permanent right, and not an exception (as established in Article 111 of the RLGDNNA). Other rights in this category are the right to have their opinion heard during all administrative and judicial proceedings concerning them, the right to legal representation and the right to a guardian during their immigration proceedings and all decisions affecting them whether they leave or stay in the country.

b) **A fundamental, interpretive legal principle**: If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.

c) **A rule of procedure**: Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Furthermore, the

justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighted against other considerations. This means that in every single case, the Mexican State must explain why it chose detention, the purpose of that detention, and what support instruments and strategies it offers to each UCACIM. Moreover, it must comply with the current Mexican legal framework, a situation which either does not or rarely happens, as evidenced by some of the testimonies the CNDH has gathered at migrant stations, some of which are cited below.[50]

Leonel "N", Honduran, 17: *"They haven't told me anything about my immigration status or my right to seek refuge."*

Magdalena "N", Honduran, 17: *"Nobody's told me anything."*

122. In Articles 47 and 48, GC-14 (2013) stresses the need for States Parties to the Convention to develop and adopt all necessary measures for the implementation of the BIC as a right, a rule of procedure and a legal principle.

123. This includes the individual decisions taken by administrative and judicial institutions that have a direct or indirect impact on children and adolescents in the context of human mobility.

[50] Testimonies gathered by CNDH personnel at the migrant station at Tampico, Tamaulipas, May 23, 2016.

124. In general terms, it should be pointed out that there is non-compliance with the Fifth Transitory Article of the RLGDNNA, as there are no manuals, agreements, protocols or methodologies that have been updated to include the new legal provision on the comprehensive protection that Mexican government authorities like the INM, the PFPNNA , SNDIF and the COMAR should offer UCACIM.

125. The CNDH recognizes the effort made by the SEGOB, the COMAR and the INM, which on July 4, 2016 issued a press release on the "*Initial Assessment Protocol for the Identification of Indications of Unaccompanied or Separated Children's and Adolescents' Need for International Protection*", a document that aims, among other things, to improve communication between UCACIM and officials in charge of identifying signs of the need for international protection within the framework of respect for human rights based on international documents like GC-21/14 and GC-6 (2005).

126. This protocol is divided into 7 steps for detection, an interview and a questionnaire. It incorporates psychological child development concepts and interview techniques that are proactive and empathetic. However, the CNDH believes that it can be reinforced by indicating which authority is in charge of its application so as to avoid leaving that open to speculation, since this point is not established.

127. In this context, the INM General Office of Immigration Training currently coordinates training on the implementation of the above-mentioned document. This suggests that it is principally intended for institute personnel (CPOs) even though it is not an ideal situation since they are members of the agency that detains and, where applicable, deports UCACIM.

128. It is important to point out that personnel of this national commission have been through this course given by the INM General Office of Immigration Training. The

course uses language geared towards children and lasts approximately 12 hours. The length of the course is deemed insufficient since the concepts and technical terms are difficult to understand. Moreover, it is not certain whether it is targeted at personnel who have been previously trained. In addition, a 12-hour online training course should not be used to certify administrative immigration personnel as specialists in migrant children. Consequently, it is necessary to improve the training for staff specializing in migrant children and their international protection as this would lead to a better implementation of the mentioned protocol and respect for the human rights of this vulnerable group.

129. This instrument, it would seem, should only be applied by personnel specializing in the DIF Systems and/or state protection agencies at SNDIF SAC facilities so that the UCACIM are in an environment that inspires confidence, and as a result, may reveal the real reasons why they left their countries of origin.

130. It is worth mentioning that the Protocol of Action published in the DOF on August 10, 2016, sees the implementation of some good practices aimed at improving the care for UCACIM, such as the information the INM should include in the notification to the DIF Systems. One such practice is expressly indicating a "*channeling request*" which did not previously exist. The CNDH concurs with this because it gives greater certainty to the respect of the human rights of this vulnerable group unlike before when the INM simply notified the migrant station of the need for accommodation.

131. Despite the above, this protocol must be supplemented by the obligation to notify the CNDH and state human rights agencies of the arrival of UCACIM at a migrant center, as stipulated in Article 112, Section I of the LM.

132. On the other hand, OC-21/14 indicates that: "*the principle of the best interest entails both its priority consideration in the design of public policies and the drafting of*

laws and regulations concerning childhood, and in its implementation in all the spheres that related (sic) to the life of the child. In the context of migration, any immigration policy that respects human rights, as well as any administrative or judicial decision concerning the entry, stay or expulsion of a child, or the detention, expulsion or deportation of his or her parents associated with their own migratory status, must give priority to the assessment, determination, consideration and protection of the best interest of the child concerned. Closely related to this, is the obligation to respect fully the right of the child to be heard with regard to all the aspects of immigration and asylum proceedings, and that her or his views be adequately taken into account."[51] Therefore, the determination of the BIC must be the guiding principle for all decisions taken by the authorities regarding the legal status of UCACIM. It is equally important for this national agency to listen to the views of the unaccompanied child, taking into account his or her physical and personal characteristics.

133. The following testimony is an example of this: [52]

> Lizeth "N". Salvadorean, 17. *"I'm beside myself. They told me I'm here because I don't have papers. I think it's really bad because I didn't do anything wrong. I just wanted to be with my mom."*

134. It is also important to include the State's obligation *"to ensure that all judicial and administrative decisions as well as policies and legislation concerning children demonstrate that the child's best interests have been a primary consideration. This*

[51] Advisory Opinion OC-21/14, *"Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection"*, Inter-American Court of Human Rights, August 19, 2014, paragraph 70.
[52] Testimony gathered by CNDH personnel at the migrant station in Tapachula, Chiapas, May 24, 2016.

includes describing how the best interests have been examined and assessed, and what weight has been ascribed to them in the decision."[53]

135. OC-21/2014 "*Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection*" also assigns this responsibility to private agents and government service providers, which creates an obligation for the competent authorities – in this case the PFPNNA – to authorize, register, certify and oversee private shelters run, for example, by civil society organizations, according to Article 108 of the LGDNNA.

136. To evaluate the BIC, GC-14 (2013) recommends treating each case based on its specific circumstances and not a whole even when speaking of groups of girls and boys, as mentioned in this instrument: "*the individual characteristics of the child or children concerned, such as, inter alia, age, sex, level of maturity, experience, belonging to a minority group, having a physical, sensory or intellectual disability, as well as the social and cultural context in which the child or children find themselves, such as the presence or absence of parents, whether the child lives with them, quality of relationships between the child and his or her family or caregivers, the environment in relation to safety, the existence of quality alternative means available to the family, extended family or caregivers, etc.*"[54]

137. Other responsibilities States must assume to promote the BIC include training of the personnel directly or indirectly involved in making decisions that affect CA, including professionals who work with children. In the case of Mexico, this means that all immigration agents, staff at DIF System and CSO shelters, and personnel at the PFPNNA and corresponding state protection agencies should be certified in specific

[53] General Comment No. 14, *"On the right of the child to have his or her best interests …" op. cit.*, para. 14(b).
[54] *Ibid.*, para. 48.

competencies and skills in determining the BIC, beyond the 40-hour training course that some INM agents took between 2011 and 2013 to become CPOs.

138. It should be stressed that not every person is capable of or prepared to determine the BIC. Not only are qualified professionals required to be professionals in the field, but they must also have special training: "*…inter alia, child psychology, child development and other relevant human and social development fields, who have experience working with children and who will consider the information received in an objective manner. As far as possible, a multidisciplinary team of professionals should be involved in assessing the child's best interests.*"[55]

139. The current national legal framework has incorporated the fundamental concepts of the international instruments signed by Mexico on the protection of UCACIM, such as the BIC, due process, family reunification and the right to be heard. However, when analyzing the various testimonies gathered by this national commission and documents published by international agencies, as well as by CSOs, it is clear that that the information requested should be obtained by professionals certified in child care and specifically trained in the principle of determining the BIC. This situation is not currently reflected in the daily reality of UCACIM during their transit through Mexico when they are detained by Mexican authorities, nor when said authorities analyze the BIC.

140. GC-14 (2013) indicates that it is essential for each country to draw up a list of the basic and necessary points to be taken into account in determining the BIC, and for it to be individualized for each specific child population or cases, such as UCACIM.[56]

[55] *Ibid.,* para. 94.

[56] Within the framework of the High-Level International Conference on "*Challenges for Ombudsman Institutions with respect to mixed migratory flows*" held on September 7-8, 2016, in Tirana Albania, one of the points States were required to address was to provide special treatment to unaccompanied and refugee children in the context of international migration, corresponding to their special needs while safeguarding their fundamental rights.

Mexican public servants in contact with UCACIM should use as a base the list of data included in national and international regulations and include the various situations of vulnerability UCACIM might face in the assessment. Moreover, the specialists giving the interviews should include information about gender, age, travel status, ethnicity, whether they have been victims of or witnesses to crimes, and whether they have any physical or intellectual disability, among other aspects.

141. When the BIC is being determined, the care and the protection of UCACIM must be sought at all times. The CRC itself is very clear on this point, stipulating that this should not be a justification of the State to deprive a child of his or her freedom or limit his or her other rights contained in the BIC, as international organizations and agencies have noted regarding the conditions of detention and confinement that UCACIM suffer at the hands Mexican immigration authorities.

142. As part of determining the BIC, the profile of the professionals who do this must be taken into account. They must have direct and specialized contact with children and the determination must be interdisciplinary given that all the government and non-governmental institutions involved in the process of said determination must work together. This implies developing and implementing new coordinated care protocols that are not based on administrative processes but on determining the BIC of the UCACIM.

143. Special attention should be paid to the issue of the jurisdictional protection of children in national territory. This led the SCJN to issue the "*Protocol of Action for Those Who Administer Justice in Cases Involving Children and Adolescents*"[57] and the

[57] Regarding the guiding nature of the Protocol, there is the following court opinion: "*Protocol of Action for Those Who Administer Justice in Cases Involving Children and Adolescents issued by the Supreme Court of Justice. It is not binding and therefore has no normative value to form the basis of a legal decision, but it is a tool for those who exercise this role*", Weekly Federal Court Report [*Semanario Judicial de la Federación]*, July 2014, Registry No. 2006882.

"*Protocol of Action for Those Who Administer Justice in Cases that Affect Migrants and Persons Subject to International Protection*". The SCJN considers the fact that children and adolescents are unaccompanied an additional element that exacerbates the vulnerability of persons in context of migration. Therefore, it is necessary to guarantee the assessment of their identity, nationality, upbringing and ethnic, cultural, and linguistic background, as well as their vulnerabilities and special needs for protection.

144. The second protocol mentioned stresses the importance for "*the children and adolescents to have all the information [given to them] in a simple way so that they understand their legal options and the consequences of each one, if applicable, the meaning of the decision and the steps to follow later to comply with said decision*."[58] The CNDH insists on and recognizes the vital need for UCACIM to be duly informed, with respect and in a way that is documented, about their rights.

145. As a guiding criterion, the above-mentioned Protocol of Action states that the best interests of the child or adolescent also guarantees his or her right to education and to an adequate standard of living in accordance with his or her physical and mental development. This implies access to health care and treatments for illnesses and rehabilitation.

146. The lack of attention given to the principle of the BIC is a constant concern for the CNDH. Therefore, Recommendations 18/2010, 27/2010, 23/2011, 54/2012, 77/2012, 31/2013, 36/2013, 17/2014, 22/2015, 27/2015 and 22/2016 have been issued, highlighting non-compliance. Some of these recommendations and violations of the BIC will be analyzed in further detail in the following chapters.

[58] SCJN, Mexico, 2013, page 97.

Diagram of the BIC

2. Information obtained from civil society and international organizations

147. Organizations like HRW have stressed that the professionals dealing with children must clearly provide all the information this population needs to fully understand their rights, and especially to guarantee their best interests. "*In the absence of information and adequate assistance, children often turn to their consulates for support. For instance, when Daniel L. arrived in Mexico with his younger brother, they first spoke to an INM agent to ask for asylum and were directed to a consular officer. 'I told my problem to somebody from the Salvadoran consulate. They told me to go to COMAR for help. I talked to COMAR and they opened an application for me,' Daniel L. told us*."[59]

148. The examples and testimonies in international organization and CSO reports not only show the INM and other agency personnel's inability to communicate proactively with UCACIM, but also the lack of preparation, training and experience, evidenced by the failure to take the child's opinion into account, which contravenes his or her right to be heard as provided for in Article 12 of the CRC, and must be included as part of the procedure for determining the BIC.

149. It is also important to point out that the determination of the best interests of the child should be considered within the context of the repatriation of CA. For HRW, it is not enough to locate their families in their countries of origin; it is essential to obtain sufficient reliable information to ensure that family reunification will benefit the UCACIM and for this measure not to incite them to run away from home again or put them at risk.

150. This point coincides with the "*Detained Childhood [Niñez Detenida]"* report drawn up by the Fray Matías de Córdova Center and the University of Lanús (2012), which

[59] Human Rights Watch, *"Closed Doors: Mexico's Failure to Protect Central American Refugee and Migrant Children",* March, 2016, page 80.

refers to the fact that it is the Mexican authorities who should provide sufficient reliable information to promote reunification of UCACIM with their family, and for this measure not to result in their running away from home again or placing them in a situation of risk due to domestic or social violence.

151. Both the Fray Matías de Córdova Center and the University of Lanús, as well as HRW, express their concern at the lack of a procedure for the BIC among immigration provisions and proceedings that should seek to ensure the comprehensive protection of children before attaining immigration policy objectives, especially those of control mechanisms. Hence, these organizations propose a profile of the professionals who should take part in the process of migrant child care and protection, similar to that of the CPO now in place. In addition to having the necessary knowledge, these professionals "*should specialize in child care so that the interests of the CA are properly protected and their legal, social, health, psychological, material and educational needs are fully assessed and addressed.*"[60] This profile includes interpreters of the various native languages, as well as knowledge of migration-related issues and the impact of the migration process on UCACIM.

152. In response to this situation, HRW made a series of observations in its latest reports, indicating that "*INM child protection officers have the responsibility to screen children proactively for protection needs, but most of the children we interviewed had not, as far as they knew, ever spoken to a child protection officer.*"[61] The CNDH has since verified this situation through questionnaires, and CNDH staff visits to migration

[60]Ceriani C., Pablo, *"Niñez Detenida: Los derechos humanos de niñas, niños y adolescentes migrantes en la frontera México-Guatemala"* [Detained Childhood: The Human Rights of Migrant Children and Adolescents on the Mexican-Guatemalan Border], Universidad Nacional de Lanús and Centro de Derechos Humanos Fray Matías de Córdova A.C. Capítulo 6, Repatriaciones ajenas al Interés Superior del Niño: Procedimientos y Decisiones arbitrarias, Mexico, 2012, page 3.
[61] Human Rights Watch, *"Closed Doors: Mexico's Failure…", op. cit*., page 54.

centers reveal that the majority of the UCACIM say they have had no contact with a CPO.

153. Within the scope of the BIC, there is evidence of Mexican authorities' manipulation of adult language to justify their decisions supposedly based on recognition of the determination of the BIC: "*Migration policy, and specifically those aimed at detaining and repatriating migrant CA, make use of a series of euphemisms* [that conceal the nature of the measures adopted. This strategy does not only entail semantic distortion]. *The main problem in the use of these euphemisms is that it obscures the true legal nature of State practices that violate fundamental rights and makes it difficult to analyze, monitor and evaluate migration policy."*[62]

154. Securing, appearance, shelter or stay are concepts used interchangeably in the Mexican government's various provisions or official reports to refer to the same situation: the deprivation of migrant children and adolescents of their freedom at migrant stations or enclosed DIF shelters. "*However, terms consistent with the legal nature of this condition, such as detention, confinement or deprivation of freedom, are not used in any public policies that provide for or implement these measures."*[63]

155. Repatriation (voluntary), return and assisted return allude to the immigration authority regulations regarding the departure of a UCACIM from Mexico to their country of origin. However, upon careful examination of the processes that lead to such decisions – how are these measures adopted and by whom, through what kind of procedures, which rights and guarantees are recognized and can be effectively

[62] Ceriani C., Pablo, *"Niñez Detenida: Los derechos humanos de niñas, niños y adolescentes migrantes…"*, *op. cit*., Executive Summary, page 8.
[63] *Ibid.*, Capítulo 3. Políticas de Migración y Niñez: Aspectos, Principios y Marco Institucional, page 20.

exercised – the concepts that would more precisely define these practices are often expulsion or deportation.

156. These are just some of the most obvious examples of the euphemisms generally used in the context of immigration policy and, specifically in the administrative procedures carried out in the case of the irregular immigration status of a migrant child or adolescent who lives in or transits through Mexican territory.

157. It should be acknowledged that "*This use of euphemisms creates a series of problems in terms of the rights of migrant CA. Mainly, it veils the true legal natures of state responses toward irregular migration, makes its reformulation difficult and obstructs the search for more comprehensive alternatives to manage the phenomenon."*[64]

158. It is also important to point out, like HRW, that INM interviews are structured without really considering the BIC: *"Those who flee in search of safety do not always explain their full reasons for leaving their countries. This is particularly true in the case of children, especially when they confuse INM child protection officials with INM law enforcement agents. As UNHCR's guidelines for child asylum claims note, '[c]hildren may not be able to articulate their claims to refugee status in the same way as adults and, therefore, may require special assistance to do so.' In addition, as the Separated Children in Europe Programme's Statement of Good Practice notes, '[c]hildren may give false information to different authorities due to misunderstandings or because they feel under duress or simply because they do not know the requested information.'"*[65]

[64] *Ibid.*, page 21.
[65] Human Rights Watch, *"Close Doors: Mexico's Failure…", op. cit.*, page 72.

159. Among the functions and activities performed by CNDH personnel, there are visits to shelters and migrant centers. Here, they have noticed limited presence of CPOs during the administrative immigration proceedings of UCACIM. However, on the rare occasions when CPOs have intervened, they do not have a protocol of action for the identification of possible RSD applicants. This means that ideal conditions do not exist for UCACIM to become trusting enough to talk about the situation that led them to leave their countries of origin and what forced them to travel alone.

160. CSOs have taken various stances regarding the concern that the determination of the BIC of UCACIM are not currently respected. As Pérez García, director of the Network for the Rights of Children in Mexico stated in an El Universal article on May 29, 2016, "*the country is giving preference to political-economic agreements with the United States and is failing Article 4 of the Constitution, which establishes that all actions taken by the State should have the best interests of children as a priority consideration. With the operations carried out by Mexican authorities within the framework of the Southern Border Plan, deportations have increased. Eighty-six percent of the children and adolescents who are detained are deported, which is a serious violation of their human rights. It is obvious that if children are fleeing from violence in their country, returning them to their homeland often means returning them [to face] death."*[66]

161. CSOs and international organizations seek to ensure that Mexico's restrictive immigration policies towards UCACIM are not justified through the use of euphemistic terms like shelter, protection or arrival when in reality the BIC of this child population is being violated.

[66] El Universal, *"Imparable, Migración Infantil"*, May 29, 2016.

162. The Mexican immigration authority must evaluate whether it really wants to work according to the current international and national normative framework for the protection of children's rights and take a step in this direction in its assistance centers. This means it must stop its detention practices towards UCACIM, internally modify the concepts and make it clear that they are not held in migrant stations because of protection actions, but because of actions of immigration control. The Mexican State must seek the integrality of the rights of UCACIM, effectively determine the BIC and ensure that this principle is always respected.

163. For this, it is necessary to mention that the determination of the BIC is a flexible and dynamic procedure. Based on the terms stipulated in the international instruments cited in this subsection, such as GC-14 (2013), it consists of professionals in the field of children in the context of migration carrying out a multidisciplinary analysis of the living conditions, physical and mental maturity, among other things, of UCACIM in order to establish the attention, care and protection they need, based on each specific case. In doing so, it would result in obtaining the parameters that should be followed by all the authorities who interact with UCACIM and who, depending on their authority, need to issue a decision on the welfare of these CA.

164. The IACtHR has indicated that the determination of the BIC must be made based on an assessment of the circumstances surrounding the case, such as the individual characteristics of the child in question, the child's support network and possible risks, among others, to then evaluate the impact on the child's development and well-being.[67]

165. Along this line, the CNDH believes that the PFPNNA should issue guidelines for the determination of the BIC. These would form the basis for state protection agencies

[67] *Case of Atala Riffo and Daughters v. Chile,* Merits, Reparations and Costs, Inter-American Court of Human Rights, February 24, 2012, para.108.

to decide on the BIC for each specific case by means of interviews and studies conducted by specialists on children in the context of migration from various fields, including psychology, social work and education, among others, to thus avoid re-victimization. Moreover, by always taking into account CA's opinions, the decision to be taken would include the other agencies involved with UCACIM assistance, such as SACs, the INM, COMAR, DIF, SS and SEP, which by law are responsible for ensuring the best interests of children.[68]

166. On the other hand, ensuring the BIC should be understood as the obligation of all the authorities and institutions involved in the comprehensive care of UCACIM to recognize and guarantee that this vulnerable group has access to all the rights established in the national and international framework regarding the parameters established for the determination of the BIC.

D. GUARDIAN FOR UNACCOMPANIED OR SEPARATED CHILDREN AND ADOLESCENTS IN THE CONTEXT OF INTERNATIONAL MIGRATION

167. In GC-6 (2005), the Committee on the Rights of the Child mandated States to appoint a guardian or adviser as soon as an unaccompanied or separated child is identified. This guardian is to be consulted on and informed of all actions taken in relation to UCACIM. [69]

[68] Article 74 of the *"Iniciativa con proyecto de decreto por el que se reforman diversos artículos de la Ley de Migración en materia de infancia migrante"* [Draft decree reforming various articles of the Migration Act referring to Migrant Children], presented before the Senate Committee on April 26, 2016, states that as long as the State Protection and Advocacy Agency determines the BIC of the children and adolescents in context of migration, the children and adolescents shall be officially considered visitors for humanitarian reasons. We regard this as a right of this vulnerable population group.

[69] General Comment Nº 6, (2005), *"Treatment of Unaccompanied and Separated Children Outside their Country of Origin",* UN Committee on the Rights of the Child, September 1, 2005, para. 33.

168. The IACtHR, in Advisory Opinion OC-21/2014, said that no administrative or legal proceedings involving children in context of migration who are unaccompanied or separated from their family can be undertaken unless a guardian is appointed, and the CA must remain under guardianship until: 1) they reach the age of majority; 2) they permanently leave the territory or jurisdiction of the State; or 3) the reason for which a guardian was appointed ceases to exist. In addition, the appointed guardian must be sufficiently aware of the interests and situation of the UCACIM and should have the authority to be present at all the planning and decision-making processes.[70]

169. THE IACtHR has stated that the guardian should act as a link between the UCACIM and the pertinent entities in order to ensure their legal, social, health, psychological, material and educational needs are covered appropriately. In the case of a child separated from his family, guardianship should be assigned to the accompanying adult family member or non-primary caretaker, unless there is an indication that it is not in the best interests of the child to do so.[71]

170. In the document "*The Passage: Migration and Childhood [La Travesía]*" UNICEF noted *"…the prompt appointment of a competent guardian is a very important procedural guarantee for the respect of the best interests of unaccompanied migrant children…"*[72] regardless of the authorities' obligation to appoint a legal representative in administrative or jurisdictional proceedings. In this regard, the CNDH warns, as will be set out in greater detail later in this document, that in all of the current administrative proceedings involving UCACIM, the figure of the guardian is non-existent, even though these CA are in a situation of vulnerability and therefore it is the State's obligation to

[70] Advisory Opinion OC-21/14, *"Rights and Guarantees of the Child in the Context of Migration …"…", op. cit*., paras. 132 and 133
[71] *Ibid*, paras. 134 and 135.
[72] UNICEF, *"La Travesía. Migración e Infancia"* [The Passage: Migration and Childhood], *op. cit.,* page 26.

appoint a guardian for all children entering Mexico without their parents or someone with parental authority over them.

171. On this topic, Sin Fronteras I.A.P. and Central American Institute of Social and Development Studies [*Instituto Centroamericano de Estudios Sociales y Desarrollo* -- INCEDES] pointed out in their report on "*Unaccompanied Adolescents: Studies on their human rights during the process of immigration verification, detention, deportation and reception*" that *"…[a]nother factor reported by the adolescents is that during their appearance in court, 96.7% of them were afforded neither legal advice, nor a guardian nor a person of trust to defend their interests. In some cases, they were also unaware of why they were being fingerprinted and photographed. It should be recalled that anyone under State guardianship must be informed about the process by which they are deprived of their liberty, the stages of the proceedings, the estimated time of detention and the rights that they have during said detention, including the right to request and receive asylum. Only 29.7% of adolescents knew about their rights during the immigration proceedings. This information came to them by way of a brochure from the National Human Rights Commission and, in some cases, through an INM publication on migrant station rules and regulations..."* The CNDH corroborated this situation since from a pool of 521 UCACIM who gave testimonies, 344 of them were not provided with information on their legal status during the administrative proceedings instituted against them by the INM. This highlights the importance of having a guardian and legal representative accompany them.

172. In this context, it is important to point out that under the terms of the provisions of Article 23 of the Federal Civil Code, being underage is a restriction on legal personality that should not undermine the dignity of the person, let alone the exercise of his or her rights through legal representation.

173. Paragraph 21 of GC-6 (2005) says there is a duty to appoint a competent guardian for UCACIM as soon as possible, as it is an essential procedural guarantee to safeguard their best interests. Under these terms, no proceedings can be initiated involving UCACIM if they have not been appointed a guardian.

174. With regard to this issue, the CNDH documented in its Recommendations 18/2010 and 54/2012, respectively, that INM personnel settled the immigration situation of aggrieved UCACIM as if they were adults, to the extent of allowing them to make their own decisions without the benefit of a guardian or legal representative present. Furthermore, in the first of the above-mentioned declarations, it was proved that the aggrieved adolescent had been pressured into declaring that her human rights had been protected at all times and that she exempted INM personnel involved in the case from all legal, criminal, administrative and civil liability, since they took on the responsibility for both her and her baby.

175. Similarly, in the case described in Recommendation 54/2012, the aggrieved adolescent named her 22-year-old partner as a person of trust for assistance without the immigration authority taking any steps to ensure or preserve her physical and mental well-being, even though she had a victim of crime.

176. Therefore, this national agency believes it necessary that UCACIM or those separated from their families, regardless of whether they have the intervening representation (legal) established by the LGDNNA, should be appointed a guardian, who will be in charge of assisting them through the respective administrative or jurisdictional proceedings and ensure that their basic needs are met. Additionally, the

guardian must assist UCACIM in making decisions, always taking their opinions into account.[73]

177. In terms of the regulations, the guardian must be appointed by the PFPNNA and the protection agencies, and may be a public servant of these agencies or a representative of civil society, provided that the requirements established by the respective guidelines are met. Said guardian must be certified and supervised by the SNDIF.

178. Although the LGDNNA does not regulate guardianship, its Article 106 says that in the absence of the person exercising original representation (the one with parental authority or guardianship) of the UCACIM, substitute representation will correspond to the PFPNNA and the protection agencies, which is why it could be done through the legal concept of guardianship.

179. It should be noted that First Title, Chapter II, numeral 2.3.2.2 of the Protocol of Action states that the PFPNNA shall intervene "*to legally represent CA, where appropriate…"* In addition, numeral 9.3 of the Second Title, Chapter IX, of the aforementioned instrument says the protection agency "…*may provide counsel and substitute and intervening representation to CA, during administrative administrative immigration proceedings… as long as the CA accept such representation*."

180. The aforesaid, however, is not in accordance with the provisions of the LGDNNA with respect to the PFPNNA's powers, since Article 122, Section II provides that *"… the protection agencies in the aforementioned article, in their areas of competence, have*

[73] The *"Iniciativa con proyecto de decreto por el que se reforman diversos artículos de la Ley de Migración…"*, op. cit., Although it does not set out the appointment of a guardian in text, it does point out in Article 11 that the protection agency must be informed of the proceedings involving migrant children and adolescents, an action with which this report agrees since immediate notification is required for the appointment of the representatives indicated by the LGDNNA.

the following powers: […] II. To provide counsel and substitute representation to children and adolescents involved in judicial or administrative proceedings […] as well as to intervene unofficially, with intervening representation…"

181. As it can be seen, the aforementioned law stipulates that intervening representation for UCACIM is to be granted by protection agencies. It does not establish a need for the children to "accept" that representation, since though it is commendable that their view is being taken into account, representation cannot be left to their discretion as this could affect their right to legal certainty in the proceedings in which they are involved.

182. On the other hand, First Title, Chapter III, numeral 3.2 of the Protocol of Action states that the INM will guarantee an escort by its consular representation if UCACIM want to report actions that could constitute crimes. However, said protocol ought to mention how the INM will guarantee this escort.

183. Notwithstanding the above, the CNDH considers it important that UCACIM are accompanied by their own intervening or substitute representative, so that they can receive the legal counsel and assistance that they require, bearing in mind that before they are migrants they are children in a situation of vulnerability and protected under Mexican laws.

184. Likewise, the above-mentioned protocol states that during the administrative immigration procedure, UCACIM must be accompanied by a CPO, a situation which this national commission believes should be reassessed since, first of all, this position should belong to an institution more in line with the comprehensive protection of the population under study. Secondly, it is considered necessary that regardless of the presence of the CPO, the substitute representative (guardian) should be present during

the various stages of the administrative immigration proceedings, since this would give greater confidence and security to the migrant children and adolescents.

Table of representations that UCACIM may have:

Subject	Legal framework
Intervening representation (legal): **Unofficial accompaniment that protection agencies must provide to UCACIM in administrative and jurisdictional proceedings.**	Art. 4, Sec. XXI, Art.122, Sec. II of the LGDNNA; Art. 17, Sec. II of the EOSNDIF
Substitute Representation (guardian): **A guardian is appointed in the absence of the person exercising the original representation (parents or whoever has guardianship), or when, for any reason, it is determined by the court or administrative authority. This representation is provided by the protection agencies.**	Art. 4, Sec. XXIII, 106 and 122, Sec. II of the LGDNNA; Art. 17, Sec. I of the EOSNDIF
Original representation: **Whoever exercises parental authority or guardianship.**	Art. 4 Sec. XXII of the LGDNNA

E. CHILD PROTECTION OFFICERS

185. One important progress made in Mexico's internal regulations regarding care for UCACIM was the appearance of the figure of the CPO, who is in charge of guiding and protecting the rights of this vulnerable group and, above all, to ensure the BIC, with strict adherence to the applicable legal and administrative provisions. However, as seen below, their role has now been surpassed by or not adapted to the various problems and situations UCACIM face. Hence, their position needs to be examined, along with their duties and jurisdiction, so as to adapt their work to the new demands contained in the legal framework that regulates the comprehensive protection of UCACIM.

1. Origin, Creation and Powers

186. It has been argued that the real causes behind the migration of UCACIM are violence, inequality, family reunification or to improve their financial situation. All these characteristics have resulted in a surge in the flow of persons in context of migration transiting through Mexico. According to various CSOs, this increase has led organized crime groups to view these vulnerable people as "merchandise".[74] Hence, not only Central American migrants, but also Mexicans in transit to the United States of America, become their victims.

187. This situation is aggravated when the UCACIM are at risk of abuse from some of the public servants at the same agencies that detain them, confine them and return them. They can be doubly victimized by criminals and public servants from state agencies.

188. The SEGOB Office of the Under-Secretary of Population, Migration and Religious Affairs organized the Inter-Institutional Round Table on UCAICM and Migrant Women on March 30, 2007 with the participation of the IOM, UNICEF, UNHCR, as well as SEDESOL, SEP, SS, SNDIF, INM and COMAR, among many other institutions.

189. Policies and responsibilities regarding UCACIM were discussed at this forum with the aim of creating comprehensive mechanisms for their protection. One of the outcomes of this forum was the establishment of the "Model for the Protection of the Rights of Unaccompanied Migrant and Repatriated CA" [*Modelo de Protección de los Derechos de los NNA Migrantes y Repatriados No Acompañados*], which created

[74] "Report on the General Situation of the Rights of Migrants and Their Families [*Informe sobre la situación general de los derechos de los migrantes y sus familias*]" prepared by civil society organizations for the visit to Mexico by Commissioner Felipe González, Special Rapporteur on the Rights of All Migrant Workers and Members of Their Families of the Inter-American Commission for Human Rights, Mexico, July 2011, page 6

the figure of the CPO as a way to have officers trained in the rights of UCACIM and in the skills needed to interview this population and to protect their rights.

190. On January 12, 2010, the SEGOB published Circular INM/001/2010 in the DOF whose goal is teaching the assistance procedure for the UCACIM lodged at migration stations.

191. Points 3 and 4 of this provision define CPOs as INM public servants who are trained in the specialized care of UCACIM lodged at migration stations. Their main duty is to guide them and protect their rights.

192. The LM and its Regulations were published in the DOF on May 25, 2011 and September 28, 2012, respectively. Furthermore, in the DOF of November 29, 2011, the SEGOB published the Agreement from which the INM Guidelines for Migrant Protection, which specifies the powers of the CPOs, were issued.

193. It should be noted that the powers of the CPOs were amplified in the Protocol of action.

194. The legal grounds for the powers of CPOs are found in Articles 71 and 72 of Title Seven on the Protection of Migrants Transiting through National Territory, Chapter 1 of the Procedure for the Assessment and Determination of the Best Interests of Unaccompanied Foreign Migrant Children and Adolescents in the LM; provisions 169, 170, 171, 172, 173, 174, 175, 176, and 177 of its Regulations; and Circular INM/001/2010 numbers 7, 8, 9, 10 and 11; as well as Articles 12, 13, 14, 15, 16 , 17 and 18 of the Agreement that issues the INM Guidelines for Migrant Protection; and Chapters II, III, IV and V of Title Two of the Protocol of Action to Ensure Respect for the Principles and Protection of the Rights of Children and

Adolescents in Administrative Immigration Procedures. Based on these provisions, the functions of CPOs are:

1. The CPO will interview children and adolescents in context of migration in order to verify whether they entered Mexican territory with a blood relative. If they did not, the CPO must identify them as UCACIM.

2. The CPO will decide whether the UCACIM are to be housed with a blood relative who, if possible, has applied for RSD. Otherwise, the CPO shall inform the consular or diplomatic representation to verify family ties.

3. In the event that it is not possible to determine the nationality of the UCACIM, the CPO will initiate the procedures for the child's or adolescent's recognition as a stateless person.

4. The CPO must inform the UCACIM of their rights and the possibility of requesting RSD, in age-appropriate language.

5. Once the UCACIM enter the corresponding migrant station, the CPO must adopt the necessary measures to protect their physical and psychological integrity so that the person in charge of the migrant station can inform the SNDIF to provide them with the attention they need, such as health care, food, education, clothing, medical and psychological treatment, representation, legal assistance and social guidance services.

6. The CPO of the same sex as or the sex the UCACIM choose must accompany the UCACIM to their medical check-ups. It is understood that the CPO must enter the doctor's office and be present at all times during the check-up.

7. The CPO must report the health status of the UCACIM to the PFPNNA and any other authority directly involved in the case.

8. The CPO must take an inventory of the belongings the UCACIM have with them so that these may be stored in a designated area and subsequently returned when the UCACIM leave.

9. The CPO will act as an escort throughout the entire procedure and must immediately ask the person in charge of the migrant center to channel the UCACIM to a specialized institution for proper care. If a transfer is not possible, the UCACIM will stay at the migrant station and CPOs must ensure that the stations have all the conditions needed to care for UCACIM considering their vulnerable status.

10. The CPO must submit a report on the UCACIM to the appropriate public servant, taking into account the BIC in order to determine, among other things, assisted return, recognition of refugee status or supplementary protection.

11. In cases where assisted return is decided, the CPO will process the UCACIM's corresponding identity and travel documents. If the child or adolescent does not have these documents, the CPO will contact their diplomatic or consular representative and inform him or her of the date and time of the assisted return, and request the presence of the institution in charge of child protection in the country of origin. Prior to travel, the CPO will ensure the UCACIM undergo a medical examination that certifies their good health and that they are able to travel.

12. Lastly, the CPO must accompany UCACIM to their country of origin, taking the original copy of the departure documents, which should be stamped and/or signed by the receiving immigration authority. The CPO must also make sure that a representative of the child protection institution is also present.

195. The INM General Office of Migrant Protection and Liaison informed this national agency that as of May 2016, the institute had 381 CPOs distributed among the 32 states as follows:[75]

Federal Delegation	Men	Women	Total
Aguascalientes	4	1	5
Baja California	4	16	20
Baja California Sur	2	1	3
Campeche	4	3	7
Chiapas	7	16	23
Chihuahua	10	16	26
Coahuila	5	5	10
Federal Delegation	**Men**	**Women**	**Total**
Colima	5	4	9
General Office of Control and Verification	5	8	13

[75] Official letter DGPM/DAI/781/2016, dated May 27, 2016.

General Office of Migrant Protection and Liaison	1	1	2
General Office of Information and Communication Technologies	0	1	1
Mexico City	9	23	32
Durango	5	3	8
Estado de México	0	2	2
Guanajuato	6	4	10
Guerrero	2	9	11
Hidalgo	4	9	13
Jalisco	2	8	10
Michoacán	0	6	6
Morelos	2	1	3
Nayarit	1	0	1
Nuevo León	8	4	12
Oaxaca	10	8	18
Federal Delegation	**Men**	**Women**	**Total**
Puebla	0	3	3
Querétaro	3	3	6
Quintana Roo	3	6	9
San Luis Potosí	3	4	7

Sinaloa	4	5	9
Sonora	8	9	17
Tabasco	8	12	20
Tamaulipas	10	13	23
Tlaxcala	1	3	4
Veracruz	15	15	30
Yucatán	4	2	6
Zacatecas	1	1	2
TOTAL	**156**	**225**	**381**

196. In 2015, according to the SEGOB UPM data, some 38,514 migrant children and adolescents were detained.[76] The INM federal delegations with the highest number of detentions of UCACIM were Chiapas with 16,758; Veracruz, 6,437; Tabasco, 3,942; Oaxaca, 1,508; Tamaulipas, 1,424, and San Luis Potosí, 1,568. As seen in the above table, these delegations have the following number of CPOs: 23, 30, 20, 18, 23 and 7, respectively. This greatly contrasts with the number of detentions; while Chiapas, Veracruz, Tamaulipas and Tabasco have a high number of detentions, Mexico City has 32 CPOs – 11 more than Chiapas and Tamaulipas, 2 more than Veracruz, 12 more than Tabasco, 14 more than Oaxaca and 27 more than San Luis Potosí.

197. The state of Chihuahua does not appear in UPM statistics for the highest number of detentions. Even so, it has 26 CPOs, which is 4 more than Veracruz, 3 more than

[76] See the section on "*The Detention of Unaccompanied Children and Adolescents in Context of Migration at Migrant Stations"* of this report.

Chiapas (the state with the highest number of UCACIM detentions), 4 more than Tabasco and 19 more than San Luis Potosí.

198. It is evident that the Mexico City migrant station, as this national commission has well documented through regular visits, is a hub station that receives an important number of UCACIM detained in other delegations that send them for their "upkeep" until their legal status is decided. This means that this migrant station's own population of UCACIM is high and has a fluctuating number of UCACIM, creating a greater demand for care. This situation, however, is not an obstacle to having a proportional number of CPOs assigned to the delegation with the highest detention rates since comprehensive care should be given from the moment the UCACIM are detained. This would result in better protection and care in respecting their human rights.

199. It is also noticeable that the INM federal delegation in Nayarit only has one CPO, who had to attend the 128 UCACIM detained in his or her jurisdiction in 2015, according to what the INM reported to this national agency.

200. From the above, it can be inferred that the number of CPOs the INM has is not enough to give proper attention to the vulnerable group in question. In any case, CPOs should be better assigned, taking into account the states with the highest detention rates. This would better guarantee comprehensive care for UCACIM as of the first moment of their detention.

201. The Protocol of Action aims to ensure respect for the principles and protection of accompanied and unaccompanied children and adolescents by granting more powers to CPOs. This situation seems to burden the CPOs with even more work now that accompanied migrant children and adolescents have been added to their duties in view of the fact that there are not enough officers. Furthermore, this situation goes against that set forth in Circular 001/2010 issued by the INM on February 12, 2010. This circular

instructed CPOs as to the procedure for the exclusive care of unaccompanied children since this vulnerable group requires a different type of care because they are alone, without the care of an adult, and consequently more likely to have their human rights violated. Therefore, certain actions must be taken to prevent this group from being even more affected.

202. The INM stated that to perform the job of a CPO, the public servant assigned to this position must take the "Training Program for Child Protection Officers" [*Programa de Formación para Oficiales de Protección a la Infancia*], given by the INM with the support of various agencies like the CNDH, UNHCR, COMAR, DIF and CONAPRED, and includes over 100 hours of training. Moreover, the public servant assigned to be a CPO must be a federal immigration agent certified by the Evaluation and Trust Center [*Centro de Evaluación y Confianza*], with an educational background in the humanities and showing an interest in dealing with UCACIM and vulnerable groups. However, a CPO must also perform the duties of his or her position as stipulated in the INM Catalog of Positions and Salaries and Wages Scale [*Catálogos de Puestos y Tabulador de Sueldos y Salarios*].

203. In addition to dealing with UCACIM, CPOs also carry out federal agent duties. It is, therefore, considered that their independence in the protection of UCACIM's human rights is restricted since the public servant who must provide them with comprehensive care is sometimes the same one who detains them. This does not mean, however, that their human rights are not respected during said detention.

2. Information obtained from civil society and international organizations

204. The HRW report "*Closed Doors"* states that "*More generally, the placement of officers who are charged with the protection of migrant children within the agency that*

seeks to return those children to their countries of origin creates an apparent conflict of interest. Child protection officers would more logically be placed with the DIF, the agency charged with child protection, a conclusion other organizations have also reached."[77]

205. To this effect, on October 15-16, 2015, in Saltillo, Coahuila, the CNDH held a forum on "How to guarantee the exercise of the rights of children and adolescents in mobility contexts" [*¿Cómo garantizar el ejercicio de los derechos de niñas, niños y adolescentes en contextos de movilidad?*]. Among the conclusions of this forum it was pointed out that in order to increase the standards of comprehensive UCACIM protection, it was essential to analyze the advisability of assigning CPOs to the SNDIF so that legislation and public policies could be adapted to ensure greater comprehensive protection for migrant children.

206. The Fray Matías de Córdova Human Rights Center and the Human Rights Center of the University of Lanús have indicated that "*the institutional mandate of the INM is not child protection, which conditions the impact CPOs can have. When it comes to making contact with migrant children (whether accompanied or unaccompanied), it is a good idea for the Institute to do so through qualified personnel with the proper skills and in adherence to the principles that regulate the treatment of CA. But this does not turn the INM into the state body with the tools, skills and capacities to ensure that its processes and decisions are directly steered towards the goal of comprehensive child protection."*[78] Instead, it seeks to gather the information needed to ensure the repatriation of UCACIM to their countries of origin.

[77] Human Rights Watch. *"Closed Doors: Mexico's Failure..."*. op. cit., page 57

[78] Ceriani C., Pablo, *"Niñez Detenida: Los derechos humanos de niñas, niños y adolescentes migrantes…"*, *op. cit.*, Capítulo 3, Políticas de Migración y Niñez: Aspectos, Principios y Marco Institucional, page 15.

207. In its Bulletin No. 8 (2013), the INSYDE states that "*the selection of officers [CPOs] was, and still is, quite problematic. The INM does a review of its staff and looks for agents with a background in social work or work with children, and who are interested in the job. Even then, the officers' preference for or attitude to working with children does not necessarily mean they have the ability or sensitivity to deal with adolescents or other vulnerable migrant persons. Human rights experts believe that the officers lack an integrated approach and the necessary training. The training they receive is only a week long and while CPOs themselves usually describe it as helpful, some of them have said that the institutional structure does not allow them to implement what they have learned."*[79]

208. Another important point that deserves mention is that "*within the administrative procedures for CA there are concerns regarding how [CPOs determine] the age, unaccompanied status and the status of the person accompanying them, the mechanisms for ascertaining needs and risks, the interviews (who conducts them, their training, whether it is done in a setting of privacy and trust, the language used, consular representation, simple and clear information, the format used), the use of the information obtained, and guidance regarding the rights themselves*." [80]

209. On this issue, the Fray Matías de Córdova Human Rights Center and the Human Rights Center of the University of Lanús explain that "*CPOs are not the ones who make the decisions on detention or repatriation, and the administrative procedure does not make it mandatory for CPOs to draw up a case-by-case report or verdict on*

[79] Bulletin No. 8, Series: Migration Management in Mexico [*La Gestión Migratoria en México*] "*CPOs: Protectors of vulnerable persons or the IMN's image?*" [*Los OPIS ¿Protectores de personas en situación de vulnerabilidad o de la imagen del INM?*], Dirección General de Migración and Derechos Humanos, INSYDE, November 2013, page 3.

[80] "*Report on the General Situation of the Rights of Migrants and Their Families*" [Informe sobre la situación general de los derechos de los migrantes y sus familias] … *op. cit.,* page 37.

how these measures align with the obligation of comprehensive protection and the principle of the best interests of the child."[81]

210. Idheas, A.C. has identified various cases in which UCACIM do not receive actual attention from CPOs. Some 80% of the children interviewed said the CPOs had not informed them of their right to request refugee status determination, and 48% said that the CPOs did not go with them to their medical examination. Likewise, 91% of the children interviewed said that on entering the migrant station INM personnel did not inform them in writing about their rights and obligations; 81% stated that INM agents did not inform them of their right to make a national telephone call; 93% were not informed of their right to consular assistance and protection; and 91% responded that once inside the migrant station they were not informed by INM personnel about their right to receive legal assistance and representation.[82]

211. Of the 650 interviews conducted by personnel of this national agency, 417 out of the 521 UCACIM said that at no time did they have contact with a CPO. This is seen, for example, in the following testimonies:[83]

> Kenia "N", Salvadorean, 17: *"What is this all about? Someone just came and told us we were leaving on Thursday."* EM Acayucan, Veracruz, July 12, 2016.

[81] Ceriani C., Pablo, "*Niñez Detenida: Los derechos humanos de niñas, niños y adolescentes migrantes…"* [Detained Childhood: The Human Rights of Migrant Children and Adolescents], *op. cit.*, Capítulo 3, Políticas de Migración y Niñez: Aspectos, Principios y Marco Institucional, page 16.
[82] Latin American Foster Care Network [Red Latinoamericana de Acogimiento Familiar (RELAF)], Series: Publicaciones sobre niñez sin cuidados parentales en América Latina: Contextos, causas y respuestas, *"Migrant Children and Adolescents: Status and Framework for the Fulfillment of Their Human Rights*" [Niñez y adolescencia migrante: situación y marco para el cumplimiento de sus derechos humanos], October 2011, page 15.
[83] Testimonies gathered by CNDH personnel at the migrant stations of Acayucan, Veracruz, Tapachula, Chiapas, and the DIF Shelter in Xalapa, Veracruz, on May 19, 20 and 21, respectively.

Nahomi “N”, Honduran, 6: *“I haven’t been attended by anyone identified as a Child Protection Officer… I have entered a place at the DIF where they show movies.”*

Brayan “N”, Salvadorean, 17: *“Nobody identified themselves as a CPO at the INM in Monterrey or at the migrant station in Acayucan until the day I was going to be transferred to the station, a woman in uniform told me she was from child protection, and that was it.”*

212. Nowadays, the figure of the CPO is constantly being questioned since most of the public servants who perform this function are also federal immigration agents. Hence, it is not often possible for them to separate one activity from the other. As federal agents, they must follow regulations regarding detention and enforce an administrative immigration procedure, but as CPOs, they must ensure the human rights and comprehensive protection of UCACIM, circumstances that sometimes contradict each other. Therefore, it is necessary to analyze the role of CPOs and the advisability of a change of assignment to the SNDIF.

IV. FINDINGS

213. Much has been said about the problems that UCACIM experience on their journey to reach “*the American dream*”. Several CSOs have tried to give visibility to these hardships; there are countless documentaries and films that have been inspired by the misfortunes of those who have managed to survive and reach their destination or, have, perhaps, turned around and gone back home.

214. Despite efforts to shine a spotlight on this situation, society at large still knows next to nothing about it, to such an extent that the institutions charged with the protection of UCACIM debate, issue pronouncements, and organize congresses, but in reality have yet to achieve a minimum desirable level of comprehensive protection for this group.

215. On their dangerous journey, UCACIM are exposed to crime, extortion, inclement weather and even accidents.

A. THE PROBLEMS OF UNACCOMPANIED CHILDREN AND ADOLESCENTS IN THE CONTEXT OF INTERNATIONAL MIGRATION IN THEIR TRANSIT THROUGH MEXICO

216. Before arriving in Mexico, Salvadoran and Honduran UCACIM have to cross one or even two borders to get to Guatemala. The administrative barriers for this vulnerable group are obstacles, not impediments that make it impossible for them to continue their journey. This refers to the crossing strategies that have to be carried out because there is no accompanying parent or guardian.

217. Those coming from Honduras have established two access routes. The first, and most frequently used, involves entering Guatemala at the El Corinto crossing, and the second, by way of Agua Caliente. Most Salvadorans, on the other hand, enter Guatemala through the La Hachadura crossing. The migratory flows indicate the path that will determine the crossing point they will take on the border between Guatemala and Mexico.

218. Once in Guatemala there are three possible routes to follow: El Ceibo, Tenosique and El Naranjo in the north; La Mesilla and El Carmen in the center; and Tecún Umán in the south. "*In short, the Guatemala-Chiapas border is the largest and busiest gateway to Mexico's southern border. With its 654 kilometres and its 17 adjacent*

municipalities, it constitutes a space for social integration between peoples and communities on both sides of the border and represents the entry point for one of the continent's busiest and most vulnerable flows."[84]

219. During their trip through Mexico, several UCACIM become victims of crime and extortion at the hands of other migrants, their own guides, or Mexican authorities. Others are kidnapped, assaulted or menaced by members of organized crime, thus dealing a blow to their dreams and hopes, so much so that some prefer to return home.[85]

220. The CNDH has documented that between 2010 and 2015, 1443 inquiries and/or investigation files have been opened, in which foreign adolescents are named as victims. The states with the highest number of complaints are Sonora with 505, Chiapas with 454 and Baja California with 188.

221. During the same period, 740 fact-finding reports were filed regarding crimes against foreign adolescents, 382 of which were in Chiapas and 350 in Sonora. As an example of this, here are a few testimonies:[86]

[84] UNHCR, "*Uprooted (Arrancados de Raíz)*", *op. cit*., page 51.
[85] *Ibid*, page. 59.
[86] Testimonies gathered by CNDH personnel at the "Hermanos en el camino" shelter in Ixtepec, Oaxaca, the DIF shelter in Xalapa, Veracruz, the migrant station in Hermosillo, Sonora, and CAMEF in Reynosa, Tamaulipas, on May 19, 21 and 23, 2016, respectively.

Edimar "N", Honduran, 16: *"It was bad trip through Mexico because I was mugged in Verazcruz."*

Rigoberto "N", Salvadoran, 16: *"My trip was a bit hard because in the group I was with sometimes we didn't eat, we barely had any sleep, and we were like that for 29 days. I was kidnapped me Reynosa, Tamaulipas… the Mixta (sic) rescued me and took me to Immigration. I was there a while, and then they brought me to CAMEF-DIF."*

Carlos "N", Guatemalan, 17: *"My trip through Mexico was bad because the police stole our money*."

Tomás "N", Salvadoran, 17: "*My trip through Mexico was bad because I've walked a lot…before we got to Tonala we were assaulted by a group of criminals and they wanted to rape a girl in our group."*

Sole Paragraph: Information obtained from civil society and international organizations

222. Many Central American migrants ride the freight trains through Mexico, which is by far the most dangerous mode of transport. Migrants generally ride on top of trains, often tying themselves down with ropes to avoid falling off, or in between the cars. Accidents are all too common and significant numbers of migrants have lost one or both legs, while many others have been killed.[87]

223. This scenario is described in several complaint files opened by the CNDH involving companies providing rail transport services, mainly in Apizaco, Tlaxcala; Orizaba, Veracruz; and Tequisquiapan, Querétaro; where it was reported that several

[87] Catholic Relief Services, *"Child Migration: The Detention and Repatriation of Unaccompanied Central American Children from Mexico"*, January, 2010, page 32.

persons in the context of migration had been injured or even killed while trying to get on or off the train.

224. If the situation of UCACIM is alarming, it is even worse for those transiting unaccompanied by an adult, family member or other person acting as guardian.

225. National and international legislation state that UCACIM are entitled to the protection of the Mexican State under the same conditions as national minors. Therefore, federal and local government authorities have the obligation to ensure their welfare because this group is very vulnerable and at risk of falling into networks of trafficking, prostitution or exploitation.

226. Although the international and national legal protection system has sufficient resources and guarantees to ensure that the rights of this vulnerable group are respected, policies and practices are not always consistent with this protective framework. The Mexican State's failure to meet the needs of UCACIM has been evident and alarming in recent decades.

227. On August 19, 2014, the IACtHR issued Advisory Opinion OC- 21/14 on *"Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection*", requested by the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay. This opinion establishes the procedure States in Latin America must follow with UCACIM.

228. The aforementioned opinion noted that *"[i]n 2013, there were 231,522,215 migrants worldwide, and of these, 61,617,229 corresponded to the Americas.*

Meanwhile, of the total of number of migrants on our continent, 6,817,466 were under 19 years of age."[88]

229. From the interviews that this national agency conducted with UCACIM, it was observed that groups of persons in the context of irregular migration has heightened the degree of vulnerability not only because of the hardships they suffered in their countries of origin but also they face it on the road they travel where they are at the mercy of immigration agents, security forces and organized crime. Their passage through Mexico, whether as a host or transit country, exposes them to the same threats as anyone in an irregular immigration situation; however, their vulnerability is greater since they are at an early stage of personal development.

230. Considering that international migration is a complex situation that may involve two or more States, between countries of origin, of transit and of destination, States have committed themselves to promoting the strengthening of human rights as a central component of their immigration policies and practices, ensuring the protection of the human rights of persons in the context of migration within the framework of each State's legal system, regardless of their immigration status.[89]

231. Along these lines, the commitments made by the Mexican State in the San Jose Action Statement at the High-Level Roundtable: "Call to Action: Protection Needs in the Northern Triangle of Central America" include: "*[i]mplementing wide information campaigns, including in countries of origin about the risks of irregular migration and on the existing protection mechanisms in the country.*" This is why it is imperative that at the Regional Conference on Migration, Mexico calls upon the countries of the NTCA to

[88] Advisory Opinion OC-21/14 "*Rights and Guarantees of Children in the Context of Migration…*", *op. cit.*, para. 34.
[89] *Ibid*, para. 40.

jointly conduct awareness campaigns on the human rights of UCACIM and the dangers of irregular transit through these countries and Mexico.

232. Advisory Opinion OC-21/14 notes that "*the territorial jurisdiction of the State is limited by the undertaking that it has made in exercise of its sovereignty to respect and ensure respect for the human rights of the persons subject to its jurisdiction. (…) the motive, cause or reason why the person is in the State's territory has no relevance …*" Nor is it relevant "*whether or not the entry of that person into the State's territory was in keeping with the provisions of its laws*" since it is the State's obligation is to respect and ensure respect for the human rights of all persons in its territory.

233. In this regard, "*the respective State must, in all circumstances, respect the said rights because they are based, precisely, on the attributes of the human personality, (…) regardless of whether the person is a national or resident in its territory or whether the person is there temporarily, in transit, legally or in an irregular migratory situation.*"[90]

234. It also states "*that the protection due to the rights of the child as subjects of law, must take into consideration their intrinsic characteristics and the need to foster their development, offering them the necessary conditions to live and develop their aptitudes taking full advantage of their potential"*.[91] States must assess and weigh the situation of each child or adolescent under their protection or jurisdiction, considering that those who travel unaccompanied are particularly vulnerable.

235. Detention and deportation policies have led many parents to place their children in the hands of "*polleros*" with the attendant risks, in their quest to reunite their families or remove the children from being targeted by gangs. This circumstance makes them

[90] *Ibid, para.* 62.
[91] *Ibid, para.* 66.

even more vulnerable because, apart from being immersed in a context of people smugglers and organized crime, they are often abandoned to their fate, at best in cities, at worst in inhospitable places in Mexico, and have to fend for themselves to continue their journey, deprived of food and clothing.

236. It is enough to recall the tragic case documented by the CNDH in Recommendation 22/2015 and brought to public attention on August 5, 2015, of a 12-year-old Ecuadorean girl who died of self-inflicted suffocation while in a shelter due to the disregard to the BIC by the authorities. Or the case that was recorded in Recommendation 27/2015 dated August 26, 2015, of a Honduran boy who suffered such serious injuries during his journey that his left arm was permanently damaged.

B. THE DETENTION OF UNACCOMPANIED CHILDREN AND ADOLESCENTS IN CONTEXT OF INTERNATIONAL MIGRATION AT MIGRANT STATIONS

237. The detention of UCACIM at migrant centers is one of the most controversial issues among civil society organizations. Although a foreigner's irregular status in the country is an administrative offense, detention and the deprivation of freedom of the UCACIM, as the case may be, are seen as an extreme consequence, as noted in Advisory Opinion OC-21/14.

238. On this particular point, one of the main conclusions of the forum on "*How to Guarantee the Exercise of the Rights of Children and Adolescents in Contexts of Mobility"* organized by the CNDH was the urgent need to discuss alternatives to the non-deprivation of liberty for UCACIM due to their irregular migratory status.

239. In the light of this idea, a practical and constructive analysis of this restrictive measure shall be made.

1. Statistics

Beato "N", Guatemalan, 16*: "I was on a bus close to Tuxtla Gutiérrez when I was detained by immigration. From there, they took me to this station."*

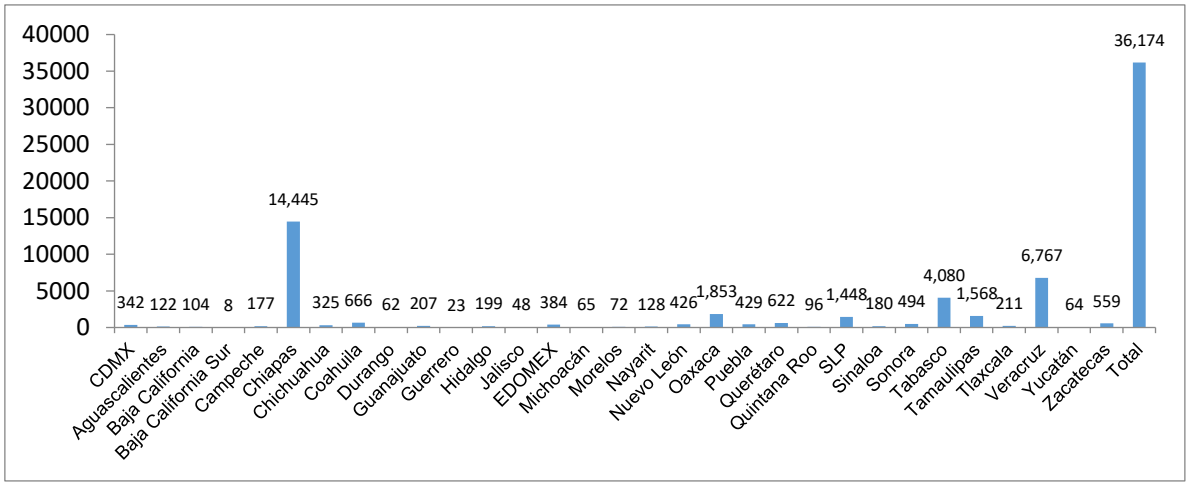
Daniela "N", Honduran, 14: *"Immigration caught us on the bus. They made us get out and they left me in a car for several hours and then they brought me here…"*

Fernando "N", Salvadoran, *17: "I was at a migrant station in Tampico for seven days and in Reynosa for a night."*

240. The SEGOB UPM reported that in 2015, 38,514 children and adolescents in the context of migration were detained, 20,368 of whom were unaccompanied. Between January and July 2016, this figure stood at 19,383, of whom 9,326 were unaccompanied. However, the INM told this national agency that 36,174 children and adolescents in the context of migration were detained in various states in 2015. This is 2,340 fewer people than reported by the UPM.

241. The states where the INM detains the highest number of children and adolescents in the context of migration are: Chiapas, Veracruz, Tabasco, Oaxaca, Tamaulipas and San Luis Potosí.

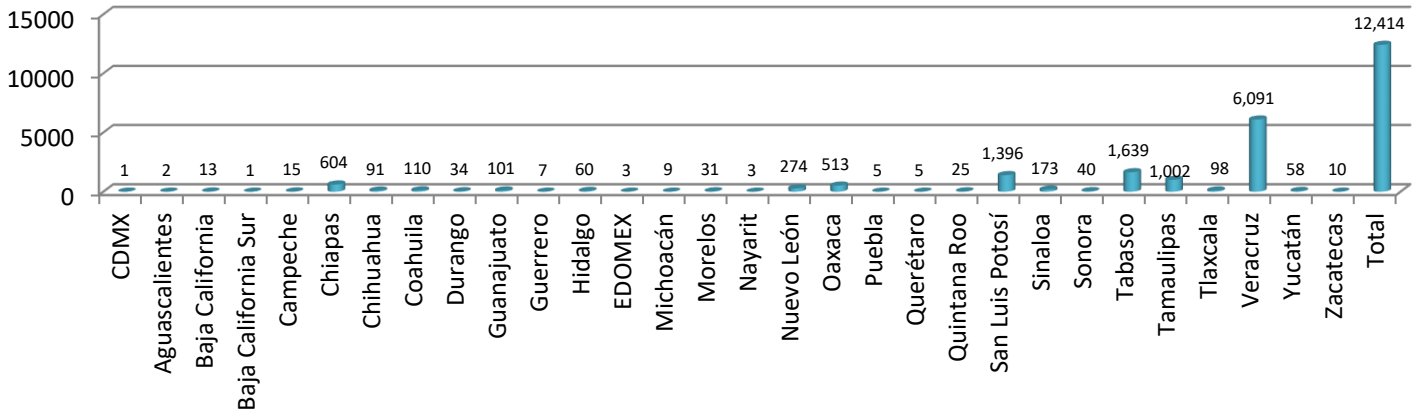
INM detentions of children and adolescents in context of migration in 2015, by state:



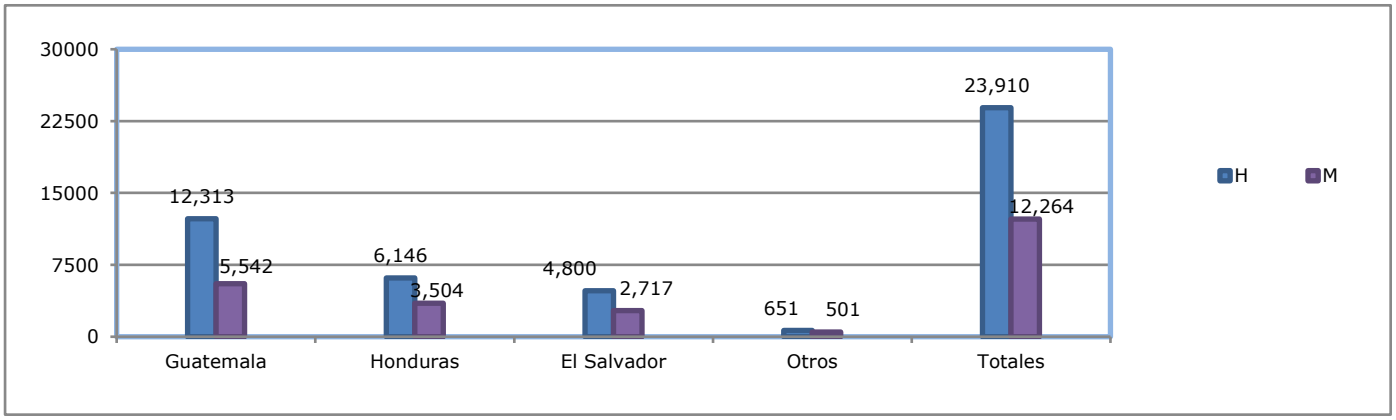
Graph created by CNDH personnel based on information from the statistics compiled by the National Institute for Migration [Instituto Nacional de Migración].

242. Of the 36,174 children and adolescents in the context of migration detained by the INM in 2015, only 12,414 were channeled to one of the DIF Systems, as seen in the following graph:

Total number of children and adolescents in the context of migration channeled to DIF Systems in 2015, by state:



243. This figure shows that in 2015, Guatemalan children and adolescents in the context of migration represented the highest number of persons detained by the INM. It is also noted that boys and male teenagers are more likely to leave their country of origin than girls and female teenagers. This is illustrated in the following graph:



Graph created by CNDH personnel based on information from the statistics compiled by the Migration Policy Unit.

2. Information obtained from civil society and international organizations

244. The IACtHR has established that the punitive deprivation of liberty to control migratory flows is incompatible with the ACHR.[92] These measures should only be used when necessary and proportionate in the specific case in order to ensure the person's appearance in the immigration proceedings or to ensure the application of a deportation order, and only for the least possible time. Consequently, the Court affirmed that "*immigration policies whose central focus is the obligatory detention of irregular migrants will be arbitrary, if the competent authorities do not verify, in each particular case and by an individualized evaluation, the possibility of using less restrictive measures that are effective to achieve those ends.*"

[92] *Case of Expelled Dominicans and Haitians v. Dominican Republic,* Merits, Reparations and Costs, Inter-American Court of Human Rights, Judgment of August 28, 2014, para. 359.

245. The Court goes on to state that "*States may not use the deprivation of liberty of children who are with their parents, or those who are unaccompanied (…) as a precautionary measure for the purposes of immigration proceedings; nor may they base this measure concerning non-compliance with the requirements to enter (…) a country on the fact that the child is alone or separated from his or her family, (…) because States can and should order less harmful alternatives and, at the same time, protect the rights of the child comprehensively and as a priority.*"[93]

246. As to the detention of persons in the context of international migration, especially of unaccompanied children and adolescents, the IACtHR indicated in OC-21/14 that regardless of the specific name given to a measure that deprives a person of liberty –in a migrant center–[94] if it is based exclusively on migratory reasons it exceeds the requirement of necessity, because said measure is not absolutely essential to ensure their appearance at the immigration proceedings or to guarantee the implementation of a deportation order. The deprivation of a child's liberty in this context can never be understood as a measure that responds to the child's best interest when there are less severe measures that could be appropriate to achieve such an objective and, at the same time, satisfy the child's best interest.[95]

247. In addition to the above, in December 2013, the IACmHR affirmed that in order to make good on the guarantees set forth in Article 7 of the ACHR, Member States "*must establish immigration policies, laws, protocols and practices premised on a presumption of liberty –the migrant's right to remain at liberty until the immigration*

[93] *Ibid.,* para. 360.
[94] Advisory Opinion OC-21/14, *"Rights and Guarantees of Children in the Context of Migration …", op. cit.*, para. 145.
[95] *Ibid.*., para. 154.

proceedings in his or her case have come to a conclusion—and not one of presumption of detention."[96]

248. In the light of international law on human rights, the deprivation of liberty in a migrant center is inappropriate when children are unaccompanied or separated from their families, as the State is obligated to uphold special protection measures the children may require.

249. The CNDH has noted that within the scope of Mexico's procedure for the detention, accommodation and return of UCACIM, the connotation of migrant prevails over the minor. UCACIM are situated between two systems inspired by contradictory principles (protection and rejection or control): that of their protection and that of the country's immigration policy. In many cases, their migrant status prevails, with all the disadvantages that this implies.

250. It is alarming that the INM takes into consideration the status of foreigner to decide on the legal situation of UCACIM as opposed to that of a child. It is, therefore, fitting to remember that the protection of UCACIM is a guiding principle enshrined in the CPEUM, as it recognizes children and adolescents as rights holders based on the principles of universality, interdependence, indivisibility and progressiveness and, for that reason, their well-being must be guaranteed.

251. Where protection and migration regulations conflict, the best interests of the child must always prevail.

[96] Inter-American Commission for Human Rights, *"Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico",* December 30, 2013, para. 417.

252. Chapter V of the LM entitled "*On the Presentation of Foreigners"* and Chapter Five of its Regulations "*On Accommodation at Migrant Stations and Temporary Shelters*" set forth the procedure that immigration personnel must follow when persons in context of international migration are placed at their disposition. However, the procedure does not make any distinction regarding migrating children and adolescents whether travelling with family members or not. Therefore, a 15-day period and even an extension of up to 60 days of accommodation at a migrant station[97] is also applicable to UCACIM, resulting in an even greater violation of their human rights.

253. Chapter VII, "*On the Procedure of Assistance to Vulnerable Persons*", and Title Seven Chapter One "*On the Procedure to Assess and Determine the Best Interests of Unaccompanied Foreign Migrant Children and Adolescents*", the LM and its Regulations, respectively, specifically indicate that when UCACIM are at the disposition of the INM, they must be immediately channeled to the SNDIF, or else, to the Mexico City and state DIF Systems in order to "… *privilege their stay at places where they are provided with adequate care while their immigration status is being resolved*…"[98]

254. In 2015, 15 precautionary measures were issued to the INM requesting that UCACIM be remitted immediately to the abovementioned DIF Systems. However, once the RLGDNNA[99] was published, it was established that, regardless of whether they were accompanied or not, migrant children and adolescents should not stay at a migrant center, which should have led to a change in the situation. From January to October 7, 2016, this national agency had to issue 25 precautionary measures on this same issue.

[97] This situation is set forth in Article 111 of the Migration Act [Ley de Migración].
[98] Article 112, Section I, of the Migration Act [Ley de Migración].
[99] Published in the Federal Official Gazette [Diario Oficial de la Federación] on December 2, 2015, and entered into force the day after its publication.

255. Among the problems found in having migrant children and adolescents at a migrant center and not a DIF System shelter is that the former does not have specialized personnel for their care. Inadequate conditions have been observed at the migrant stations, and in the case of girls and teenage girls, they are sometimes housed in the same place as adult women. Moreover, they do not have access to telephone calls and a CPO does not inform them of their administrative proceedings, let alone provide legal representation services.[100]

256. Articles 89, 94 and 95 of the LGDNNA stipulate that the national, state or municipal DIF Systems must offer protection to CA waiting for their immigration status to be determined. Thus, accommodation or shelters should be made available to receive them. However, this national agency knows that various DIF Systems do not have adequate spaces to accommodate and board UCACIM.

257. This situation is reflected in the official letters sent by the INM regarding the mentioned precautionary measures. In some cases, they say that the DIF Systems do not have an adequate place to offer UCACIM accommodations and protection without considering that it is the obligation of said systems to adapt spaces for accommodation or shelters to receive them.

258. These circumstances were duly documented in Recommendation 27/2015,[101] which states that the victim (UCACIM) "*… was (…) at risk as an unaccompanied child in context of migration. In order to prevent events with irreparable consequences from occurring, it was urgent for the child to be sent to a SNDIF shelter, to the Mexico City*

[100] Cruz González, Gerardo, *coord.*, "*Migrating Children*" [*Niños migrando],* Asociación Mexicana de Promoción y Cultura Social A.C., Report, Mexico, May 2016, page 17.
[101] National Human Rights Commission [*Comisión Nacional de los Derechos Humanos], Recomendation No. 27/2015 "On the Case of Violations of the Right to Health Protection and Legal Certainty against V1, an Unaccompanied Honduran Girl in Context of Migration*", [Sobre el caso de violaciones al derecho a la protección de la salud y seguridad jurídica en agravio de V1, niña en contexto de migración no acompañado, de nacionalidad hondureña*]* August 24, 2015, paras. 114 to 116

or state DIF, so as to give priority to her stay in a place where she would be provided with adequate care as a child and, above all, as an unaccompanied child in context of migration…"

259. In this regard, the Protocol of Action does not specify when the immigration authority should send migrant children and adolescents to a SAC after their detention. Title Two, Chapter I establishes that once a decision has been issued to open the case, the DIF Systems will be notified for immediate channeling. This "*prior agreement*" with these systems does not take into account the terms set forth in Articles 68 and 100 of the LM,[102] which state that the filing procedure must be made within 36 and 24 hours, respectively. This means that children will stay at the migrant center during this time, a situation that contravenes the provisions established in Article 111 of the RLGDNNA.

260. What is clear is that the protocol indicates that the channeling of migrant children and adolescents depends on the agreements signed between the INM and DIF system since neither the LM nor the LGDNNA makes any reference to the previous existence of an agreement, along with the fact that channeling should be immediate so that under no circumstances will migrant children and adolescents be deprived of their liberty at migrant stations.[103]

[102] Article 68 of the LM states that the presentation of persons in context of international migration with irregular status may not exceed 36 hours as of the moment these persons are placed at the disposition of the authorities. Meanwhile, Article 100 of the same piece of legislation stipulates that the filing agreement issued to a person stemming from an immigration verification or review procedure shall be issued within the following 24 hours.

[103] In Section I of the *"Expert Opinion of the United Commissions on Migrant Affairs and Legislative Studies on the Minutes of the Draft Decree reforming Article 112, paragraph 1 and Sections I, II and III of the Migrant Act"* [Dictamen de las Comisiones Unidas de Asuntos Migratorios y de Estudios Legislativos, de la Minuta con Proyecto de Decreto por el que se reforman el primer párrafo y las fracciones I, II y III del artículo 112 de la Ley de Migración], passed by the Senate on October 13, 2016, it states that the UCACIM must be channeled immediately to the SNDIF, Mexico City, state or municipal systems. However, the third paragraph of this same section indicates that while the UCACIM are waiting to be transferred to the DIF systems, they can remain at a migrant station, contravening that established in Article 111 of the RLGDNNA, as mentioned in this report.

261. Article 112, Section IV of the LM sets forth that "…*personnel (…) specializing in the protection of children, trained in the rights of children and adolescents, shall interview the child or adolescent in order to learn their identity, their country of nationality or residence, their immigration status, the whereabouts of their relatives and their specific needs for protection, medical and psychological attention.*"[104]

262. Based on the interviews conducted with UCACIM in May, July and August 2016, this national commission was able to verify that the UCACIM did not know the CPO who would accompany them through the process. They were not informed of their rights nor given an explanation of those rights, including the recognition of refugee status. On the rare occasions when immigration personnel did inform them about their immigration status, it was not clear or easy to understand. For migrant children and adolescents – especially those traveling unaccompanied – and especially if they are at a migrant center, this situation results in a violation of their human right to legal certainty, which has also been pointed out by international non-governmental organizations.[105]

263. In view of the above, under no circumstance should accompanied or unaccompanied migrant children and adolescents stay at a migrant center since, as has been pointed out, it is not the appropriate place to safeguard their human rights. Furthermore, public servants "specializing" in their protection and the identification of special needs are not present during the entire administrative immigration proceedings which culminate in the assisted return of the UCACIM to their country of origin, without this meaning that it represents what most benefits them according to their best interests.

[104] As mentioned in the pertinent section, this figure represents the Child Protection Officer (CPO).
[105] Human Rights Watch, *"Closed Doors: Mexico's Failure…", op. cit.*, pages 58 to 61.

264. Despite the above, on October 6 and 7, 2016, personnel from this national agency reviewed the administrative immigration case files of 48 unaccompanied adolescents at the INM migrant station in Mexico City. It was noted that most of these adolescents were detained in various states and that the immigration authority simply limited itself to transfer them to the aforementioned migrant station without immediately notifying the corresponding protection agency to appoint an intervening and substitute representative for them or state DIF system informing that the adolescents would be housed at a SAC. From this, it can be construed that the practice of detaining UCACIM in one or several migrant stations persists.

265. At migrant stations, the rights to liberty, the determination of the BIC, family reunification and due process of law of UCACIM are limited since these centers were designed and built when irregular migration to Mexico was considered a crime. This is why these centers were built with cells, bars and isolation areas. It should also be stressed that from the visits paid by personnel of this national commission to migrant stations, it was verified that the security personnel in charge of guarding these facilities sometimes come in contact with UCACIM, such as when distributing meals, escorting them to administrative process areas, or even to the medical area. This situation is deemed irregular since these tasks are exclusive to INM personnel and specifically to CPOs when dealing with migrant children and adolescents.

3. Visitor for humanitarian reasons

266. According to the LM, one of the rights available to UCACIM is to be granted a visitor stay status for humanitarian reasons (colloquially known as a humanitarian visa). Articles 52, Section V and 74 of the LM establish that when it is in the BIC,[106] the Institute will grant the aforesaid visa while offering temporary or permanent legal or

[106] According to Article 172 of the Migration Act Regulations, CPOs are responsible for evaluating the best interests of the child.

humanitarian alternatives. These articles also state that this visa can also be granted to injured parties, victims or witnesses to a crime committed in Mexico.

267. The INM is the agency that determines the granting of this visitor status. According to information from the Migration Policy Unit,[107] 623 visitor's cards were issued in 2014 for humanitarian reasons; 115 cards went to Salvadorans, 63 to Guatemalans and 305 to Hondurans. In 2015, 1375 visitor's cards were issued: 398 for Salvadoran nationals, 162 for Guatemalan nationals and 590 for Honduran nationals.

268. Even though the above figures are broken down by number of persons from the NTCA who were granted visitor status for humanitarian reasons, it is not possible to determine whether they include UCACIM since it is not mentioned in the data.

269. In view of this, the INM was asked for this information and responded that between January 2015 to May 2016, visitor status for humanitarian reasons was granted to 127 UCACIM requesting refugee status. Of this number, 89 were Hondurans and 26 were Salvadorans. However, it does not seem that any Guatemalans were granted this status.

270. During this same period, 312 UCACIM were granted humanitarian visas for the following circumstances: 112 for having been an injured party, victim or witness to a crime (including 17 Guatemalans, 38 Hondurans and 46 Salvadorans); 58 for humanitarian reasons (including 7 Guatemalans, 22 Hondurans and 18 Salvadorans); 2 for public interest (Hondurans) and 13 simply for being UCACIM (including 1 Guatemalan, 2 Honduran and 6 Salvadorans).[108]

[107] Monthly Migratory Statistics Bulletin [Boletines Mensuales de Estadísticas Migratorias] 2014, page 127, and 2015, page 119, accessed on: June 16, 2016.

[108] According to Article 52, Section V of the Migration Act [Ley de Migración], visitor status for humanitarian reasons is granted to foreigners under the following circumstances: an injured party, victim

271. Despite the above, according to the HRW report "*…from January 2011 to May 2013, 23 of (…) 32 federal delegations reported that they had received no applications* [to be granted visitor status for humanitarian reasons]. *(…) INM data show that in the first 11 months of 2015, the INM issued 824 humanitarian visas to victims of or witnesses to serious crimes, 228 to applicants for refugee recognition, and six to children on the basis of unaccompanied status. (…) in the period between January 2012 and the middle of November 2015, 291 children received humanitarian visas as victims of or witnesses to serious crimes and 94 children received visas because they were applicants for refugee recognition. In all, 391 children received humanitarian visas in the first 11 months of 2015, a fraction of the 32,000 children apprehended by the INM during the same period."*[109]

272. Although the UCACIM have the right to be granted this type of visitor status, some also present additional vulnerability because they have been victims of crime in Mexico. Not even under those circumstances are they issued immigration documents as visitors for humanitarian reasons.

273. Some testimonies of this situation are given below:[110]

or witness to a crime; an unaccompanied child or adolescent; an applicant for political asylum, refugee recognition or supplementary protection; and where there are humanitarian grounds of public interest.

[109] Human Rights Watch, *"Closed Doors: Mexico's Failure…", op. cit.*, pages 82 and 83.

[110] Testimonies gathered by CNDH personnel at the INM migrant station in Mexico City on February 8 and August 3, 2016.

Kenia “N”, Salvadoran, 13: *“The trip was really bad because I was sexually abused in the state of Chapa (sic) and when I got to Monterrey, immigration caught me and sent me to San Luis where I was looked after. They followed up on my case and that’s how I ended up at PRODEM where they took care of me until August 2, 2016. Since I’m going to be deported, I’m here in Mexico City*

Jilliana “N”, Honduran, 13: *“I left my house in the company of a “*pollero*” (…) I’ve known since I was 9 because he’s a friend of the family* [before leaving home]. *I didn’t want to go with him, but he forced me into a vehicle (…) That night we stayed at a hotel where he sexually abused me. The next morning, we headed towards the border between Guatemala and Mexico, arriving at Tecun Umam, where we crossed in rafts and then we went in a van to Tapachula, Chiapas, where we spent the night and he abused me again. The next day we traveled through Mexico until we reached Dolores Hidalgo. That night he abused me again. After that night, I never saw him again because he abandoned me there.”*

274. It is worth mentioning that in the last testimony, from the moment when she was detained by the INM, the adolescent expressed her desire to report the crimes committed against her. However, it was only after this national agency requested preliminary measures from the Institute that the adolescent was taken before the corresponding ministerial authority to report the crimes, as well as for her to be referred to a comprehensive care center.

275. It is of particular importance that the UCACIM have specialized attention to detect their protection needs, as well as to be provided with legal counseling and a guardian to accompany them, so that this interdisciplinary group can guarantee the protection of the human rights of these children.

276. This national agency cannot stress enough how important it is that under no circumstance are the UCACIM to be placed in a migrant center, and that at all times they must have the state protection to which they are entitled.

4. Social Assistance Centers

277. National and international regulations are currently trying to make detention and deprivation of liberty in migrant centers and, where appropriate, DIF facilities for UCACIM be the last resort, as an extraordinary measure. Therefore, it is essential to revisit the issue of alternatives to said detention in temporary protection spaces previously called shelters, and now, in the LGDNNA, "*Social Assistance Centers*". [111] It is vital to understand the importance of and the legal grounds, both nationally and internationally, for these centers.

278. The LGDNNA says that the Social Assistance Center is the establishment, place or space of alternative care or residential shelter for children and adolescents without parental or family care that public and private institutions, as well as associations offer.

279. In the case of UCACIM, Article 112 of the LM establishes that they should be immediately channeled to DIF Systems to privilege their stay in places where they are provided with the adequate attention while their immigration status is being decided.

280. Articles 94 and 95 of the LGDNNA say that in order to guarantee comprehensive protection for UCACIM, the DIF Systems must have spaces adapted for housing the minors where the principle of separation should prevail and, if applicable, the right to family unity should prevail. Thus, unaccompanied or separated migrant children and adolescents should be housed in places other than those for adults.

281. Likewise, in GC-6 (2005) the UN Committee on the Rights of the Child mentions that "*[s]pecial arrangements must be made for living quarters that are suitable for*

[111] Article 107, General Act on the Rights of Children and Adolescents [Ley General de los Derechos de las Niñas, Niños y Adolescentes].

children and that separate them from adults, unless it is considered in the child's best interests not to do so."[112]

282. Advisory Opinion OC-21/14 makes it obligatory for assistance centers for UCACIM to guarantee lodging and maintenance, in addition to medical care, legal assistance, and educational support. They must also have available specialized care services owing to the specific needs of each child.[113]

283. It should be mentioned that according to the national and international legislation alluded to in the previous paragraphs, the SACs can be administrated by a public or private institution, or by an association that provides alternative or residential care services. Legislation also states that these centers must be monitored regularly in order to verify the conditions under which the UCACIM are housed and that the facilities are adequate.

284. The CNDH has learned that when UCACIM are transferred to a shelter that does not have adequate facilities to house migrant children, or even the so-called "open-door shelters" that do not have sufficient trained personnel to care for this vulnerable group, it has prompted them to leave or flee without receiving the comprehensive care they require. Therefore, it is necessary to expand the number of specialized shelters for UCACIM.

285. According to the provisions of Article 112 of the LGDNNA, the PFPNNA is responsible for authorizing, registering, certifying and supervising the SACs. To this end, on May 30, 2016, the SNDIF published a Manual for the Supervision of Social

[112] General Comment OG-6 (2005), *"Treatment of unaccompanied and separated children…", op. cit.*, para. 63.
[113] Advisory Opinion OC-21/14, *"Rights and Guarantees of Children in the Context of Migration…", op. cit.*, paras. 181 and 182.

Assistance Centers [*Manual de Supervisión de Centros de Asistencia Social*] in the DOF. The manual regulates the procedure for monitoring these centers. This national agency believes that it is important to duly comply with the National Registry of Social Assistance Centers [*Registro Nacional de Centros de Asistencia Social*] provided for in the abovementioned article, and update it twice a year. This registry must be made public and accessible on the SNDIF webpage, thus giving it transparency and making it clear that these centers that house UCACIM are duly authorized and supervised by the PFPNNA.

286. According to the information obtained by this institution, the PFPNNA has identified 132 SACs in Mexico that receive migrant children and adolescents. These centers are distributed as follows:

No.	States	PFPNNA SACs for Migrants
1	Aguascalientes	1
2	Baja California	4
3	Baja California Sur	3
4	Campeche	7
5	Coahuila	6
6	Colima	6
7	Chiapas	15
8	Chihuahua	2
9	Mexico City/ National DIF	7
10	Durango	1

11	Guanajuato	0
12	Guerrero	4
13	Hidalgo	2
14	Jalisco	6
15	México	1
16	Michoacán	1
17	Morelos	5
18	Nayarit	5
19	Nuevo León	2
20	Oaxaca	2
21	Puebla	2
22	Querétaro	2
23	Quintana Roo	0
24	San Luis Potosí	5
25	Sinaloa	3
26	Sonora	16
27	Tabasco	1
28	Tamaulipas	12
29	Tlaxcala	1
30	Veracruz	6
31	Yucatán	3
32	Zacatecas	1
	TOTAL	132

287. As can be seen from the above data the states with the most SACs are Chiapas, Sonora and Tamaulipas, with 15, 16 and 12, respectively, while those with the fewest are Aguascalientes, Durango, México, Michoacán, Tabasco, Tlaxcala and Zacatecas while Guanajuato and Quintana Roo do not have any.

288. It should be noted that of the 15 precautionary measures that this national commission issued to the INM in 2015, 5 were for the benefit of UCACIM staying in the migrant center in Mexico City, 4 for those lodged at various migrant centers in the state of Chiapas, 3 for those staying at the migrant station in San Luis Potosí and 1 for those at stations in Veracruz, Morelia and Tamaulipas, respectively.

289. As to the measures issued in 2016, 12 were to benefit UCACIM who were at the migrant station in Mexico City, 6 for those housed at various migrant stations in the state of Chiapas, 3 for those staying at the migrant station in Tabasco, and 1 for those at migrant centers in Coahuila, Tamaulipas, Zacatecas and Veracruz, respectively.

290. Except for the state of Chiapas, most of the SACs identified by the PFPNNA are in states where this national agency has not seen the highest migrant flows. Therefore, there is evident need to identify and if necessary, certify more SACs, especially in Mexico City, whose migrant station is a hub for various migrant centers in the country.

291. Of the 132 SACs in Mexico, 41 give shelter to UCACIM between the ages of 0 and 12; 83 between the ages of 0 and 18, and 8 between the ages of 0 and 18 and over. It is not possible, however, to identify the distribution of these centers by state. Despite CNDH monitoring of the various provisionary measures relating to sending migrant children to SACs for proper comprehensive care, the information provided by the INM often refers to SNDIF, state and municipal SACs that only receive migrant children under the age of 12. Although migrant stations in Mexico City, Acayucan, Veracruz, and Siglo XXI in Tapachula, Chiapas, have an area for adolescents between

the ages of 13 and 18, these centers do not have the specialized care this vulnerable group requires.

292. It should be noted that the state of Tamaulipas has Centers for the Care of Minors in Border Regions in Nuevo Laredo, Reynosa and Ciudad Victoria, which depend on the local System for the Comprehensive Development of the Family. UCACIM are sent to these centers where they stay until their legal immigration status is determined.

293. Reynosa's Manual for the Organization for the Comprehensive Development of the Family, for instance, says that the CAMEF coordinator is responsible for receiving the UCACIM sent by the INM. These children and adolescents are to be offered shelter, food, and medical and psychological services. In addition, they are to be given "*activities suitable for children and adolescents to keep them busy during their stay.*"

294. The Protocol of Action for the Care of Unaccompanied Migrant and Repatriated Children and Adolescents, issued by the Tamaulipas State System for the Comprehensive Development of the Family, states that comprehensive care does not only refer to food, clothes and shelter, but implies recognition of their rights. The care should also include medical attention; communication with family members; legal and psychological counseling; educational, sport, cultural and recreational activities; and participation in workshops and trades.

295. From what CNDH personnel have observed, the CAMEF receives UCACIM regardless of whether they have passed the 12-year-old age limit. From the moment of their arrival, the consular representative from their country of origin is contacted and given the information the UCACIM provided. The staff coordinates with the INM to handle the cases of UCACIM that were sent by the Institute so that they may be cared for from the moment of their arrival at the center.

296. After several visits to other CAMEFs, it was possible to verify that the way in which UCACIM are treated is ideal, having overcome situations inherent to being older than 12 or having belonged to a criminal gang.

297. This national agency believes that the model of care provided to UCACIM at the CAMEFs of Ciudad Victoria, Nuevo Laredo and Reynosa in the state of Tamaulipas should be followed and such centers should be replicated in other states, taking into account the particularities of each state.

C. UNACCOMPANIED CHILDREN AND ADOLESCENTS IN THE CONTEXT OF INTERNATIONAL MIGRATION WITH NEED OF INTERNATIONAL PROTECTION

298. The violence and aggression that thousands of children and adolescents live in their countries of origin place them within the national and international legal framework with the right to apply for RSD and international protection. It is important to remember that behind each story of UCACIM asylum seekers, what is at stake is the physical integrity of the person, even his or her own life. It is essential, therefore, to strengthen the actions that the State itself carries out to provide for them the necessary protection and different living expectations.

299. International protection can be defined as "a set of activities aimed at ensuring equal access to and enjoyment of the rights of women, men, girls and boys under the jurisdiction of the UNHCR, in accordance with pertinent legal instruments, including international humanitarian law, human rights law and international refugee law." [114]

[114] UNHCR official website, "Protección" section (Spanish version) http://www.acnur.org/t3/que-hace/proteccion/. Accessed on: June 16, 2016.

300. Article 13 of the LSRPCYAP says the following: "*Refugee status shall be granted to any foreigner who is in the national territory, under any of the following circumstances:*

I. Due to well-founded fears of being persecuted on the grounds of race, religion, nationality, gender, membership in a particular social group, or political opinion, is outside his or her country of nationality and cannot or, because of said fears, does not want to avail himself or herself of the protection of that country; or lacking nationality and being, as a result of that, outside his country of habitual residence cannot or does not want to return there;

II. *That he or she has fled his or her country of origin because his or her life, security or liberty have been threatened by widespread violence, foreign aggression, internal conflicts, massive human rights violations and other circumstances that have disturbed public order, and*

III. *That due to circumstances that have arisen in his or her country of origin, or as a result of activities carried out during his or her stay in national territory, he or she has well-founded fears of being persecuted for reasons of race, religion, nationality, gender, membership in a particular group, or political opinions, or that his or her life, security or freedom could be in jeopardy due to widespread violence, foreign aggression, internal conflicts, massive human rights violations or other circumstances that have seriously disturbed public order."*

301. According to Article 1 of the 1951 Geneva Convention Relating to the Status of Refugees, to which Mexico is a signatory, a refugee is *"[any person who] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership*

of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."

302. The Supplementary Protection included in the LSRPCYAP allows the authorities to regularize the immigration status to make permanent residents of persons not recognized as refugees, but whose return could be held as going against the general obligations on non-return, contained in several human rights instruments (for example, Article 22.8 of the American Convention on Human Rights, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the Convention Against Torture and other Cruel and Inhuman or Degrading Treatment and Punishment).

303. Supplementary protection means safekeeping for those who, while not qualifying for refugee status—under the terms of the 1951 Convention or the Cartagena Declaration[115]– still require international protection because if they are returned to their country of origin, their lives could be forfeit or they might be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment, states Article 28 of the LSRPCYAP.

304. Of the 650 testimonies collected from children and adolescents in the context of migration in SACs (shelters) and migrant stations, 208 of these migrants are from Guatemala, 204 form Honduras, 235 form El Salvador, 2 from Nicaragua and one from Ecuador. Of the 521 testimonies from UCACIM, 237 decided to leave their country of

[115] The 1951 Convention Relating to the Status of Refugees defines the term refugee as those persons "*owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country*". The Cartagena Declaration on Refugees widens this definition in the following manner: "…*persons who have fled their country of origin because their lives, security or liberty have been threatened by widespread violence, foreign aggression, internal conflicts, massive human rights violations and other circumstances that have disturbed public order".*

origin in search of better economic prospects, 147 as a result of violence, 106 for family reunification, 27 for other causes and four did not specify their reason.[116] The following are example testimonies from UCACIM who abandoned their countries because of violence: [117]

> Jennifer "N", Salvadoran, 17: "*I left my country because of problems with the gangs, they were sexually abusing me and now I'm two months pregnant.*"

> Alexia "N", Guatemalan, 17: *"I left because I was afraid of gangs and problems. They shot me and beat me because of my sexual preferences (…) Mexico is a more liberated country. I feel like I have more rights here than in Guatemala (…) I turned myself over to immigration to ask for refuge (…) I feel better than being outside, but I would feel better if I were in a shelter…"*

1. Statistics

305. According to data provided by the COMAR, in 2014, 78 UCACIM applied for RSD; of this total 19 withdrew, 13 abandoned their application and only 46 concluded the procedure with 22 UCACIM granted refugee status and 3 given supplementary protection. This is shown in the following table:[118]

[116] In the August 3, 2016 meeting held between the Foreign Relations Committee of the Senate of the Republic and the INM Commissioner, the latter said that more than 90% of the people entering Mexico irregularly came from NTCA countries and that the main causes for abandoning their countries of origin were: natural disasters, violence and poverty, information at odds with CNDH data, and which could not be compared because the source of the information was not cited.

[117] Testimonies gathered by CNDH personnel in the San Luis Potosi Migrant Station and in the "Viva Mexico" Temporary Shelter for Migrant Minors in Tapachula, Chiapas on May 19 and July 9, 2016.

[118] http://www.comar.gob.mx/work/models/COMAR/Resource/267/6/imagenes/ESTADISTICAS_2013_A_02-2016_act.pdf, accessed on: July 9, 2016.

Country	Applicant	Abandoned	Withdrawn	Concluded	Recognized	Supplementary Protection	Not Recognized
Honduras	46	10	9	27	13	2	12
Salvador	19	1	6	12	5	1	6
Guatemala	10	2	4	4	4	0	0
Venezuela	1	0	0	1	0	0	1
Haiti	1	0	0	1	0	0	1
Nicaragua	1	0	0	1	0	0	1
Total	**78**	**13**	**19**	**46**	**22**	**3**	**21**

306. The number of UCACIM RSD applicants increased in 2015 to 141, 27 of whom withdrew their application and 22 abandoned the procedure. In addition, of the 92 who concluded the procedure, only 44 were granted refugee status, while 13 were given supplementary protection, as seen below:

Country	Applicant	Abandoned	Withdrawn	Concluded	Recognized	Supplementary Protection	Not Recognized
Salvador	64	5	17	42	20	2	20
Honduras	64	14	9	41	21	8	12
Guatemala	10	3	1	6	3	2	1
India	2	0	0	2	0	0	2
Nicaragua	1	0	0	1	0	1	0
Total	**141**	**22**	**27**	**92**	**44**	**13**	**35**

307. Human Rights Watch says "*the number of applications received by the COMAR is a very small part of the total number of children arriving each year in Mexico from Central America (…). The 21 unaccompanied children who received international protection in 2014 represent 0.2 per cent of the 10, 711 apprehensions of unaccompanied children from the Northern Triangle of Central America that year. Between January and November 2015 when 52 unaccompanied children received international protection, Mexican immigration authorities detained 16, 869 unaccompanied children from the NTCA, which means that a mere 0.3 per cent of detained children were accorded international protection in the first 11 months of 2015.*"[119]

2. Information from Civil Society and International Organizations

308. In Advisory Opinion OC-21/14, the IACtHR established that children have the right to seek and receive asylum. Therefore, they can submit requests in their own capacity whether or not they are accompanied.[120]

309. The host State, therefore, has specific obligations, which include: to allow children to request asylum or refugee status, which means they cannot be rejected at the border without an adequate and individualized analysis of their requests with due guarantees by the respective procedure; not to return children to a country in which their life, freedom, security or personal integrity may be at risk, or to a third country which may subsequently return them to the country of the original risks; to grant children international protection when they qualify for it and to likewise grant the benefit of protection to other family members based on the principle of family unity.[121]

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[119] Human Rights Watch. "Closed Doors: Mexico's failure …" *op. cit.*, pages 162 and 163.
[120] Advisory Opinion OC-21/14, "Rights and Guarantees of Children in the Context of Migration…", *op. cit.*, para. 80.
[121] *Ibid*, paragraph 81.

310. Nevertheless, HRW[122] has pointed out that INM personnel have dissuaded applicants from seeking refugee status determination with arguments such as *"… you shouldn't seek asylum because it will lengthen your stay in detention…*" But, the international organization insists, "…*it is not for the staff of the INM to prejudge applications for refugee recognition. It is the COMAR that has the responsibility to determine, after a thorough investigation, whether an applicant is a refugee or not*", a declaration with which the CNDH concurs, since the authorities are obliged to channel all such refugee requests immediately to the COMAR[123] without speculating on the feasibility of said application.

311. INM personnel are not limited to channeling applicants from RSD to the COMAR, but under Article 16, Section I of the RLSRYPC they are in a position to "*identify foreigners who, from the statements they make to immigration authorities or their personal circumstances, can be presumed to be candidates for refugee status and can inform them of their right to seek such a status.*"

312. In this sense, the above-mentioned HRW document emphasizes that *"…the fulfilment of this responsibility towards children requires child protection officers and other INM agents to be especially sensitive about the way in which children respond to their questions and to make every effort to anticipate their possible protection needs*".[124]

313. Among the multiple problems facing the RSD procedure, which were identified by the IACmHR[125] and with which this national agency agrees, is that the decisions it

[122] Human Rights Watch, *"Closed Doors: Mexico's failure …", op. cit.*, pages 62 to 70.
[123] Article 18 of the RLSRYPC states that "…any authority with knowledge of a foreigner's intention to apply for refugee status determination must notify the Coordinating Office of said intention in writing within 72 hours…"
[124] Human Rights Watch, *"Closed Doors: Mexico's failure …", op. cit.*, page 74.
[125] Inter American Commission on Human Rights "Human Rights of migrants…" *op. cit.*, para. 538.

issues do not accurately reflect the account given by the applicant during his or her interview with COMAR. This results in a violation of due process. Furthermore *"…they are sometimes not allowed to introduce evidence, or if they do, their evidence is not taken into account. In many cases, persons applying for recognition of refugee status are not assisted by qualified interpreters*".

3. Recognition of refugee status and/or supplementary protection

314. It is important to remember that everyone in the context of international migration who enters Mexico has the right to seek RSD, as set forth in Article 22.7 of the ACHR within the framework of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.[126]

315. However, it should be noted that it is not always carried out in this manner, since many of them do not see themselves as refugees. While they might have fled their countries of origin because of threats against their lives, freedom and personal integrity, or because of widespread violence, the situation may seem completely "normal" to their way of life.

316. The last paragraph of Article 11 of the CPEUM states that "… *[a]ny person has the right to seek and receive asylum. The recognition of refugee status and the granting of political asylum shall be carried out in accordance with international treaties. The law will regulate its admissibility and exceptions*."

317. Hence the importance of giving UCACIM the necessary aid from the moment of first contact with authorities so they know about their right to apply for RSD. In this case, it is necessary for the authorities themselves to have the knowledge to provide the information CA require on the one hand, and on the other to be able to identify a

[126] *Ibid*, para. 544.

possible refugee and do so without prejudging or discouraging them from following that course.

318. In this regard, the Inter-Agency Guiding Principles of the International Committee of the Red Cross says that: "*[r]efugee or asylum-seeking children should not be detained. However, in situations where they are detained, this detention must be used as a measure of last resort and should be for the shortest period of time."* [127]

319. Within the Mexican context, on the majority of occasions, applicants in migrant stations stay there during the 45 working days that the COMAR has to issue a determination.[128] This period can be extended for an equal number of days.[129]

320. In conformity with the "Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status" published by the UNHCR,[130] UCACIM can meet the conditions to be recognized as a refugee, nothing that *"…must be determined in the first instance according to the degree of his mental development and maturity. In the case of children, it will generally be necessary to enrol the services of experts conversant with child mentality. A child –and for that matter an adolescent – not being legally independent should, if appropriate, have a guardian appointed whose task it would be to promote a decision that would be in the minor's best interests."*

321. Once the children and adolescents in the context of migration have applied for recognition, the INM with support from the COMAR will assess the BIC according to

[127] International Committee of the Red Cross, Central Tracing Agency and Protection Division, *"Inter-Agency Guiding Principles on UNACCOMPANIED and SEPARATED CHILDREN"*, January 2004, page 34.
[128] High-Level Roundtable: *"Call to Action…"* op. cit. One of the committments of the Mexican State regarding the paragraph in question is: *"Designing and implementing alternative measures to administrative migration detention for asylum seekers, in particular for girls, boys and adolescents."*
[129] Set forth in Article 24 of the LSRPCYAP and Article 45 of its Regulations.
[130] Geneva, December 2011, page 41.

the provisions set out in Article 37 of RLSRYPC. To do so, the INM endeavor to do the following (Article 36 RLSRYPC):

i. Obtain information on the whereabouts of their parents or whoever exercises parental authority over them, as well as the reason they became separated;

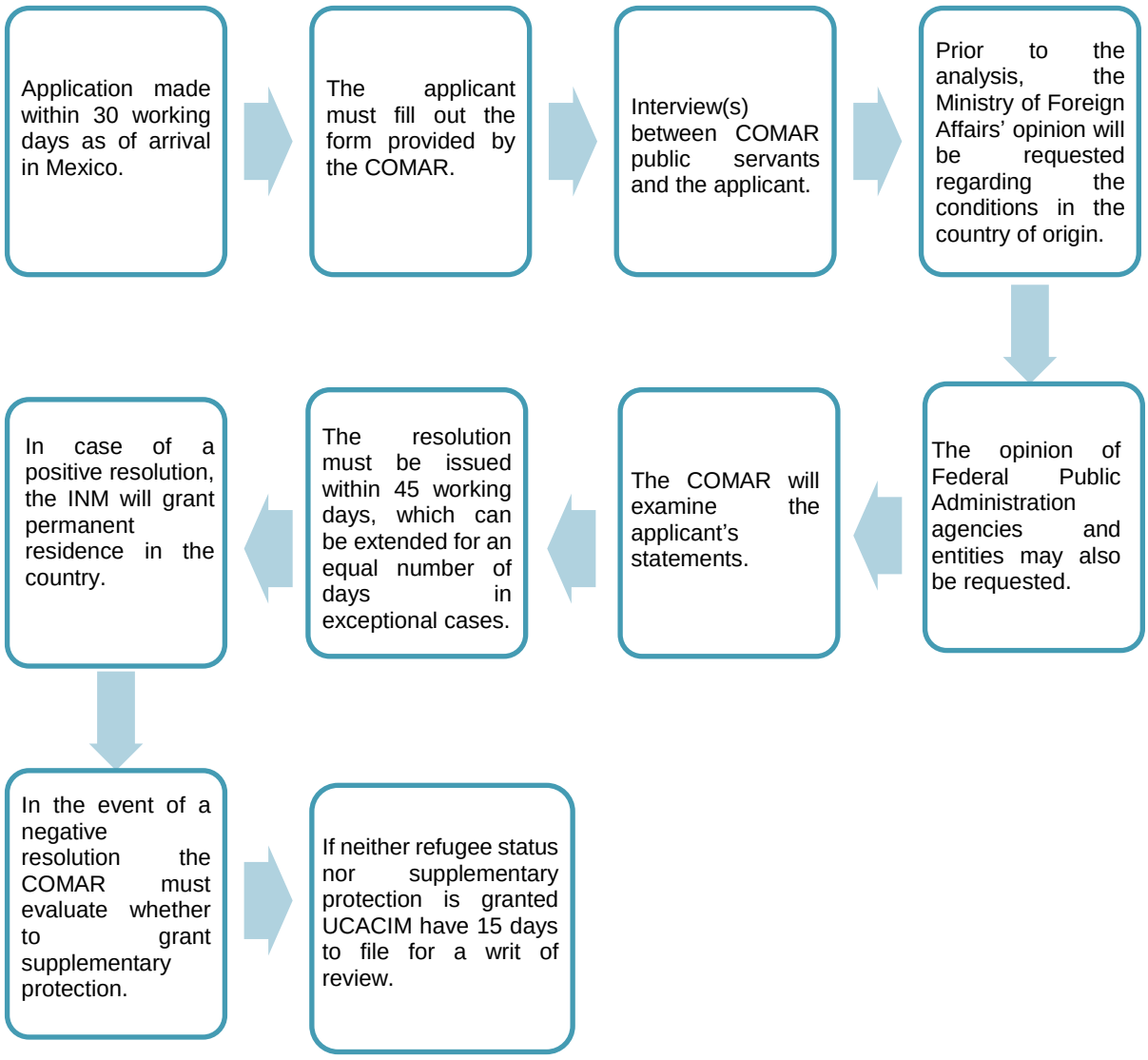
ii. Seek the opinion of family members, persons close to them or institutions involved in their care;

iii. Identify the situations of risk of abuse or violations of children's rights that may arise;

iv. Identify alternatives for temporary care; and

v. Take into account their opinion in decisions concerning them.

322. The procedure for determining refugee status is provided in the Fourth Title of the RLSRYPC which, broadly, is as follows:



323. As can be seen by the RSD procedure, children and adolescents in the context of migration – especially unaccompanied ones – require the presence of a guardian at all times to assist them during the procedure, and even undertake the legal remedies to which UCACIM are entitled. In addition, UCACIM shall have the legal representation needed to undertake any legal actions required and to ensure that the administrative procedures are carried out in accordance with the provisions of the applicable law.

324. It is a matter of concern that the COMAR conducts its interviews via telephone, particularly as the law provides for face-to-face interviews,[131] and taking into account that one of the aspects that the agency assesses in determining whether or not to recognize refugee status is credibility in declarations. It is essential that the interviews be conducted personally, so that the interviewer has all the elements to reach a decision.[132] It is important to remember that applicants do not always have the documentary evidence to prove their claim.

325. By means of fact-finding reports and several complaint files for which the COMAR is allegedly responsible, the CNDH has documented the fact that many of the interviews that the institution's public servants conduct with applicants in migrant stations are done via telephone, and that even more than 30 days after beginning the procedure applicants had not been given the opportunity to tell their reasons that led them to leave their country of origin.

326. It has not gone unnoticed that there are structural personnel problems that make personal interviews unfeasible. However, considering its importance and transcendence, this situation must change, and provisions must be made for this purpose in budget allotments.[133]

327. It is important to highlight the novelty of supplementary protection since it is from the entry into force of the LSRPCYAP (formerly the Law on Refugees and

[131] Article 27 of the RLSRYPC establishes *"…that interviews be conducted at the Coordinating Office, at migrant stations or other facilities authorized for that purpose..."*

[132] High Level Round Table: "*Call to Action*…" op. cit. Mexico assumed the following commitment, which ties in with the paragraph in question: "*Improving eligibility procedures, strengthening knowledge and capacity of the asylum authorities and introducing measures to improve case management and procedures."*

[133] *Ibid*, The paragraph is consistent with the following commitment made by the Mexican State: *"Increasing the capacity of the international protection system in Mexico, taking into account the increase in the number of asylum applications, through strengthening the presence of the Mexican Commission for Refugee Aid (COMAR) throughout the country, with the UNHCR's support."*

Supplementary Protection) that applicants are entitled to supplementary protection, which allows them to obtain permanent resident status for an indefinite term in Mexico with the right to family unity and to work permits.

328. Article 28 of the LSRPCYAP states that supplementary protection may be granted to a foreigner who is not eligible for refugee status but who *"…requires protection in order not to be returned to the territory of another country where his or her life may be in danger or there are well-founded reasons to believe that he or she would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment*." The applicant must be informed of such an assessment in the same decision of the administrative proceedings for refugee status determination.

329. It is important to emphasize that of the 650 migrant children and adolescents interviewed during their confinement in SACs, shelters and migrant stations located in Mexico, 521 were UCACIM, 334 of whom were not informed of the administrative immigration proceedings against them, while 177 said they were and 10 did not respond. Moreover, of these 521 UCACIM, only 281 said they were not told about their right to apply for refugee status, 230 were and 10 did not answer. The following testimony serves as an example:

> Frank "N", Honduran, 16: *"They didn't tell me anything about refuge. They only asked me for information like my name and my nationality and where I live."*

330. Although the aforesaid law establishes the right to request refugee status determination, from the visits made by this CNDH to the migratory areas, from the testimonies collected and from the complaints filed, it is plain to see that UCACIM do not receive adequate information or assistance that tells them they have a right to seek asylum.

331. The law also sets out that during the RSD proceedings, interviews with UCACIM must be done in person, by public servants conversant with the mentality of children, and without depriving them of their freedom, a situation which runs contrary to that observed by this national agency.

332. Of importance is the fact that this national commission has observed that once the COMAR has determined refugee status or granted supplementary protection to UCACIM, the INM provides the permanent resident card in Mexico, which allows them to live in the country for an indefinite period. However, the children who have acquired this status mostly remain behind in shelters behind closed doors until they come of age. This means that these CA become frustrated and regret having applied for refugee status, as they are still being deprived of their liberty. Many seek to escape from these places, and they spread the word to other UCACIM about continued detention, which discourages others from seeking refuge determination.

333. This national agency, therefore, believes it necessary to address this problem by exploring long-term protection measures so that UCACIM recognized as refugees or those granted supplementary protection can be channeled to host families that could represent a place for them to develop their capabilities in protective and caring environments.

334. In accordance with Article 4, Section XII, a host family is one that has been certified by the competent authority to provide care, protection and a positive upbringing. Moreover, this family upholds the social welfare of children and adolescents for a limited time until a permanent option can be secured with the original, extended or an adoptive family.

335. According to UNICEF's *"Foster Care: Guide of Practice Standards"* [*Acogimiento Familiar: Guía de Estándares para las practices*] foster care is *"…a practice that makes it possible for children, whose families of origin are not able to care for them, to live in a family atmosphere. The foster family is responsible for the care of the child without sharing any filial relationship, but exercises all obligations of care (…) the administrative and/or legal authorities broker the foster relationship by providing support and ensuring that during the proceedings all the rights of the child and those of his or her family of origin are respected, in particular, the right to be heard, to nurture his or her culture and education, to respect for his or her history and identity…"*

336. According to the "Guidelines for the Alternate Care of Children",[134] published by the UN General Assembly, unaccompanied and separated children that find themselves on foreign soil should enjoy the same level of protection and care as national children in the country concerned. In addition, in order to determine appropriate care provision for each unaccompanied migrant child or adolescent, certain things must be taken into account, including ethnic background, and cultural and religious diversity.

337. Consequently, in order to ensure that UCACIM are granted refugee status or supplementary protection, as well as their effective inclusion in Mexican society, the COMAR and the protection agencies must explore the alternative of housing the children in question in foster families as set out in the LGDNNA.

D. UNACCOMPANIED CHILDREN AND ADOLESCENTS IN THE CONTEXT OF INTERNATIONAL MIGRATION IN VULNERABLE CONDITIONS[135]

Kenia "N", Salvadoran, 13: *"I left my country because I was threatened… The trip was really bad because I was sexually abused in the state of Chiapas and on reaching Monterrey, I was caught by immigration… They sent me to PRODEM where I was looked after and they sent me back to immigration to be deported… I'm not afraid to go back to my country because the person who threatened me is dead."*

[134] UN Gener 2.

[135] Testimony gathered by CNDH personnel at the migrant station in Mexico City on August 3, 2016.

1. General Overview

338. Both external and internal factors such as unaccompanied migration, refuge, sexual preference, and belonging to an indigenous community create conditions that place children and adolescents in vulnerable situations. When speaking of UCACIM, it is important to understand this situation and incorporate it into processes to protect their human rights.

339. UCACIM are a vulnerable population since they have abandoned their place of origin leaving behind family ties, their community, their heritage and everything they know. They are forced to travel through a country where, in addition to sometimes not knowing the language since they speak an indigenous language, they are discriminated against, criminalized or easy prey for organized crime.

340. The condition of vulnerability in general stems from an array of internal and external factors that when combined diminish or cancel out a person, group or community's ability to exercise their human rights.

341. The internal factors of vulnerability are part of the characteristics specific to a person, group or community, such as age, gender, health, ethnicity, disability, sexual orientation, nationality and physical constitution, among others. But there are also external factors linked to the social context: the existence of discriminatory behaviors, income levels, the lack of employment, the economic crisis, unequal distribution of wealth, and the lack of social policies to guarantee access to economic, social, cultural or environmental rights.

342. It is possible to find other viewpoints, such as those of the Federal Judiciary, that focus more on the differences between children and adults from the perspective of structural dissimilarities, like cognitive development, which refers to the type of thinking that has been developed since childhood. "*From concrete reasoning, responses may be given that seem incoherent to adult logic. The presence of concrete objects is required for reasoning. The concepts of time and space are equally concrete and subjective; they relate only to one's own routines and experiences.*"[136]

343. In addition to cognitive development, there is different emotional development in children, in which each child or adolescent tends to look for unconscious mechanisms to adapt to their environment. "*These mechanisms show children's vulnerability in the face of the intrusion of painful emotions and unconscious mechanisms are unleashed to control them. Emotions flood the child's reality and the appearance of unconscious defense mechanisms modifies a child's behavior and thoughts to minimize distress, without the child being able to control them.*"[137]

344. Following the SCJN Protocol, a third characteristic is also mentioned. This trait has to do with a child's moral development, which is related to what he or she believes has to be done or should be done. This is a subjective experience that is interrelated with the two characteristics above. "*If [a child] feels at risk of being punished, he or she will attempt to give the right answer, regardless of what he or she perceived through his or her own feelings regarding an event.*"[138]

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[136] "*Protocol of Action for those who administer justice in cases involving children and adolescents issued by the Supreme Court of Justice. It is not binding and therefore does not have normative value to support a legal decision, but it is a tool for who may exercise this function,*" [*Protocolo de actuación para quienes imparten justicia en casos que involucren niñas, niños y adolescentes emitido por la Suprema Corte de Justicia de la Nación*.", Weekly Court Report [*Semanario Judicial de la Federación*], July 2014, Registry No. 2006882.

[137] *Idem*.

[138] *Idem,* page 15.

345. The vulnerability CA face due to these reasons segregates their personal identity and, when this happens, it cancels out the set of fundamental rights and freedoms in such a way that persons, groups and communities only have these rights at a formal level since in fact they do not necessarily create the conditions or promote the existence of the institutions, public policies or programs needed to exercise said rights. Vulnerability, therefore, goes against the indivisibility of human rights given that these should be understood comprehensively and not as the exercise of certain rights that obstruct the enjoyment of others.

346. Thus, around the world, refuge has been adopted as a protective measure for persons who have left their countries of origin in an attempt to save their lives. Another scenario that places migrant children in a particular situation of vulnerability is the repatriation and deportation processes.

347. In the context of migration, it is necessary to understand the situation of differentiating each migrant child and adolescent, as well as the special need for protection that children should have when being attended to by various Mexican authorities, immigration and DIF systems. In the international regulatory framework, this is reflected in the rules of the CRC and those that embody a spirit of guarantee. When speaking of child population in conditions of human mobility, CA are affected, influenced and sometimes victimized in the face of the neglect of public servants and the institutions that are obligated by law to guarantee the rights and protection of UCACIM.

2. Information obtained from civil society and international organizations

348. In a report entitled Childhood and Migration in Central and North America, the University of Lanús, the Center for Gender Refugee Studies and other agencies and organizations point out that "*[c]hildren and adolescents affected by migration (…)*

represent an urgent human rights, human development, refugee and humanitarian challenge. The crux of the problem lies in the sending countries of Honduras, El Salvador, Guatemala and Mexico where childhood has become synonymous with witnessing or suffering violence; experiencing human rights violations and discrimination on various grounds; suffering from social exclusion; and being deprived of education, employment opportunities, medical services, and even food. These conditions force children and/or their parents to migrate. The challenges continue during transit, especially in Mexico –with governmental actors and criminal syndicates preying on children and families by raping, kidnapping, extorting, or beating them, and with governmental institutions enforcing migration control policies that are designed to punish and deter migration rather than to protect children and respect their human rights."[139] As highlighted throughout this report, the situation in the countries of origin of UCACIM frequently forces them to embark on a journey full of dangers without the protection of their parents and, in view of their irregular entry into Mexico, go largely unseen by authorities obligated to provide them with protection and comprehensive care during their transit through the country.

349. The conditions of vulnerability are diverse and may be associated with a person's internal or external context. In the case of children, their condition itself exposes them to risk due to their surroundings and hence they require special protection from the State.

350. In addition to this, there are particular situations of migrant children, such as their sexual preference. As the UNHCR says, "*In many parts of the world, individuals experience serious human rights abuses and other forms of persecution due to their actual or perceived sexual orientation and/or gender identity. (…) It is widely documented that LGBTI individuals are the targets of killings, sexual and gender-based*

[139] Ceriani, Pablo, *coord.*, "*Childhood and Migration in Central and North America…", op. cit.*, page 9.

violence, physical attacks, torture, arbitrary detention, accusations of immoral or deviant behavior, denial of the rights to assembly, expression and information, and discrimination in employment, health and education in all regions around the world."[140]

> Adriana "N" (Josué Isaías "N"), Guatemalan, 16: *"Homophobia made me leave my country… I turned myself in to the National Migration Institute to apply for asylum."*

351. The problems that lead migrant children and adolescents from the NTCA to leave their countries are related to the violence and persecution they suffer for being under the age of 18 and considered objects rather than subjects. This population is made vulnerable because their rights are not guaranteed. On the contrary, as in the case of LGBTI UCACIM, children and adolescents are totally unprotected and defenseless both in their country of origin and in the country of transit, and sometimes in the country of destination as well.

352. The LGBTI child migrant population is in an especially vulnerable situation because they are children or adolescents in the context of irregular migration and because of their sexual diversity. Proof of this is the lack of models of care for DIF authorities and the INM to attend to these groups, to UCACIM with physical or mental disabilities, or to UCACIM victims of crimes.

E. SPECIAL PROTECTION MEASURES AND THE RESTITUTION OF RIGHTS

353. Federal, state and municipal authorities are duty-bound to guarantee the exercise of the rights of CA. Unaccompanied migrant children and adolescents are in a uniquely

[140] UNHCR, "*Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientaiton and/or Gender Identity"*, 2014, page 9.

vulnerable situation since they have entered the country irregularly and are traveling alone. These circumstances impinge on their rights as they cannot travel safely through the country and, in order not to be detained, they try to remain invisible to the Mexican authorities without receiving the rights to which they are entitled.

354. Both national and international law establish rights protection mechanisms intended to safeguard the immediate and most urgent needs of CA, paying close attention to their best interests. Specifically, national legislation directs the procedure so that the violated rights can be restored.

1. General Aspects

355. Article 19 of the American Convention states "*every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.*"

356. Advisory Opinion OC-17/2002 "*Juridical Condition and Human Rights of the Child*" establishes States' obligation to develop legislation to guarantee the protection measures that children need, in such a way States should adapt any legislation in view of the doctrine of comprehensive protection, which considers the child fully as subject of rights.[141]

357. Advisory Opinion OC-21/14, on the other hand, states that "*[o]nce the information has been gathered on the different factors that may cause children to be in a specific situation of vulnerability, the State must determine, (…) in conformity with an evaluation*

[141] Advisory Opinion OC-17/2002, "*Juridical Condition and Human Rights of the Child*" IACtHR, August 28, 2002, page 12.

of the best interest of the child, the special measures of protection that are required to ensure their life, survival and development…"[142]

358. The OAS and the IACmHR said in the report "The Right of Boys and Girls to a Family. Alternative Care. Ending Institutionalization in the Americas" that "*among the domestic legislative measures that Member States must adopt to meet the obligations under Article 19 of the ACHR and Article VII of the ADRDM* [American Declaration of the Rights and Duties of Man] *are (…) (ii) those of a specific nature directed at specific groups of children, established according to the particular vulnerable circumstances in which they find themselves and their special needs for special protection (…) These special measures of protection have a temporary nature and must be aimed at the preservation and restitution of the rights of the child, including the right to a family. (…) special measures of protection must be aimed at providing the protection, safety and well-being which the child needs, while striving from the first moment on for the restitution of all his/her rights…"*[143]

359. It is, therefore, important that once the different authorities identify UCACIM, the protection agencies must be immediately notified so that they can determine the special protection measures required, bearing in mind both the specific circumstances of each child and the BIC so that the measure taken meets the needs they present and subsequently determine whether any rights were infringed to immediately begin the proceedings for the full restitution of said rights.

2. Special protection measures

[142] Advisory Opinion OC-21/14 "Rights and Guarantees of Children…"op. cit., paragraph 103.
[143] OAS and IACmHR "The Right of Boys and Girls to a Family. Alternative Care. Ending Insitutionalization in the Americas", October 17, 2003, paragraphs 46 and 143.

360. The third point of the "*Guidelines for the Restitution of Rights and for Measures for the Protection of Children and Adolescents*" [*Lineamientos para la Restitución de Derechos y Medidas de Protección de Niñas, Niños y Adolescentes*] published in the DOF on May 30, 2016, by the SNDIF states that protection measures are the obligations that public and private institutions will have to manage or carry out certain actions aimed at restoring the rights that have been identified as violated or at risk of being violated.

361. The protection agencies may issue special protection and urgent special protection measures.

362. Article 49 of the RLGDNNA establishes that special protection measures are to be issued by the federal protection agency coordinating with the local protection agencies, and federal, state and municipal authorities. These measures are aimed at ensuring that CA whose rights have been violated are provided with the sufficient and necessary conditions so that through the services provided by the State can effectively guarantee the restitution of their rights.

363. Article 52 of the regulation cited above states that when there is imminent risk to the life, integrity and freedom of CA, the protection agencies must ask the agent of the competent public prosecutor to order urgent special protection measures. These measures must be issued within three hours of receipt of the request, and the appropriate legal authority immediately notified. This authority will have 24 hours to decide on the cancellation, ratification or modification of the imposed measures.

364. Therefore, it is the job of the protection agencies to issue special protection measures, but urgent ones must be issued by the corresponding public prosecutor at the request of protection agencies.

365. The special protection measures that can be ordered by the protection offices are:

a) The inclusion of CA and their families, together or separately, in social assistance, health and educational programs, as well as in sports, cultural, artistic or any other recreational activities in which they can be involved in view of their characteristics;
b) Medical, psychological or psychiatric treatment for CA, their mother, father, representative or caretaker, as well as emergency healthcare;
c) Immediate cessation of CA involvement in employment activities;
d) Fostering by the extended family or residential fostering of the affected CA, when there is risk to their life, integrity or freedom;
e) Fostering by the extended family or residential fostering of the affected CA, when there is risk to their life, integrity or freedom; and
f) Any other action that may be needed to safeguard their rights.

366. With regard to the urgent special protection measures, the LGDNNA says these can include:

a) The admission of CA to a SAC, and
b) Immediate medical care provided by an institution within the National Health System.

367. Once the protection measures have been issued, protection agencies are responsible for monitoring the enforcement of and compliance with these measures. To this end, they must establish contact and work together with social assistance authorities and those in charge of health services, education, social protection, culture, sports and any other programs deemed necessary to guarantee the rights of CA.

368. When an administrative immigration procedure involving UCACIM has been initiated, the RLGDNNA stipulates that immediate notice must be given to the PFPNNA, which then must act in accordance with Article 123 of the LGDNNA, as this article sets out the procedure for requesting the protection and restitution of rights.

369. Because of the vulnerable circumstances of UCACIM, when requesting the restitution of rights, if applicable, the protection offices must first determine the best interests of UCACIM in order to properly establish their specific needs, and only in the event that in this analysis and study of said determination, it is found that their rights have been violated or restricted, can the offices issue the corresponding protective measures and initiate a plan of the restitution of those rights.

370. This must be done, because although UCACIM are in a vulnerable situation due both to their irregular immigration status and to the fact that they are travelling alone, they need to be provided with protection and care without this need implying that their rights have been violated or restricted. To submit them, therefore, to the procedure of protection measures and to a possible restitution plan without first determining their best interests would imply revictimization by subjecting them to constant, and often unnecessary, interviews with public servants.

3. Plan for the Restitution of Rights

371. According to Article One, Section VIII of the Agreement establishing the Internal Procedure for the Restitution of Rights and Measures for the Protection of Children and Adolescents, published in the DOF on May 30, 2016, the plan for restitution of rights is the "*document detailing the manner in which the restitution of the violated or restricted rights of Children and Adolescents will be carried out; as well as the name of the institution or institutions that could implement the corresponding restitution.*"

372. Article 123, Section IV of the LGDNNA states that to request the protection and full restitution of rights, among others, the protection agencies must prepare an assessment of the situation with regard to rights violations, as well as a plan for the restitution of those rights that include proposed measures for their protection.

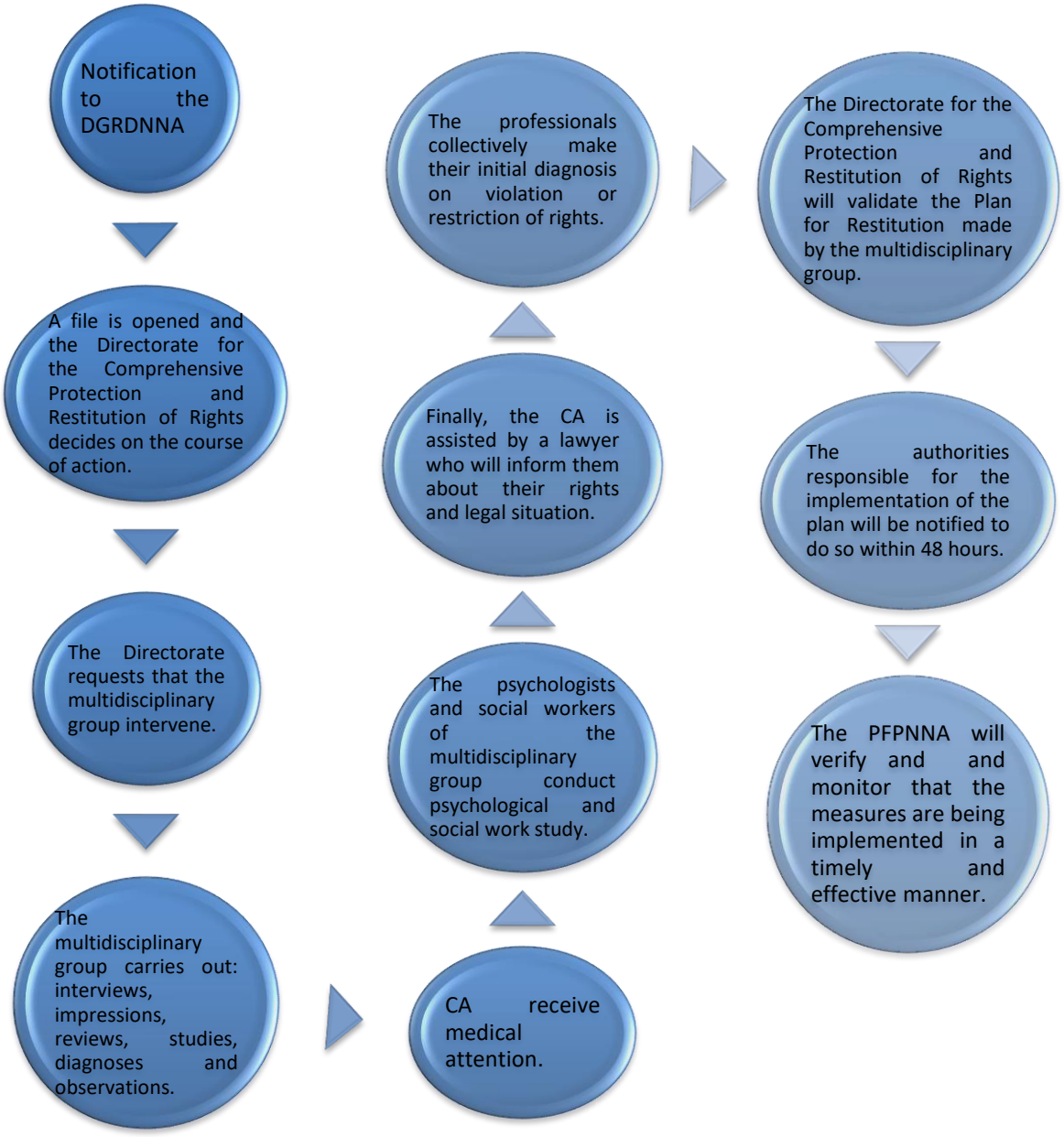
373. It is important to point out that the General Office for the Restitution of the Rights of Children and Adolescents, under the PFPNNA, is responsible for promoting the development of guidelines and procedures for the restitution of rights and protection measures in accordance with Article 33, Section VIII of the Organic Statute of the National System for the Comprehensive Development of the Family.

374.

La PFPNNA puede tener conocimiento, a través de los siguientes medios:

1. Through complaints,
2. Through information sent by the Directorate General for the Regulation of Social Assistance Centers, and
3. Through the media.

375. The same document establishes the procedure that must be followed once there is knowledge that a child or adolescent's rights have been violated or restricted. The procedures are broadly as follows:



376. In the event that the multidisciplinary group determines that there had been no violation or restriction of CA's rights, it must make a report detailing the reasons for its findings.

377. However, if a violation or restriction of rights has been identified, and the plan for restitution has been approved by the Directorate for the Comprehensive Protection and Restitution of Rights, the authorities responsible for its execution must be notified within a period of no more than 48 hours, coordinating with the Directorate for Protection Measures (also under the PFPNNA), so that the Plan of Restitution can be properly implemented.

378. Within the Plan for the Restitution of Rights, the multidisciplinary group must identify each violated or restricted right, with its due legal justification and the reasoning behind the choice of each special protection measure included in the plan.[144]

379. In conformity with the Guide for the Protection and Restitution of Rights of Children and Adolescents, published by UNICEF and the SNDIF, monitoring of the protection measures contained in the Plan of Restitution begins *"…from the moment the Plan for the Restitution of Rights is being drawn up, because it is necessary to include the required information on how each special protection measure is to be evaluated, how often it is to be evaluated and how to determine when each violated or restricted right has been fully restored."*

380. Therefore, the duration and frequency of the protection measure must be included in the Plan for the Restitution of Rights, so that the PFPNNA public servants may implement all the actions aimed at ensuring that these measures are fulfilled, executed and monitored by the responsible authorities.

381. Lastly, the PFPNNA must verify that:

[144] UNICEF and SNDIF, *"Practical Guide for the Protection and Restitution of the Rights of Children and Adolescents: Procedure"* [*Guía Práctica para la protección y restitución de derechos de niñas, niños y adolescentes. Procedimiento*], August 2016, page 57.

1. The measures are carried out in a timely manner.
2. They are effective.
3. The Plan for the Restitution of Rights can be adjusted; and
4. Protection measures can be added to the plan for restitution if necessary.

382. In this regard, the Guide for the Protection and Restitution of Rights for Children and Adolescents suggests that monitoring of protection measures within the Plan of Restitution should be carried out: through follow-up visits, by analyzing and recording compliance with protection measures, by taking the necessary actions for compliance, and by evaluating the need to modify the Plan for the Restitution of Rights.[145]

383. The Plan for the Restitution of Rights for UCACIM should only be carried out once the relevant authorities have determined a possible rights violation or restriction in assessing their best interests using the procedure previously established by law. This is because if the PFPNNA asks the DGRDNNA initiate the Plan for the Restitution for all UCACIM on the basis of their irregular immigration status alone, these children and adolescents would then be subjected to an unnecessary procedure that could prolong the decision regarding their legal status, oftentimes deprived of their freedom since they are routinely confined in migrant stations or SACs.

384. As a consequence, this national agency considers it appropriate that if the determination of the best interests of UCACIM reveals a violation or restriction of rights, the procedure described above should be initiated, so that the multidisciplinary group can determine whether there has in fact been a violation of human rights, and in this way, issue a Plan for the Restitution of Rights that contains the protection measures necessary for the restoration of those rights.

[145] *Ibid;* pages 69 and 70.

385. Therefore, the CNDH believes it appropriate that the protocols issued for the protection measures and Plan for the Restitution of Rights be reviewed, so that in the cases of UCACIM, distinct treatment is established through a special procedure in which it is determined that the implementation of the plan is carried out based on the identification of rights violations found during the study and analysis of UCACIM's best interests. This agency believes that for UCACIM, protection measures cannot wait for a decision to be made regarding the possible violation of rights.

F. ASSISTED RETURN

386. According to the LM, assisted return is the procedure by which the INM makes a foreigner leave national territory by sending him or her to his or her country of origin or habitual residence, provided that the foreigner so requests it. It is a "friendly" concept whose main benefit is to speed up the procedure for returning foreigners to their respective countries of origin

387. When dealing with UCACIM, this procedure is subject to the decision of the INM under the terms set forth in Article 169, Section IV of the RLM. Before the immigration authority can resolve the legal status of UCACIM, it must weigh the BIC in each specific case.

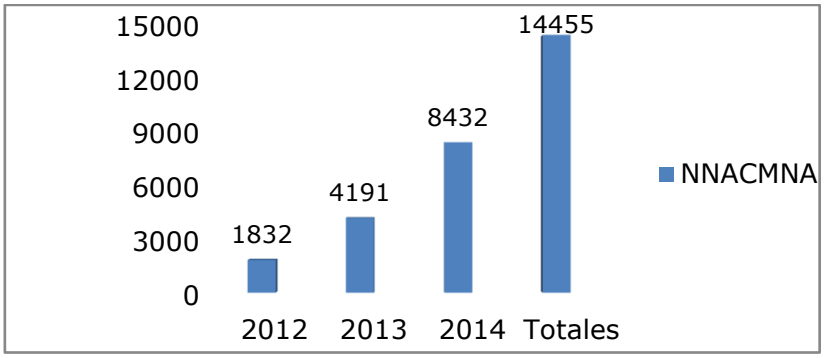
388. In spite of this, in the facts and experiences this national agency has collected from processing UCACIM complaints and frequent visits to migrant stations, assisted return appears to be a common means of resolving their legal situation quickly without having properly determined the BIC or the attention, care and protection they require, according to their circumstances of life, physical and mental maturity, among other things.

Katerin Estefanía “N”, Guatemalan, 17: *“This is the second time I’ve entered Mexico. The first time they sent me back on a bus with someone from the INM, who took me to an orphanage in Guatemala and my mother went to get me.”*

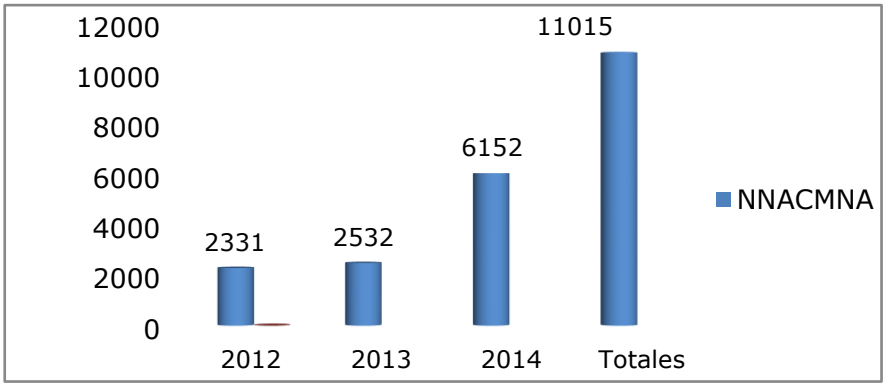
1. Statistics

389. During the last presidential administration, the number of migrant children and adolescents at migrant stations who were subsequently returned to their countries of origin increased. Between 2012 and 2014, the INM returned a total of 33,346 UCACIM from the NTCA, of whom 14,455 were Honduran, 11,015 Guatemalan and 7,876 Salvadoran.

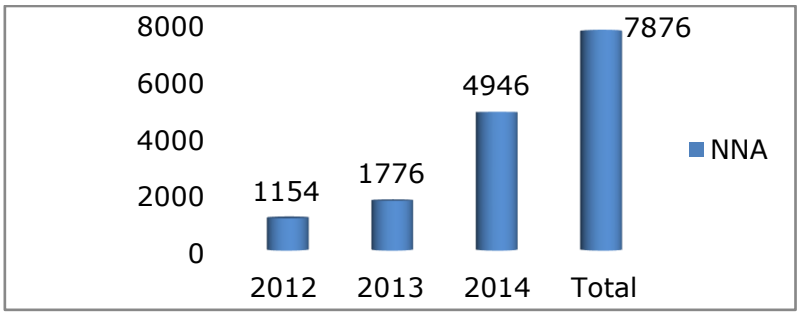
Honduras:



Guatemala:



El Salvador:



Graphs created by CNDH personnel based on information from statistics compiled by the Migration Policy Unit.

390. According to the figures published by the SEGOB UPM, by 2015 there 38,514 migrant children and adolescents detained, 36,921 of who were returned. Between January and July 2016 alone, 19,383 have presented themselves at migrant stations compared to the 16,723 who were returned to their countries.

391. In this context, most of the administrative procedures that the INM initiated as a result of UCACIM arriving at migrant stations were resolved through the legal concept of assisted return without any assurance that an individual assessment of the BIC had been performed, as observed by this national agency on its visits to migrant centers and corroborated by complaint files. Therefore, it is not possible to conclude that their return is the best alternative for their safety and integrity.

2. Information obtained from civil society and international organizations

392. The Fray Matías de Córdova, the University of Lanus and HRW have set out their position on the issue, concurring that before the migration authority decides to return UCACIM to their countries of origin, an assessment of their best interests must be made.

393. Likewise, if it is decided that it is best for the UCACIM to be returned to their country of origin or residence, the procedure previously established in the Memorandum of Understanding between the Governments of the United Mexican States, the Republic of El Salvador, the Republic of Guatemala, the Republic of Honduras and the Republic of Nicaragua for the Dignified, Orderly, Prompt and Safe Repatriation of Central American Nationals by Land must be respected.

394. HRW argues that the INM should take into account the individual assessment of UCACIM to determine their legal immigration status because assisted return is not always the best solution in view of the fact that UCACIM are targeted by gangs or have

reasonable grounds to fear that they will suffer violence and other human rights abuses in their countries of origin. In this sense, it is not very likely that their return is in their best interest. The same is true where family members in their countries of origin are unable or unwilling to care for them.[146]

395. Regarding the procedure for assisted return, UNICEF says that Guatemalan UCACIM who are returned "*from Mexico do so through the La Aurora international airport on an Aeromexico commercial flight, or by land on direct buses. In both cases, children coming from Mexico are accompanied by a Mexican CPO* [to the migrant center where they are handed over to immigration authorities and the Office of the National Attorney General (PGN)]. *Once they are received by the PGN, an official document formalizing the surrender to Guatemalan authorities is signed and the PGN becomes responsible for the children. Those who are repatriated by air are transferred to "Nuestras Raíces" homes in Guatemala City. In the case of those arriving by land, the official document is formalized at the border of El Carmen, where the children are taken to the migrant shelter in the city of Quetzaltenango."*[147]

396. However, it is necessary to point out that on many occasions "*the children arrive at midnight, on the last Aeromexico flight. This situation contravenes the contents of the Memorandum of Understanding* [between the Governments of the United Mexican States, the Republic of El Salvador, the Republic of Guatemala, the Republic of Honduras and the Republic of Nicaragua for the Dignified, Orderly, Prompt and Safe Repatriation of Central American Nationals by Land]*, and, as a result, the children are held for long periods of time by DGM* [General Immigration Office] *staff on airport premises."*[148]

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[146] Human Rights Watch*, "Closed Doors: Mexico's Failure…"*, *op. cit.*, page 109.
[147] UNICEF, *"Returned Migrant Children and Adolescents"* [Niñas, niños y adolescentes migrantes retornados], Chapter II, Analysis of the Services and Programs for the Protection of the Rights of Returned Migrant Children, Buenos Aires, Argentina, 2015, page 38.
[148] *Idem*.

397. The Colegio de la Frontera Norte states that in the case of Salvadoran UCACIM, they "*arrive at the La Carcha shelter located in one of the most conflictive and violent neighborhoods of San Salvador, which represents an imminent risk to the physical integrity of both family members and the migrant CA themselves. The Assistant Director-General of the General Office of Migration and Foreign Affairs indicates that the CA usually arrive on a regular bus. However, on many occasions they have received unaccompanied minors arriving on buses with adults... On their arrival* [in El Salvador] *the minors are interviewed by immigration officials and handed over to their families. Only in exceptional cases, if the minor is a repeat offender and if recurrent problems of domestic violence against him or her have been detected, is the Salvadoran Institute for the Comprehensive Development of Children and Adults* [Instituto Salvadoreño para el Desarrollo Integral de la Niñez y de la Adolescencia -- ISNA] *present to receive the minor."* [149]

398. According to reports from the Colegio de la Frontera Norte, in Guatemala and El Salvador "*migration authorities say that parents or guardians often do not come for the children because they were not located in time, they live very far from the place of arrival, or they themselves are migrants in Mexico or the United States. Therefore, CA are handed over to other relatives like grandmothers, aunts, uncles or older siblings. Lastly, some repatriations by air take place outside the agreed schedules, and sometimes the buses with migrant CA are delayed and may also arrive at night. Thus, the family members who traveled from very remote communities to pick up the minors find it difficult to make the return trip that same day. In the case of San Salvador, the official in charge of repatriation points out that on several occasions CA and their*

[149] El Colegio de la Frontera Norte, *"Detention and Return of Unaccompanied Migrant Children and Adolescents" [Detención y Devolución de Niñas, Niños y Adolescentes (NNA) migrantes no acompañados*] October 2015, page 35.

relatives have had to spend the night at the airport since they were no longer able to take public transportation to return to their communities."[150]

399. UNICEF says that Honduran UCACIM are repatriated "*from Mexico by air and by land. They mainly return by a bus that arrives from the Siglo XXI Migration Station in Tapachula, Chiapas, Mexico, or directly from Mexico City to the 'El Eden' migrant center in San Pedro Sula (Honduras). From Mexico, the children are accompanied by the Mexican CPO to the Honduran border. They are received by personnel from the Red Cross, Casa Alianza and immigration, and are then transferred to the center. By land, they enter through the border of Corinto (Guatemala-Honduras) in the Department of Cortés (northern Honduras), which is an hour and a half from San Pedro Sula. When they cross the border at Corinto, the Red Cross informs the migrant center of their arrival."*[151]

400. From the above it is possible to see the relationship between the authorities so that UCACIM may be returned promptly and safely to their country of origin, in which case it would be fitting to adopt measures of care and protection for this vulnerable group during their relocation.

401. It should be mentioned that the LGDNNA establishes that it will be the authority to verify the administrative proceedings related to UCACIM and to guarantee the preeminence of the BIC.

402. Similarly, the LM and the RLSRYPC establish that the INM is responsible for assessing the BIC through specialized personnel trained in the protection of children's

[150] *Ibid.*, page 35 and 36.
[151] UNICEF, *"Returned Migrant Children and Adolescents… [Niñas, niños y adolescentes migrantes retornados]…"*, *op. cit.*, page 45.

rights, in order to determine the protection measures that best suit each child's situation.

403. While the administrative procedure is being conducted, the guardian assigned to UCACIM, according to that established by the IACmHR in OC-21/2014, must guarantee that the decision made by the immigration authority respects the BIC. However, as discussed in the chapter on this topic, UCACIM are not actually assigned a guardian for administrative procedures.

404. It has been noted that assisted return is not always the most convenient option for UCACIM, especially if they are threatened or persecuted in their countries of origin. However, it should be taken into account that the RLM establishes a different alternative to return, such as the possibility of regularizing the legal immigration status of UCACIM when it is in their best interests, and in the meantime offer temporary or permanent legal or humanitarian alternatives instead of assisted return.

405. This may seem to benefit UCACIM, but the INM does not always grant the status of visitor for humanitarian reasons. In most cases it rules in favor of the "benefit of assisted return" without carrying out a proper assessment of the BIC of this vulnerable group.

406. According to Article 120 of the LM, the procedure for the assisted return of UCACIM must be carried out with the participation of the consular or immigration officials of the receiving country. Moreover, Article 17, Section V of the Agreement issuing the Guidelines for INM Migrant Protection stipulates that when the assisted return of UCACIM to their country of origin is determined, personnel specialized in child protection should assist them during the entire administrative immigration procedure until they reach their country of origin or residence.

407. Likewise, Article 11, Section V of Circular 001/2010, which details the procedure for UCACIM care, says that in the cases in which repatriation is decided, the CPO is to accompany the child to his or her country of origin.

408. Meanwhile, the "*Regional Guidelines for the Care of Unaccompanied Children in Cases of Repatriation*" issued on July 9, 2009, at the Regional Conference on Migration, to which Mexico is a member, establishes in paragraphs c) and d) of its Section V entitled Transfer of the Unaccompanied Child that the authorities of the country in charge of the repatriation designate an appropriate escort for the unaccompanied child, taking into account the child's gender and age, among other factors. The escort should accompany him or her during transfer and ensure that the child is separated from adult passengers. Moreover, the child should travel through suitable and safe means of transportation, avoiding long and tiring routes.

409. SNDIF public servants working with immigration authorities have the duty to assist and ensure the effective return of unaccompanied migrant children and adolescents until they are handed over to the institution responsible for protecting children in their country of origin.

410. Legislation establishes the schedules and routes by which vulnerable persons, like UCACIM, are to be returned. Thus, the appendices of the above-mentioned memorandum of understanding indicate that they shall leave through the border points at Talismán and Ciudad Hidalgo, Chiapas. Nicaraguans are to leave from Monday to Friday between 6:00 and 7:00 a.m. to be received at El Guasabe, Nicaragua. Hondurans depart from Monday to Sunday between 5:00 and 7:00 a.m. and will arrive in Agua Caliente, Honduras. Guatemalans go from Monday to Friday between 9:00 a.m. to 12:00 p.m. and will be received at El Carmen or Tecún Umán. Salvadorans set out from Monday to Sunday between 7:00 and 11: a.m., and arrive at La Hachadura, El Salvador.

411. This implies a high level of coordination with the authorities of Guatemala, El Salvador, Honduras and Nicaragua (the main countries from which UCACIM come) in order to produce joint actions to guarantee their safe return and for them to be promptly delivered to their families.

412. The UCACIM's country of origin must also guarantee that once returned to their communities and/or places of residence, the children and adolescents are assimilated into their environment. The country must also implement special programs to prevent future migration and keep them out of harm's way.

413. In this vein, the IOM points out that "*legislation on children and adolescents in all the countries clearly and forcefully establish the duty of the States to ensure the full development of children and adolescents, specifically of those who are in a situation of vulnerability …* [the right of children and adolescents to free transit] *is complemented by protection in the face of circumstances and situations that compel them to leave their country, that is, to be expelled."*[152]

414. Therefore, it is also the responsibility of each State to implement medium- and long-term health, economic and security policies in order to protect UCACIM, providing a better quality of life and preventing forced migration.

415. From the testimonies gathered by the CNDH, it is seen that while the UCACIM are returned to their countries in the custody of an INM public servant, the children do not know if it is a CPO since they only refer to immigration personnel. Some interviewees even said it was a police officer.

[152] IOM, UNICEF and ILO, *"Migrant Children and Adolescents: Central America and Mexico"*, Report, San José, January 2013, page 63.

416. These testimonies should not be taken lightly. They are important because they reflect a degree of negligence that must be overcome.

417. In addition to this, it was noted that UCACIM tended to migrate again. So much so that some of the interviewees said that it was the second and fourth time they had left their countries. This then is why we say that there is no inclusion policy for these minors in their places of origin aimed at preventing them from migrating and re-exposing themselves to risks and dangers during their transit through various countries.

Kevin "N", Salvadoran, 17: *"This is the second time I've tried to cross Mexico to enter the United States. The first time immigration stopped me at Tuxtla Gutierrez, Chiapas, and they sent me back to my country on a bus with National Migration Institute personnel. They took me to the "Santa Tecla" migrant house in El Salvador and they handed me over to my mother. The second time was a few days ago and I was detained in Reynosa, Tamaulipas, where I'm staying at the Center for the Care of Minors in Border Regions (CAMEF), waiting to be sent back to my country."*

José Eugenio "N", Honduran, 16: *"This is the fourth time I've tried to cross Mexico to enter the United States. The first time was a year ago. I was apprehended in the city of Reynosa, Tamaulipas, and I was flown back with INM staff. I arrived at the San Pedro Sula airport in Honduras where my mother received me. The second time was ten months ago. I was caught in Mexico City and they sent me back to my country by plane accompanied by INM staff. My mother received me at the San Pedro Sula airport in Honduras. The third time was in November 2015. Immigration stopped me in Palenque, Chiapas. I was sent back to my country by bus and immigration personnel accompanied me. I was again received by my mother. This is the fourth time I've tried crossing to the United States through Mexico and I was stopped in Reynosa, Tamaulipas. I am currently staying at the CAMEF-DIF, waiting to be returned to my country of origin.*"

V. COMMENTS

418. In view of the various overlapping powers that legislation has established for the full protection of UCACIM for the National Institute for Migration, the Mexican Commission for Refugee Assistance, the National System for the Comprehensive Protection of Children and Adolescents, the DIF Systems and the Federal Protection Agency for Children and Adolescents, there is a lot of confusion about what exactly each organization must do. All this has an impact on the protection of the human rights of this vulnerable group as, more than a year after the LGPDNNA was enacted, there are still UCACIM in migrant stations without due attention to their comprehensive protection. The database has not been designed to provide adequate monitoring of migrant children, and guidelines have not been established to enable the determination of the BIC to be carried out in an appropriate manner. Hence, the process of implementing the reform needs to be accelerated.

419. This national agency has documented several complaints received from 2010 to 2016 in which UCACIM have revealed violations of their human rights based on their experiences transiting through Mexico and on encounters with police or immigration authorities. These complaints and the 650 interviews conducted with migrant children and adolescents at migrant stations, shelters and social assistance homes in Mexico indicate that the migratory flow of this population has increased exponentially since 2010. The main reasons for migration are the following:

1. Violence, criminality and insecurity;
2. Economic reasons originating in social inequality and economic insecurity; and
3. Family reunification.

420. Articles 7, 8, and 9 of Circular No. 001/2010 issued by the INM, which "*sets out the procedure for the care of unaccompanied children and adolescents"*, Article 112, Sections IV and V of the LM; and Articles 173, 174 and 185, second paragraph of the RLM, set out the duties of the CPOs, which are described in the corresponding section of this document. However, this national agency has seen in the various complaints filed by the aggrieved UCACIM, that within the administrative immigration procedures validated by the INM, there has been no proof that the CPOs conducted BIC assessments, or that there was specialized aid provided during the procedure. These circumstances were reflected in the declarations made in Recommendations 54/2012, 17/2014 and 27/2015.

421. INM-supplied information says its Training Program for CPOs does not specify a profile for the person to be trained as a CPO, stating only that they must have a "degree in humanities". This national agency does not consider this adequate. The personnel who work with UCACIM must be professionals with experience in the promotion of children's human rights, have a profound knowledge of issues related to violence against children and studies in related specialities such as child psychology, social work and pedagogy in order to provide the UCACIM with adequate comprehensive protection.

422. This program, the INM informed, covers more than 100 hours of training and is given with the support of several bodies such as the CNDH, the UNHCR, the COMAR, DIF and the National Council for the Prevention of Discrimination. It is important to point out, however, that since June 2014, this national agency has not been called on to participate in CPO training. Moreover, as a result of meetings held with this Institute at inter-institutional dialogue tables, it was discovered that this training program has been suspended.

423. The INM pointed out that the CPOs are also federal immigration agents and, in addition to attending to UCACIM, they carry out the duties of federal agents. In view of this, their independence of action in the protection of the human rights of UCACIM must be called into question, since on occasion, the public servant charged with providing these migrants with comprehensive protection are the same ones who detain them.

424. The Protocol of Action to ensure respect for the principles and protection of the rights of children and adolescents in administrative immigration proceedings does not specify the procedure that will be applied to UCACIM from the moment of their detention, including their immediate channeling to SACs, as well as monitoring their protection during their stay in these centers, to the determination of their legal immigration status. Nor does it lay out how CPOs will guarantee the provision of educational services and clothing, which are of great importance since they have a significant impact on the development and well-being of UCACIM.

425. This Protocol refers only to the care that must be given to UCACIM in a migrant station, which is contrary to the provisions of Article 111 RLGDNNA, which states that under no circumstances will UCACIM be deprived of their freedom in migrant stations.

426. Article 112 of the LM and Article 8 of C-001/2010 stipulates that UCACIM must be channeled immediately to the DIF systems in order to privilege their stay in places where they can receive appropriate care while their immigration status is being resolved. Nevertheless, in the experience of CNDH personnel, this type of channeling does not happen. By way of example, this national commission includes the following case files: CNDH/2014/7171/Q, with its accumulated CNDH/5/2015/573, CNDH/5/2015/116/Q, CNDH/5/2015/597/Q, CNDH/5/2015/116/Q and CNDH/5/2015/6396/Q, which documented the fact that migrant children and adolescents were not immediately transferred to a DIF system SAC.

427. It has also been observed that the immigration authorities assume that simply by reporting UCACIM to the DIF systems they have fulfilled their obligation under Article 112 of the LM, and therefore, take no additional steps to immediately channel UCACIM to the SACs. In order to ensure that UCACIM's rights were being attended to in their entirety by specialized personnel, this national agency issued 40 precautionary measures from 2015 to October 7, 2016, addressed to the INM, the COMAR, the SNDIF and the DIF systems in Mexico City and Tabasco, which requested that UCACIM lodged at varous migrant stations be immediately transferred to DIF system facilities.

428. Prior to the publication of the RLGDNNA, UCACIM were only allowed to stay in migrant stations under exceptional circumstances, as long as their rights were respected at all times. They were to be accommodated away from adult areas and CPOs would verify that the conditions were suited to their situation of vulnerability. However, as documented in the complaint files referred to in section IX of this report, these conditions are being violated as UCAIM are being allowed to stay overnight with adults.

429. Articles 89, 94 and 95 of the LGDNNA states that the national, state and municipal DIF systems will provide protection for UCACIM until their immigration status has been resolved, which is why the systems are duty-bound to adapt spaces to provide accommodation for them. However, this national agency has documented that the DIF systems are being excused from sheltering migrant children and adolescents on the grounds of lack of capacity, forcing the young migrants to remain in inadequate migrant stations without the specialized personnel required for their care. This situation has already been set out in Recommendations 22/2015 and 27/2015.

430. Articles 52, Section V and 74 of the LM establish that when it is in the best interests of UCACIM, the INM must grant the status of visitor for humanitarian reasons, while

offering temporary or permanent legal or humanitarian alternatives. Despite this, the INM does not always grant this status since in most cases, it resolves in favor of the "benefit of assisted return" without specialized personnel conducting BIC assessments of this vulnerable group. The testimonies received by this national agency show that 280 UCACIM expressed a fear of returning to their country of origin, but their opinion was not heard by the immigration authorities.

431. Articles 52 and 74 of the LM also provide for victims and witnesses to crimes committed in Mexico to be granted the immigration status of visitor for humanitarian reasons, but this too is not always done by the INM. Case in point, one of the testimonies received by this national agency is that of an adolescent who tried to denounce criminal acts committed against her from the moment she encountered an immigration officer. It took CNDH intervention for the INM to pay attention to her complaint and take her before the appropriate ministerial authority, after which she was channeled to a comprehensive care center.

432. If a restriction or violation of rights is identified during the BIC assessment, protection measures are issued, which may be special or urgent and, subsequently, the Plan for the Restitution of Rights will begin. However, this will only be done in the event of a violation or restriction of the rights of UCACIM.

433. Article 11 of the CPEUM and Article 22.7 of the American Convention, in light of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, establishes the right to apply for recognition of refugee status. However, UCACIM do not receive adequate information and assistance to enable them to know about and take advantage of this right. Testimonies gathered by this National Agency demonstrate that 281 of the 521 UCACIM spoken to did not have their right to seek refugee status explained to them by a public servant.

434. Once recognized as a refugee or granted supplementary protection, UCACIM are confined in shelters until they reach adulthood. However, the LGDNNA sets forth the concept of foster families. It would be a significant step if the COMAR, along with the PFPNNA, evaluated the possibility for UCACIM to be channeled to foster families as a long-term protection measure.

435. As part of the administrative procedure for recognition of UCACIM as refugees, national and international legislation establishes that interviews must be conducted by a public servant who is a child expert in person and without depriving the interviewees of their freedom. Yet, this national agency has it on record that the COMAR conducts most of the interviews in migrant stations or via telephone as already stated in Recommendation 77/2012. It is important to surmount this problem and for these interviews to be conducted directly and in person.

VI. ACTIONS

436. The National Human Rights Commission created the Migrant Attention Program to follow up on the complaints from this vulnerable group about violations of their human rights. It also has a program of visits to migrant stations, shelters and places where migrants transit (such as railways) to document the conditions in which they find themselves and offer them any possible assistance within the powers of this national agency.

A. Complaints

437. Between 2010 and May 2016, the CNDH investigated complaints in which rights violations were committed against 881 UCACIM.

438. Among the authorities identified, complaints were received against the INM in which 840 UCACIM (536 boys and 304 girls) appear as complainants.

439. The COMAR was also responsible for the grievances of 34 aggrieved UCACIM, of which 23 are boys and 11 are girls. In the case of the National System for the Comprehensive Development of the Family, complaints involving 7 UCACIM, 3 girls and 4 boys, were filed.

B. Summary Proceedings

440. The CNDH has issued 48 summary proceedings regarding cases whose injured parties are migrant children and adolescents, of which 47 have been addressed to the INM and 1 to the COMAR between 2010 and May 2016.

C. Recommendations

441. From 2010 to May 2016, this national agency has issued 11 recommendations related to migrant children and adolescents, 2 of which were addressed to the COMAR and 8 to the INM (on one occasion with the PGR) and 1 to the government of the state of Chihuahua with the PGR.

RECOMMENDATION 2010/18	
Authority	National Institute for Migration [*Instituto Nacional de Migración*]
Facts	A 36-week pregnant 17-year-old was detained at the migrant station in Tenosique, Tabasco. The girl declared she was of legal age and originally from Guatemala. However, after further questioning, she said she was Honduran and was 17 years old. The authorities decided the victim's definitive departure from the station, granting her 30 days to leave the country. She was transferred to a shelter for male migrants, which she abandoned, without leaving any information as to her whereabouts.
Comments	Unaccompanied CA in multiple situations of vulnerability. Her best interests were not assessed. She was given a letter of departure to leave the country within 30 days even though she was 36 weeks pregnant and she was transferred to a shelter where there were only men.

RECOMMENDATION 2010/27	
Autoridad(es)	National Institute for Migration [*Instituto Nacional de Migración*]
Facts	An adolescent who voluntarily entered the migrant station in Tenosique, Tabasco, under a different name claimed to be Honduran and of legal age, but without proof. The INM completed the application for voluntary repatriation and the adolescent was transferred to Honduras without prior verification of his identity and nationality.
Comments	It was demonstrated that the youth was a Mexican national. The principle of the best interests of the child was not assessed. The corresponding actions were not carried out to verify the identity, nationality and age of the adolescent, resulting in her finding herself in a different country and without protection.

RECOMMENDATION 2011/23	
Authority	National Institute for Migration [*Instituto Nacional de Migración*] and the Office of the Attorney General [*Procuraduría General de la República*]
Facts	A woman with her four children and another child were detained and transferred to a migrant station, where the children were separated from their mother for five weeks. The lady was brought before the PGR due to the children's alleged declaration that they were not related to her and after 72 hours she was returned to the migrant station to be deported. The children had gone beforehand and sent to an orphanage in that country.
Comments	Actions to verify kinship were not carried out. Therefore, family unity was not respected as the children had been returned to their country of origin without their mother. It was later confirmed that the CA's statements were obtained under duress from INM public servants. Moreover, they were not assisted by a guardian, legal representative or consular staff.

RECOMMENDATION 2012/54	
Authority	National Institute for Migration [*Instituto Nacional de Migración*]
Facts	The INM delegate at Tenosique, Tabasco, tried to sexually abuse an unaccompanied adolescent migrant girl, offering to regularize her immigration status in return. When public servants in the same delegation became aware of this situation, they covered up for the public servant in question.
Comments	The principle of the best interests of the child was not assessed. Comprehensive care was not provided to the adolescent as a possible victim of a crime. She was not attended by CPO. No notice was given to her consulate nor was her relationship with the person with whom she was travelling verified. The public servants who were aware of the facts did not report the situation to the ministerial authorities.

RECOMMENDATION 2012/77	
Authority	Mexican Commission for Refugee Assistance [*Comisión Mexicana de Ayuda a Refugiados*]
Facts	An adolescent who asked the COMAR for refugee status determination was staying at a migrant station. During the procedure, the authority did not visit him, conducted the interview by telephone, and did not look for his relatives in his country of origin. In the end, he was denied refugee status.
Comments	The best interests of the child were not assessed. Comprehensive care was not provided to the adolescent requesting refugee status even though he was unaccompanied and at a migrant station.

RECOMMENDATION 2013/31	
Authority	Mexican Commission for Refugee Assistance [*Comisión Mexicana de Ayuda a Refugiados*]
Facts	A Salvadoran girl with refugee status contacted the CNDH to report that she and her brother were in poor conditions at the shelter where they were staying. Personnel from this national agency went to the place and were not allowed access. The authority later informed the CNDH that the children had escaped and their whereabouts were unknown.
Comments	Comprehensive care was not provided to children with refugee status determination. The best interests of the child were not protected.

RECOMMENDATION 2013/36	
Authority	National Institute for Migration [*Instituto Nacional de Migración*]
Facts	A Venezuelan woman with her Mexican daughter were detained by INM personnel and transferred to a migrant station. Relatives of the girl's father went to the station, asking the authorities to let the girl go as she was Mexican, but without success. Since they were subjected to DNA testing to verify kinship, they remained at the migrant center for 158 days until the results were obtained and were allowed to leave.
Comments	The best interests of the child were not assessed. Her right to education was restricted. The right to be heard was not respected.

RECOMMENDATION 2014/17	
Authority	National Institute for Migration [*Instituto Nacional de Migración*]
Facts	An adolescent girl was at the migrant station in San Luis Potosí. The INM delegate arrived with alcohol on his breath and groped her, as well as tried to kiss her. This situation had been repeated on other occasions.
Comments	She was an unaccompanied CA in the context of migration. The best interests of the child were not assessed in view of the fact that she remained at this station for over a month. She was not attended by CPO She was not sent to the DIF System nor was she assisted by a CPO. The public servants did not report the facts to the ministerial authority.

RECOMMENDATION 2015/22	
Authority	Office of the Attorney General [*Procuraduría General de la República*] and the Government of the State of Chihuahua (state and Cd. Juarez municipal DIF)
Facts	A girl was detained aboard a vehicle in which she was travelling with a person she did not know to the United States of America. On making her a ward of the State, she was transferred to a shelter. The girl was later found dead in the shelter's bathroom.
Facts in Violation	Her right to psychological integrity was not protected based on her needs of protection. The girl was not properly cared for or supervised. The best interests of the child were not taken into account, especially as the girl's circumstances and immediate needs were not acknowledged.

RECOMMENDATION 2015/27	
Authority	National Institute for Migration [*Instituto Nacional de Migración*]
Facts	An unaccompanied migrant boy was transferred to the municipal DIF system and later sent to a migrant station. There, after a medical evaluation, he was found to have a broken left wrist. The boy was later sent to another migrant station where CNDH personnel arranged for specialized medical care. Thus, he was sent to a hospital where it was determined that due to the time that had elapsed only the aftereffects of the fracture could be treated.
Comments	The child was not referred to the corresponding DIF System. The CPO did not detect the victim's protection needs. The child did not receive the specialized medical attention he required. The child stayed in an area for adult males for 5 days.

RECOMMENDATION 2016/22	
Authority	National Institute for Migration [*Instituto Nacional de Migración*]
Facts	Indigenous people from the state of Chiapas were detained be INM personnel even though they claimed to be Mexican nationals. One of them was an adolescent who was not with a parent or guardian.
Comments	The best interests of the child were not assessed. Her rights of personal freedom and transit were violated as they sent to a migrant station despite being Mexican. INM personnel acted with discrimination against the victims.

D. Precautionary Measures

442. The precautionary measures under the CNDH Act make it possible to uphold and protect a person's enjoyment of his or her human rights. First, the state of vulnerability of their human rights is analyzed based on the fulfillment of three requirements: risk, urgency and irreparable damage.

443. Risk means the actual danger in which a person may be due to circumstances, facts or factors that increase the likelihood of vulnerability and harm. Urgency is determined by the information and context of the facts that indicate the level of imminent risk or threat that may happen to a person and requires an immediate response to prevent it from occurring. Irreparable damage consists of the probability that the harm caused to persons cannot be repaired without their being rescued, protected or restored through a legal remedy after the injury.

444. During the visits made by CNDH personnel to migrant stations and centers to monitor the respect for the human rights of the persons in context of migration housed there, it has been found that many UCACIM are not sent to the SNDIF and Mexico City

or state DIF Systems. Hence, it was necessary to issue precautionary measures to the INM in order to ensure full compliance with Article 112 of the LM and 111 of the LGDNNA Regulations, guaranteeing respect to human rights without hindering the investigation of the facts as to why UCACIM are found in these places or the filing the corresponding complaints.

445. Therefore, in 2015, 15 precautionary measures were requested from said institute, benefiting 368 UCACIM. Meanwhile, from January 1 to October 7, 2016, 25 measures were issued for the authority to provide protection and assistance to 97 UCACIM.

446. These last precautionary measures have not only called for the immediate transfer of said CA to adequate accommodations in order to receive the specialized care these children need, but have also requested immediate intervention from the PFPNNA for said agency to provide escort, assistance and protection as set forth in Chapter Nineteen of the LGDNNA, which recognizes the following rights, among others, for migrant children: to be informed of their rights, for immigration proceedings to be performed by a specialized official, to be heard and participate in the various stages of the proceedings, to be assisted by a lawyer and to communicate freely with him or her, to substitute representation, for the decision taken to assess the best interests of the CA and to be duly grounded.

447. Despite the efforts made, the deputy inspectors of this national agency continue to observe the detention and housing of UCACIM at the various migrant centers in the country. This clearly shows a lack of commitment to the protection of this vulnerable group.

E. Interviews

448. As part of the migrant attention program, this national agency visits INM migrant stations in Mexico, as well as the shelters under the authority of the SNDIF and civil society that house persons in the context of migration.

449. In 2015, 1,577 visits were made to migrant stations throughout the country and 758 to SACs, for a total of 2,335 visits. Meanwhile, from January to May 2016, CNDH personnel performed 717 visits to migrant stations and 394 to SACs, for a total of 1,111 visits.

450. For this report, 650 testimonies were gathered from accompanied and unaccompanied migrant children and adolescents housed at SACs, shelters and/or migrant stations in Mexico. Of these, it is seen that of the 521 UCACIM, only 177 were informed of their legal situation during the administrative immigration procedure and 230 were told of their right to request refugee status determination. This last piece of information was given by INM public servants in 146 cases, by CNDH staff in 59 cases, by UNHCR personnel in 4 cases, by COMAR officials in 6 cases, by CAMEF and Training and Empowerment Shelter for International and National Women [*Casa de Acogida Formación y Empoderamiento de la Mujer Internacional y Nacional*] staff in 12 cases, and by civil society in 1 case. In 53 interviews, UCACIM said that they were aware of their right to request refugee status determination without precisely knowing who provided them with that information.

VII. CONCLUSIONS

451. As documented by this national agency and national and international CSOs, the number of migrant children and adolescents from the NTCA traveling irregularly through Mexico, whether unaccompanied, separated or with their parents, has grown exponentially in the last five years. As a result, it can be inferred that the flow of migrants

will continue to increase until there is a decline of violence and insecurity in their countries of origin.

452. The Mexican State has signed and ratified a considerable number of international treaties for the protection of the human rights of children. Some of these have been discussed in this report. Mexico has also accepted the jurisdiction of the IACtHR. However, the CNDH can still conclude that even though there have been legislative progress has been made in this area, its application is still far from being the right way to guarantee the comprehensive protection of UCACIM.

453. As documented in this report, only the INM is currently responsible for the determination of the best interests of UCACIM. The Institute, however, does not have the necessary specialized personnel to do this effectively.

454. It is contradictory for the INM – the institution that decides on migrant detention, monitors its implementation and resolves that legal situation, more often than not deciding on assisted return – to continue to determine the best interests of UCACIM. It would be desirable, therefore, to promote legislative reform to replace the INM with the PFPNNA and state protection agencies on the matter of determining the BIC. Such a reform would establish the guidelines to be followed by the other authorities involved in the care of UCACIM that are obligated by law to ensure their best interests.

455. Under no circumstances should UCACIM be deprived of their freedom and confined in migrant stations, as stated Article 111 of the RLGDNNA.[153]

[153] In the "Initiative with draft decree reforming various articles of the Migration Act…", op. cit., Article 99 states that under no circumstances should migrant children and adolescents be sent to or lodged in migrant stations, which also concurs with the provisions Article 111 of the RLGDNNA in force and with which this national agency fully agrees in this report. If allowed, this would make it possible to bring about the legal prohibition of this situation, resulting in greater protection of the right to legal certainty.

456. The INM personnel must channel and transfer UCACIM immediately to a DIF system SAC where they will remain until their migratory status, refugee status determination or jurisdictional circumstance is resolved.

457. UCACIM must be accorded the immigration status of visitor for humanitarian reasons when it is in their best interests, as established in Article 74 of the LM and Article 144, Section IV, paragraph a) of the RLM.

458. The COMAR must prioritize UCACIM applications for refugee status determination, conduct interviews with them personally and in a suitable place using child experts as set out in Advisory Opinion OC-21/14.

459. In light of the General Act on the Rights of Children and Adolescents, there is an urgent need to examine the suitability of allowing Child Protection Officers to remain as employees of the INM because it is necessary to guarantee them independence in their work of accompanying and protecting the human rights of UCACIM.

460. In view of the confusion caused by overlapping powers conferred by legislation in the design, administration, updating and safeguarding of databases, there could be duplication of functions and of information. It would be advisable, therefore, for one of the involved authorities to be designated as the coordinator of all these efforts.

461. The promotion and training on the rights of UCACIM should be permanent and coordinated by a single authority that organizes all the other entities working in this field, so as to avoid the duplication of functions.

VIII. PROPOSALS

A. To the National Institute for Migration

FIRST: To instruct all personnel of this institute to carry out all actions materially and humanly possible to prevent migrant children and adolescents in their care from remaining in migrant centers, but to instead ensure that they are channeled and transferred immediately to the corresponding DIF systems. It is also advisable that alternatives or arrangements to identify the SACs that will receive the UCACIM prior to immigration review proceedings be explored, so that when UCACIM are detained, they can be housed at the SAC without delay.

SECOND: To have specialized personnel follow up and document the special protection needs UCACIM may have during their stay at the Social Assistance Centers.

THIRD: To establish clearly the requirements and profile of public servants who will come in contact with UCACIM, in accordance with national and international legislation on the protection of children's rights, specifying the professions and knowledge of children's rights these public servants should have.

FOURTH: To draft a protocol setting out the exact procedure to be followed for UCACIM from the moment of their detention, following through the assistance given to them during their stay at SACs, to the decision of their legal immigration status, with the BIC as a primary consideration.

FIFTH: To effect inter-institutional agreements with the Federal Protection Agency for Children and Adolescents [*Procuraduría Federal de Protección de Niñas, Niños y Adolescentes*] so that UCACIM who are subject to administrative immigration proceedings receive legal counselling and intervening representation as provided for in the LGDNNA.

SIXTH: To instruct all INM personnel who come in contact with UCACIM to inform them in a clear, precise, and documented manner of the procedure for refugee status determination to which they are entitled, to refrain from prejudging the reasons behind an RSD request or discouraging them from filing such a request and to notify the COMAR within the 72-hour term set forth in Article 16, Section II of the RLSRYPC.

SEVENTH: To train the public servants in charge of the assisted return of UCACIM in the mechanisms and actions that should be carried out, indicating the type of transportation to be used, the time of arrival in the country of origin and the authorities who will receive them.

EIGHTH: To review, together with the SNDIF, the concept of CPO and its attributions, in order to assess its relevance in guaranteeing the comprehensive protection of the human rights of UCACIM and to generate the legislative or regulatory changes needed for this to happen.

NINTH: To put forward, in conjunction with the Executive Secretary of the SIPINNA and the COMAR, a proposal to reform the Migration Act [*Ley de Migración*], its Regulations, the Regulations for the Refugee and Supplementary Protection Act [*Ley Sobre Refugiados y Protección Complementaria*], as well as the General Act on the Rights of Children and Adolescents [*Ley General de los Derechos de Niñas, Niños y Adolescentes*], so that even though all the authorities must ensure the best interests of the child, it will be the duty of the personnel assigned to protection agencies to assess the BIC and to do so following the guidelines issued by the PFPNNA for this purpose.

TENTH: To coordinate actions with the SNDIF to allow access to the information in the UCACIM database so that this information can be considered when

establishing the course to be followed to provide assistance to and comprehensive protection for this vulnerable group.

ELEVENTH: To request that the representatives of the Mexican State at the Regional Migration Conference call upon NTCA countries to conduct a joint awareness campaign on the human rights of UCACIM and the dangers they run during irregular transit through these countries and Mexico.

B. To the Executive Secretary of the National System for the Comprehensive Protection of Children and Adolescents

FIRST: To coordinate and articulate actions among the various federal, state and municipal agencies to formulate, implement, enforce, monitor and evaluate public policies aimed at the protection of the rights of UCACIM.

SECOND: To work with the Ministry of Finance and Public Credit [*Secretaría de Hacienda y Crédito Público*] and the Chamber of Deputies to analyze the public investment that can be budgeted annually for this initiative as it is needed to increase the capacity of the SACs that shelter and provide comprehensive care to UCACIM.

THIRD: To carry out the training of public servants involved in UCACIM care jointly with the COMAR, DIF Systems and the INM to issue guidelines congruent with the training information. The training will encompass knowledge and respect for UCACIM's human rights, the administrative immigration proceedings and refugee status determination.

C. To the National System for the Comprehensive Development of the Family

FIRST: To adapt the necessary and appropriate spaces to accommodate UCACIM at public SACs at the federal, state and municipal levels, and in private shelters that have been duly certified by federal and state protection agencies, as well as to have a sufficient number of certified public servants trained in children's rights, requesting the resources needed to do so.

SECOND: To draft a protocol aimed at DIF System public servants who come in contact with UCACIM from the NTCA. This protocol should indicate the attention that should be given to this population group, keeping in mind each person's circumstances and country of origin.

THIRD: To coordinate with the INM to allow access to the information in the UCACIM database, so that any action that contributes to providing UCACIM with efficient and adequate comprehensive protection can be established under a human rights perspective.

FOURTH: To make a diagnosis of all public and private SACs in Mexico to learn which ones have the necessary conditions to house UCACIM. This information should be made public and disseminated to the authorities involved in the care of migrant children.

D. To the National and State Protection Agencies of the Rights of Children and Adolescents

FIRST: For the PFPNNA to immediately issue guidelines to determine the BIC of UCACIM, which will serve as a template for protection agencies to assess the BIC in every specific case.

SECOND: In all administrative or other proceedings that involve UCACIM, protection agencies must determine the best interests of the child to guarantee the protection and full restitution of the rights of members of this vulnerable group. Protection agencies in each state must sign an agreement with the PFPNNA which establishes a single, homogeneous procedure that gives legal certainty to the manner in which the best interests of the child will be determined, following the guidelines previously issued by the PFPNNA.

THIRD: To designate SNDIF-certified personnel to escort, assist and provide intervening representation services to UCACIM for any immigration or legal proceedings.

FOURTH: For the personnel that escort and protect UCACIM to not only possess a professional background in social work, psychology or similar degrees, but to also be trained and certified in the human rights of migrant children.

FIFTH: To monitor and document the respect of the right to legal certainty and due process for UCACIM at all times and during all stages of the administrative immigration proceedings, refugee status determination, or other court proceedings opened by the intervening representation provided by these agencies.

SIXTH: To establish the guidelines and requirements for appointing guardians to oversee the well-being and BIC of UCACIM as set forth in paragraph 251 of OC-21/14 as soon as possible in order to guarantee assistance and full respect for their human rights.

SEVENTH: To ascertain which SACs have the necessary conditions to shelter UCACIM, to enroll them in the National Registry of Social Assistance Centers provided for in Article 112 of the LGDNNA, and to update this registry twice a year, making the information public and available on the SNDIF webpage.

EIGHTH: To document the continuous supervision of the SACs housing UCACIM to guarantee that their human rights are safeguarded considering their vulnerable conditions.

NINTH: For each state protection agency, in coordination with municipalities, to have public servants to act as the initial contact authority for UCACIM, serving as a liaison with local and federal agencies; or else to have at least one state protection agency representative in each municipality to achieve better efficiency in the protection and restitution of the rights of UCACIM.

E. To the Mexican Commission for Refugee Assistance

FIRST: During each stage of the RSD proceedings, the public servants of this commission must prioritize UCACIM cases focusing on the BIC while providing comprehensive guidance regarding their rights.

SECOND: In coordination with the INM, it must make certain that under no circumstances are UCACIM applicants for RSD housed in migrant centers, which in every case must assist the institute so that UCACIM can be transferred to DIF systems.

THIRD: The public servants of this commission who are in charge of conducting interviews must specialize in detecting and attending the specific protection needs of each applicant. These interviews must be carried out directly and in

person in a place other than a migrant center, suitable to make applicants feel safe and to build trust.

FOURTH: While UCACIM are at SACs, the personnel specialized in children's rights should document and follow up on the special protection needs that may arise during their stay.

FIFTH: The PFPNNA and the SNDIF should explore housing alternatives, like host families, for UCACIM who have been recognized as refugees or have been granted supplementary protection until they reach the age of 18.

SIXTH: Actions should be carried out to increase the commission's presence in the country in order receive a greater number of RSD requests, which implies having sufficient trained staff.

IX. APPENDICES

1. Comparative Chart of State Child and Adolescent Protection Laws

STATE	LEGISLATION	NAME OFTHE PROTECTION AGENCY	CA RIGHTS ACCORDINGTO ARTICLE 13 OF THE GENERAL ACT	AUTHORITY TO DETERMINE THE BIC	MIGRANT CHILDREN	INTERVENING REPRESENTATION	SUBSTITUTE REPRESENTATION	ORIGINAL REPRESENTATION
Aguascalientes	Act on the Rights of CA for the State of Aguascalientes	Aguascalientes State Agency for the Protection of the Rights of Children and Adolescents	Yes Section XXI of Article 13 adds the right of CA to maintain ties with their parents.	Not specified	**CHAPTER XX Article 87 The authorities must guarantee the rights of CA in context of migration whether:** • Accompanied • Unaccompanied • Separated • National • Foreign or • Repatriated in the context of human mobility •and regardless of their nationality or immigration status.	Under the responsibility of the local protection agency **Articles 4, Section XXIV; 99, second paragraph; and 119, Section II**	Under the responsibility of the local protection agencies **Articles 4, Section XXVI; 99 first and second paragraph; and 119, Section II**	Under the responsibility of those who exercise parental authority or guardianship **Article 4, Section XXV**
Baja California	Act on the Protection and Defense of the Rights of Children and Adolescents for the State of Baja California	State Protection Agency for Children and Adolescents	Yes	Not specified	**Chapter Twenty Article 83** To guarantee the rights of migrant CA, whether • Accompanied	Under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the	Under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in this and other

					• Unaccompanied • Separated • National • Foreign or • Repatriated in the context of human mobility	Office of the Public Prosecutor. **Article 4, Section XVII, Article 95, second paragraph; Article 101, second paragraph and Article 112, Section II**	Office of the Public Prosecutor. **Article 4, Section XIX, Article 95, first and third paragraphs and Article 112, Section II**	applicable provisions. **Article 4, Section XVIII.**
Baja California Sur	Act on the Rights of Children and Adolescents for the State of Baja California Sur	State Protection Agency for Children and Adolescents	Yes	Not specified	**Chapter Twenty Article 73** To guarantee the rights of migrant CA, whether: • Accompanied • Unaccompanied • Separated • National • Foreign or • Repatriated in the context of human mobility, and regardless of their nationality or immigration status.	Under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 7, Section XXIV; 88, paragraph two; and 109, Section Two**	Under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 7, Section XXVI; and 88, first and third paragraphs**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in this law and the State Civil Code. **Article 7, Section XXV**
Campeche	Act on the Rights of Children and Adolescents for the State of Campeche	Protection Agency for Children and Adolescents .	Yes	Not specified	To provide, within the scope of their respective powers, the services corresponding to migrant CA regardless of their nationality or immigration status. **Chapter Nineteen**	Under the responsibility of the Protection Agency for Children and Adolescents, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor.	Under the responsibility of the Protection Agency for Children and Adolescents, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XXVII; 89, Section**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in this and other applicable provisions. **Article 4, Section XXVI**

					Article 86	**Articles 4, Section XXV; 102, second paragraph**	**XVII and 102, third paragraph**	
Chiapas	Act on the Rights of Children and Adolescents for the State of Chiapas	Agency for the Protection of Children, Adolescents and the Family	Yes The law adds to the right to identity, legal certainty, human mobility and freedom of movement. **Article 15, Sections III and XVIII**	Not specified	**Chapter Twenty Article 100, second paragraph.** The state and municipalities shall guarantee equal rights and equal access to protection systems for CA, who are: • Not Mexican nationals and in conditions of human mobility • Migrants • Internally displaced persons • Asylum-seekers • Refugees • Stateless persons	Under the responsibility of municipal protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXXII; and 135, Section II**	Under the responsibility of the state protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXXIV; 103, Section IV; 117; 118 and 135, Section II**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in this and other applicable provisions. **Article 5, Section XXXIII**
Chihuahua	Act on the Rights of Children and Adolescents for the State of Chihuahua	Protection Agency for Children and Adolescents	In Section XII, the right to recreation and play is added to the right to rest and leisure. **Article 18**	Not specified	**Chapter Nineteen Article 95.** The authorities must adopt special measures to guarantee the rights of migrant CA, whether: • Accompanied • Unaccompanied • Separated • National	Under the responsibility of the protection agency, according to its competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 7, Section XIX; 111, second paragraph and 135, Section II**	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 7, Section XXI; 98, Section VIII; 111, first and third paragraphs; and 131, Section II**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth by law. **Article 7, Section XX**

					• Foreign or • Repatriated in the context of human mobility.			
Mexico City	Act on the Rights of CA for Mexico City	Mexico City Agency for the Protection of the Rights of CA	Yes **Article 13** Section XII adds the right to rest, to play and to recreation while Section XIX establishes the right to special protection in situations of multiple forms of discrimination. **The right of migrant CA is not established.**	Not specified	Not established	Informally, it is under the responsibility of the protection agency, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XXXI; 82, last paragraph; 96, paragraph two; and 112, Section II**	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XXXIII; 96, first and third paragraph; and 112, Section II**	Under the responsibility of those who exercise parental authority or guardianship. **Article 4, Section XXXII**
Coahuila	Act on the State System to Guarantee the Human Rights of Children for the State of Coahuila de Zaragoza	Protection Agency for Children and the Family	Yes **Chapter Two Article 4** However, it does not consider the right of priority, the right to inclusion of children and adolescents with disabilities, the right to participation and the rights of migrant CA. But it does include • personal data protection; the	Not specified	Not established	Not established	Not established	Not established

			non-employment of persons under the age of fourteen; protection against prostitution, child pornography, abduction, the sale and trafficking of persons; protection against torture or other cruel, inhuman or degrading treatment or punishment.					
Colima	Act on the Rights of Children and Adolescents for the State of Colima	Protection Agency for the Defense of Minors and the Family of the System for the Comprehensive Development of the Family for the State of Colima	Yes	Not specified	**Chapter XX Article 90** mentions the special protection measures authorities must adopt to guarantee the rights of migrant CA, whether: • Accompanied • Unaccompanied • Separated • National • Foreign or •Repatriated in context of human mobility	Under the responsibility of the protection agency, according to its competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XXXII; 81, paragraph four; and 109, paragraph two**	Under the responsibility of the protection agency, according to its competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XXXIX; 93, Section VIII; and 109, paragraphs one and two**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in this and other applicable provisions. **Article 4, Section XXXIII**
Durango	Act on the Rights of Children and Adolescents for the State of Durango	Durango State Protection Agency for Children and Adolescents	Yes The rights of CA in special conditions are added. **Article 10**	Not specified	**Chapter Nineteen Article 56** Within their scope of	Informally, it is under the responsibility of the protection agencies, without limiting the intervention of the	Under the responsibility of the protection agency, according to its competence, without limiting the	Under the responsibility of those who exercise parental authority or guardianship.

			It does not provide for the right of access to information and communication technologies, or broadcasting and telecommunication services.		competence, state authorities must guarantee the rights of migrant CA, whether accompanied or unaccompanied, separated, national or foreign, or repatriated in the context of human mobility, regardless of their nationality or immigration status (…).	Office of the Public Prosecutor. **Article 5, Section XX, Article 64, second paragraph, Article 76 Section II**	intervention of the Office of the Public Prosecutor. **Article 5 Section XXII, Article 64, first and third paragraphs, Article 76 Section II**	**Article 5, Section XXI**
Estado de México	Act on the Rights of Children and Adolescents for the State of de México	State of México Protection Agency for Children and Adolescents	Yes **Article 10, Section XX.** The rights of CA in special situations are added. • With parents incarcerated • Victims of human trafficking • Adolescents subject to procedures established by the State Justice Act • CA living on the streets	Not specified	**Chapter Nineteen, Article 61** To guarantee the rights of migrant CA, whether • Accompanied • Unaccompanied • Separated • National • Foreign or • Repatriated in the context of human mobility	Under the responsibility of the protection agency, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXXII; and 75, second paragraph**	Under the responsibility of the protection agency, according to its competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXXIV; 63, Section VIII; and 75, first and third paragraphs**	Under the responsibility of those who exercise parental authority or guardianship according to that set forth in the Civil Code of the State of México **Article 5, Section XXXIII**
Guanajuato	Act on the Rights of Children and Adolescents for	State Protection Agency for Children and Adolescents for	Yes	Not specified	**Chapter XX. Article 76, second paragraph.** To guarantee the	Under the responsibility of the protection agency, without limiting the intervention of the	Under the responsibility of the protection agency, without limiting the intervention of the	Under the responsibility of those who exercise parental authority or guardianship,

	the State of Guanajuato	the State of Guanajuato			full exercise of the rights of migrant CA, whether • Accompanied • Unaccompanied • Separated • National • Foreign or • Repatriated in the context of human mobility	Office of the Public Prosecutor **Article 3, XVI**	Office of the Public Prosecutor. **Article 3, XVII**	according to that set forth in this and other applicable provisions. **Article 3, XVIII**
Guerrero	Law No. 812 for the Protection of the Rights of Children and Adolescents for the State of Guerrero	Protection Agency for Children and Adolescents for the State of Guerrero, under the Guerrero State DIF System	Yes	Not specified	**Chapter Nineteen, Article 87.** To Guarantee the rights of migrant CA, whether • Accompanied • Unaccompanied • National • Foreign or • Repatriated in the context of human mobility	Under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor **Article 4, Section XXXII, 78, fourth paragraph; Article 108, second paragraph, and Article 123, Section II**	Under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Article 4, Section XXXIV, Article 90, Section III, Article 108 first and third paragraphs and Article 123, Section II**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in this and other applicable provisions. **Article 4, Section XXXIII**
Hidalgo	Act on the Rights of Children and Adolescents for the State of Hidalgo	Protection Agency for Children, Adolescents and the Family for the State of Hidalgo	Yes		**Chapter Nineteen** Special protection measures that authorities must adopt to guarantee the rights of migrant CA, whether accompanied,	Informally, it is under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor.	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor.	Under the responsibility of those who exercise parental authority or guardianship. **Article 4, Section XXIII**

					unaccompanied, separated, national, foreign or repatriated in the context of human mobility (…) and regardless of their nationality or immigration status **Article 88**	**Article 4, Section XXII; Article 79, last paragraph; Article 105, second paragraph; Article 119 Section II**	**Article 4 Section XXIV; Article 91 Section VIII; Article 105, first and third paragraphs, Article 119 Section II**	
Jalisco	Act on the Rights of Children and Adolescents for the State of Jalisco	Protection Agency for Children and Adolescents	Yes Moreover, it establishes the right: To be adopted, according to that set forth in civil law; to visits and cohabitation with their parents, except in specific cases when restricted or limited by the judicial authority, under the terms of the corresponding legislation; to foster care and to receive good treatment and consideration from their parents or guardians; to food; to protection and social assistance when in vulnerable conditions; to the privacy of their personal data in	Not specified	**Title Three, Chapter II. CA Protection. Article 68** Within the scope of their powers, authorities must follow the procedures for the special assistance and protection of the rights of migrant CA.	Under the responsibility of the protection agency for CA, without limiting the intervention corresponding to the social representation. **Articles 3, Section VI; 58; and 78, Section II**	Under the responsibility of the protection agency for children and adolescents, without limiting the intervention corresponding to the social representation. **Articles 3, Section VIII; 78, Section II; and 79**	Under the responsibility of those who exercise parental authority or guardianship. **Article 3, Section VII**

			administrative and jurisdictional proceedings; to a healthy and ecologically balanced environment; that their parents and guardians conserve and demand the enforcement of their rights; to be protected against all forms of exploitation. However, it does not provide for the right to family life.					
Michoacán	Act on the Rights of Children and Adolescents for the State of Michoacán de Ocampo	Protection Agency for Children and Adolescents for the State of Michoacán	Yes	Not specified	**Chapter XX, Article 55.** To guarantee the rights of migrant CA, whether: • Accompanied • Unaccompanied • Separated • National • Foreign or • Repatriated in context of human mobility, regardless of their nationality or immigration status.	Under the responsibility of the protection agency, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXI; 59, second paragraph; and 77, Section II**	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXIII; 59, first and third paragraphs and 77, Section II**	Under the responsibility of those who exercise parental authority or guardianship, according to all applicable provisions. **Article 5, Section XXII**
Morelos	Act on the Rights of CA for the State of Morelos	Protection Agency for CA and the Family of the Morelos DIF	Yes It adds the right to migrant protection	Not specified	**CHAPTER NINETEEN Article 82**	Under the responsibility of the protection agency, according to its	Under the responsibility of the protection agency, according to its	Under the responsibility of those who exercise

		System and Municipal Bodies	measures, and any other human right recognized in international treaties, in the Political Constitution of the United Mexican States, and in any other legal regulation in force.		State and municipal authorities must offer protection to migrant CA regardless of their nationality or immigration status.	respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XXI; 89, second paragraph and 98, Section II**	respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XIII; 69, last paragraph; 89 and 98, Section II**	parental authority or guardianship. **Articles 4, Section XXII, and 89**
Nayarit	Act on the Rights of CA for the State of Nayarit	Protection Agency for CA and the Family for the State of Nayarit	Yes	Not specified	**CHAPTER TWENTY. Article 82** The authorities must adopt the measures to guarantee the rights of migrant CA, whether accompanied, unaccompanied, separated, national, foreign or repatriated in the context of human mobility (…) regardless of their nationality or immigration status.	Informally, it is under the responsibility of the state protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Article 4, Section XXI; Article 73, last paragraph; Article 97 second paragraph**	Under the responsibility of the state protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Article 4, Section XXII; Article 97, first and third paragraphs**	Under the responsibility of those who exercise parental authority or guardianship. **Article 4, Section XXIII; Article 97 first and third paragraphs**
Nuevo León	Act on the Rights of CA for the State of Nuevo León	Protection Agency for CA for the State of Nuevo León	No However, Article 13 establishes the right to assisted parenthood; the protection of privacy; the right of unaccompanied	Not specified	**CHAPTER XXI Article 114.** Within the scope of their powers, authorities must guarantee the rights of migrant CA, whether accompanied,	Informally, it is under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the	Under the responsibility of the state protection agency, according to its respective area of competence, without limiting the intervention of the	Under the responsibility of those who exercise parental authority or guardianship. **Article 4, Section XXXI; Article 124 primer paragraph**

			refugee CA; and the right to a review of the measure.		unaccompanied, separated, national, foreign or repatriated in the context of human mobility, regardless of their nationality or immigration status.	Office of the Public Prosecutor. **Articles 4, Section XXX; 101, last paragraph; 124 second paragraph; 145, Section II**	Office of the Public Prosecutor. **Articles 4, Section XXXII; 124, and 145, Section II.**	
Oaxaca	Act on the Rights of CA for the State of Oaxaca	State Agency for the Protection of the Rights of CA for the State of Oaxaca	Yes **Article 13** adds the right to food; the right of indigenous and Afro-Mexican CA, the rights of CA in Natural Emergencies and Ecological Disasters; the rights of Girl and Adolescent Mothers or Fathers and the rights of CA with a Mother or Father Deprived of their Liberty. However, it does not provide for access to information and communication technologies or broadcasting and telecommunication services, including broadband and the internet.	Not specified	**Chapter XXII** **Article 78** For the very fact of transiting through the territory of the State of Oaxaca, migrant CA enjoy the rights set forth in this Title, with greater attention on food, housing, medical care and physical safety, which every state or municipal authority is obligated to offer without delay and regardless of their immigration status.	Informally, it is under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 6, Section XXV; 67, paragraph four; 88 second paragraph and 104 Section II**	Under the responsibility of the protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 6, Section XXVII; 88, first paragraph; 89; and 104 Section II**	Under the responsibility of those who exercise parental authority or guardianship. **Article 6, Section XXVI**

Puebla	Act on the Rights of CA for the State of Puebla	Agency for the Protection of the Rights of CA for the State of Puebla, under the State DIF System	Yes	Not specified	**Chapter XX Article 88** State and municipal authorities must provide, in accordance with their powers, immediate care services to CA in context of migration, regardless of their nationality or immigration status.	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor, except in cases that correspond to the Federal Protection Agency for CA. **Articles 5, Section XXVI; 80, last paragraph; 100, second paragraph; 116, Section II**	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XVIII; 80, second paragraph; 100, first and third paragraphs; and 116, Section II.**	Under the responsibility of those who exercise parental authority or guardianship. **Articles 100, first paragraph and 116, Section II.**
Querétaro	Act on the Rights of Children and Adolescents for the State of Querétaro	Protection Agency for Children and Adolescents for the State of Querétaro	Yes	Not specified	**Chapter Twenty Article 82.** (…) To guarantee the rights of migrant CA, whether accompanied, unaccompanied, separated, national, foreign or repatriated in the context of human mobility.	Informally, it is under the responsibility of the state and municipal protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4 Section XX; 99, second paragraph; and 114, Section II**	Under the responsibility of the state and municipal protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 4, Section XXII; 99, first paragraph; and 114, Section II**	Under the responsibility of those who exercise parental authority or guardianship. **Article 4, Section XXI; and Article 99 first paragraph**
Quintana Roo	Act on the Rights of Children and Adolescents for the State of Quintana Roo	Protection Agency for Children, Adolescents and the Family for the State of de Quintana Roo	Yes **Article 12** The rights for the protection of street children and adolescents, working	Not specified	**Section Nineteen. Article 72** The competent state and municipal authorities must adopt special	Informally, it is under the responsibility of the protection agency, according to its area of competence, without limiting the intervention of the	Under the responsibility of the protection agency, according to its area of competence, without limiting the intervention of the	Under the responsibility of those who exercise parental authority or guardianship. **Article 4,Section XVII**

			adolescents and children in early childhood are added.		protection measures to guarantee the rights of migrant CA, whether accompanied, unaccompanied, separated, national, foreign or repatriated in the context of human mobility.	Office of the Public Prosecutor. **Articles 4 Section XVI; 64, last paragraph; 91, second paragraph; and 104, Section II**	Office of the Public Prosecutor. **Articles 4, Section XVIII; 91, first and third paragraphs; and 104, Section II**	
San Luis Potosí	Act on the Rights of Children and Adolescents for the State of San Luis Potosí	Protection Agency for Children, Adolescents, Women, the Family and Older Adults for the State of San Luis Potosí.	Yes **Article 15** However, it does not provide for access to information and communication technologies or broadcasting and telecommunication services, including broadband and the internet.	Not specified	**Chapter XIX Article 81** Special protection measures that authorities must adopt to guarantee the rights of migrant children and adolescents, whether accompanied, unaccompanied, separated, national, foreign, or repatriated in the context of human mobility. (…) regardless of their nationality or immigration status.	Informally, it is under the responsibility of the protection agency, according to its area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXII; 72, last paragraph; 104, second paragraph; and 148, Section II**	Under the responsibility of the protection agency and the municipal DIF systems in the state, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXIII; 84, Section VIII; 104, first and third paragraphs; and 148, Section II**	Under the responsibility of those who exercise parental authority or guardianship. **Article 5, Section XXIV**
Sinaloa	Act on the Rights of Children and	State Protection Agency for	Yes	Not specified	**Chapter Twenty Article 74**	Informally, it is under the responsibility of the protection agency,	Under the responsibility of the protection agency,	Under the responsibility of those who exercise

	Adolescents for the State of Sinaloa	Children and Adolescents			Special protection measures that authorities must adopt to guarantee the rights of migrant children and adolescents, whether accompanied, unaccompanied, separated, national, foreign, or repatriated in the context of human mobility. (…) regardless of their nationality or immigration status.	according to its area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 3, Section XXIV; 86, second paragraph; and 99, Section II**	according to its area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 3, Section XXVI; 86, first and third paragraphs; and 99, Section II**	parental authority or guardianship. **Article 3, Section XXV**
Sonora	Act on the Rights of Children and Adolescents for the State of Sonora	Protection Agency for Children and Adolescents for the State of Sonora	Yes **Article 12, Section XX** adds the right of children and adolescents in special situations.	Not specified	**Art. 74:** Accompanied, unaccompanied, separated, national, foreign or repatriated in the context of human mobility, regardless of their nationality and immigration status. **Art. 76** The Protection Agency, in coordination with municipal DIF systems, must apply due process guarantees in	Accompanying CA to jurisdictional and administrative proceedings will be the responsibility of the local protection agency. This agency will also informally intercede with intervening representation in any jurisdictional and administrative proceedings involving CA. **Arts. 5, Section XXXVI; 103, Sect. II**	It will be the responsibility of the local protection agency to provide counsel and substitute representation to CA involved in legal or administrative proceedings, without limiting the intervention of the Office of the Public Prosecutor. **Arts. 5, Section XXXVIII and 103, Section II**	Art. 5, Section. XXXVII Under the responsibility of those who exercise parental authority or guardianship

					immigration proceedings: To be notified of the existence of a procedure and of the decision taken within the framework of the immigration process To be informed of their rights To ensure that the immigration proceedings are handled by a specialized official To be heard and to participate in the different stages of the proceedings To be assisted free of charge by a translator and/or interpreter To have effective access to communication and consular assistance To be assisted by a lawyer and to communicate freely with him or her Where appropriate, to substitute representation			

					To ensure that the decision to be taken assesses the best interests of the CA and for this to be duly reasoned and justified To appeal the decision before the competent jurisdictional authority To know the duration of the proceedings to be carried out without undue delays.			
Tabasco	Act for the Protection of the Rights of Children and Adolescents for the State of Tabasco	State Agency for the Protection of the Family and the Rights of Children and Adolescents	Yes. The right of children and adolescents in context of migration is not included in the sections. However, the last paragraph stipulates that they shall enjoy the full exercise of the common rights in view of their status as minors, as established in the General Act and in this particular Act.	Not specified	**Chapter Nineteen** **Art. 80.** Migrants or internally displaced persons, whether accompanied, unaccompanied, separated, national, foreign or repatriated in the context of human mobility. Until the INM decides upon the immigration status of CA, the state or municipal DIF System shall, as appropriate, provide the protection	Accompanying children and adolescents in jurisdictional and administrative proceedings will informally be the responsibility of the protection agencies. State and municipal authorities shall guarantee that in any jurisdictional or administrative proceedings the state protection agency will intercede to provide intervening representation. **Art. 3, Sect. XXVIII and 90, segundo párrafo.**	The representation of CA is the responsibility of the protection agencies. In the absence of those who exercise the original representation of the CA, the competent protection agency shall assume substitute representation. **Art. 3, Sect. XXX and 90**	The legal representation of CA is the responsibility of those who exercise parental authority or guardianship. **Art. 3, Sect. XXIX**

					provided by the General Act, the local constitution, this law and other legal provisions.			
Tamaulipas	Act on the Rights of Children and Adolescents for the State of Tamaulipas	Protection Agency for Children and Adolescents of the System for the Comprehensive Development of the Family for the State of Tamaulipas	Yes	Not specified	**Chapter Twenty-One Article 66**	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXIX; 75, paragraph two; and 85, Section II**	Under the responsibility of the protection agency, according to its respective area of competence, without limiting the intervention of the Office of the Public Prosecutor. **Articles 5, Section XXXI; 75, paragraphs one and three; and 85, Section II**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in this and other applicable provisions. **Article 5, Section XXX**
Tlaxcala	Act on the Rights of Children and Adolescents for the State of Tlaxcala	Protection Agency for Children and Adolescents	Yes The right of children and adolescents in special situations is added. **Article 13, Section XX**	Not specified	**Chapter XX. Article 86.** To guarantee the rights of migrant CA, whether • Accompanied • Unaccompanied • Separated • National • Foreign • Repatriated in context of human mobility.	Under the responsibility of the federal and state protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Article 3, Section XXI**	Under the responsibility of the federal and state protection agencies, according to their respective areas of competence, without limiting the intervention of the Office of the Public Prosecutor. **Article 3, Section XXIII**	Under the responsibility of those who exercise parental authority or guardianship, according to that set forth in the Civil Code for the State of Tlaxcala. **Article 3, Section XXII**
Veracruz	Law No. 573 on the Rights of Children and Adolescents for the State of Veracruz de	State Protection Agency for Children and Adolescents	Yes	Not specified	**Chapter XI** On the rights of migrant CA whether accompanied, unaccompanied, separated,	Accompanying CA in jurisdictional and administrative proceedings will informally be the responsibility of the state protection	The representation of CA is the responsibility of the state protection agency. In the absence of those who exercise the original representation	The representation of CA is the responsibility of those who exercise parental authority or guardianship. **Art. 4, Sect. XXVIII**

	Ignacio de la Llave				national, foreign or repatriated in the context of human mobility. Until the INM decides upon the immigration status of CA, the state DIF system, in coordination with the corresponding municipal DIF system, shall provide the protection provided by the General Act, this law, the Migration Act, its Regulations and any other applicable provisions.	agency. State and municipal authorities, within the scope of their respective competences, shall guarantee that in any jurisdictional or administrative proceedings the state protection agency will intercede to assume intervening representation. **Arts. 4, Sect. XXVII and 89, second paragraph**	of the CA or when so determined by the competent jurisdictional or administrative authority based on the best interests of the child, the state or the municipal protection agency, depending on the case, shall assume substitute representation **Arts. 4, Sect. XXIX and 89**	
Yucatán	Act on the Rights of Children and Adolescents for the State of Yucatán	Agency for the Defense of the Minor and the Family for the State of Yucatán	Yes	Not specified	While there is no sections specifically devoted to migrant children, **Article 25, Section VII,** stipulates that responsibilities include providing attention and protection to migrant CA under the terms of Title Two, Chapter Nineteen, of the General Act.	Although it does not specify intervening representation, **Article 23, Section IV**, states that it is the responsibility of the Agency for the Defense of the Minor and the Family to represent CA before jurisdictional bodies or administrative authorities when the CA do not have any representation, when said representation is deficient, or when there is a conflict of interest between those	Not established	Not established

						who have said representation and the CA.		
Zacatecas	Act on the Rights of Children and Adolescents for the State of Zacatecas	State DIF System Protection Agency for Children, Adolescents and the Family	**Art. 9** adds: family reunification, adoption, protection, the protection of privacy, protection from unlawful transfer and detention, food, to have a culture and have access to culture, cultural diversity, sports, freedom of association and assembly, freedom of movement. The right to identity is not mentioned.	Not specified	**Chapter III** Rights of Migrant Children and Adolescents: **Art. 65** accompanied, unaccompanied, separated, national, foreign and repatriated in the context of human mobility, regardless of their nationality or immigration status. **Article 66** Once contact is made with the child or adolescent, the competent authorities must adopt the corresponding measures to protect his or her rights. They will therefore provide a solution that will meet all of their protection needs, taking into account their opinions and giving priority to family reunification,	The protection agency shall informally intercede by assuming intervening representation in jurisdictional and administrative proceedings involving CA. The protection agency shall assume intervening representation, according to that set forth in this law and any other applicable legal provisions. **Art. 110**	To provide counsel and substitute representation for children and adolescents involved in judicial or administrative proceedings, without limiting the powers of the Office of the Public Prosecutor… In the absence of those who exercise the original representation of the children and adolescents or when so determined by the competent jurisdictional or administrative authority the protection agency shall assume substitute… **Arts. 96, Section II and 110**	Not established

					unless it goes against the best interests of the child or adolescent. To guarantee the comprehensive protection of their rights, the state and municipal DIF systems, in coordination with the Zacatecas Migrant Secretariat and the National Institute for Migration, shall prepare housing spaces or shelter that meet the minimum standards for providing migrant children and adolescents adequate care, respecting the principle of separation and the right to family, so that unaccompanied or separated children or adolescents are accommodated in different places from those for adults.			

					Accompanied children or adolescents may stay with their families, unless it is better to separate them in view of the principle of the best interests of the child. If the state or municipal DIF systems identify, by means of an initial assessment, foreign children or adolescents who are eligible for refugee status determination or asylum, this information shall be communicated to the Zacatecas Migrant Secretariat, which will in turn inform the National Institute for Migration, in order to provide them with the appropriate actions to implement special protection measures.			

					The state DIF system will send the information to the national DIF system as soon as it appears in the database on unaccompanied children and adolescents. This information shall include the causes of their migration, the conditions of transit, their family ties, risk factors from their origin and during transit, information on their legal representatives, and data on their housing and legal situation. In no case shall the irregular immigration status of children or adolescents by itself predetermine a crime, nor shall they be prejudged of committing unlawful acts solely on the basis of having an irregular			

					immigration status.			

2. Chart of CA Protection Agencies at the Municipal Level

STATE	LEGISLATION	AGENCY NAME	POWERS	INTERVENING REPRESENTATION	SUBSTITUTE REPRESENTATION	COMMENTS
Aguascalientes	Act on the Rights of CA for the State of Aguascalientes	Does not contemplate a municipal protection agency	---	---	---	**Article 110, Section VI**, indicates that municipalities have the following responsibilities: • To assist the corresponding local protection agency with any urgent protection measures that may be determined, and to coordinate the corresponding actions within the scope of its powers.
Baja California Sur	Act on the Rights of CA for the State of Baja California Sur	Does not contemplate municipal protection agencies	---	---	---	---
Baja California	Act on the Protection and Defense of the Rights of Children and Adolescents for the State of Baja California	Does not contemplate municipal protection agencies	---	---	---	**Art. 125** City councils must have an assistance program and an area or public servants to act as the initial contact with children or adolescents and as

						a liaison with the copetent local and federal authorities.
Campeche	Act on the Rights of CA for the State of Campeche	Protection Agencies for Children and Adolescents in the Municipal DIF Systems	**Article 117, Sections X, XI and XIII; Article 120, second paragraph** Municipal protection agencies shall have the same powers as protection agencies, with the exception of the following: • To develop guidelines and procedures to be followed for the restitution of the rights of CA; • To work with the national and state DIF system to develop guidelines and procedures for registering, training and certifying suitable families that meet the requirements for pre-adoptive	Yes, Article 117, Section II	Yes, Article 117, Section II	

			foster care, as well as for issuing certificates of suitability in the case of intercountry adoptions • To oversee the proper functioning of SACs and, when applicable, take the appropriate legal action for failure to comply with the requirements of this law and any other applicable provisions of the law.			
Colima	Act on the Rights of CA for the State of Colima	Does not contemplate a municipal protection agency	---	---	---	**Article 128** indicates that city councils must have an assistance program and an area or public servants to act as the initial contact with CA and as a liaison with the competent local and state authorities when they detect violations of the rights set forth in

						this law, in order to immediately bring it before the Protection Agency.
Coahuila	Act on the State System to Guarantee the Human Rights of Children for the State of Coahuila de Zaragoza	Municipal protection agencies	**Art. 26** Those in charge of regional and municipal protection agencies shall exercise the same powers as the head of the [state] protection agency. **Art. 27** The protection agency shall have the following powers and obligations: **I.** To promote and protect the rights of children and adolescents within the scope of their jurisdiction; **IV.** To promote the creation of protection agencies in each municipality in the state, with specialists in the fields of medicine, adoption, psychology, law, alternative dispute	---	---	**Art. 23, Sect. III** indicates that the protection agency is comprised of municipal protection agencies.

			resolution and social work; **XI.** To request from administrative and judicial authorities the precautionary or preventive measures needed for the care, protection and restitution of the rights of children and adolescents whose health is at risk of harm as a result of intrafamilial violence; **XII.** To represent children and adolescents before administrative or judicial authorities through advocates, as well as to file complaints before the lack or refusal of those legally required to do so under the terms of the applicable provisions;			

			XIV. To determine, in urgent cases, special measures for the protection of children and adolescents in extraordinary situations.			
Chiapas	Act on the Rights of CA for the State of Chiapas	Municipal Agencies for the Protection of the Rights of CA and the Family	**Article 135.** The power of the municipal protection agencies; To seek the comprehensive protection of CA as set forth in the LGDNNA.	Yes, Article 5, Section XXXII	---	They are called Agency for the Protection of the Minor and the Family, but the name itself may change depending on the municipality in question.
Chihuahua	Act on the Rights of Children and Adolescents for the State of Chihuahua	Does not contemplate municipal protection agencies	---	---	---	
Durango	Act on the Rights of CA for the State of Durango	Does not contemplate municipal protection agencies	---	---	---	The state protection agency is charged with the protection of CA
Estado de México	Act on the Rights of CA for the State of México	Municipal Protection Agencies	**Artcle 13.** Its powers are limited to assisting authorities in obtaining	---	---	

			information regarding the identity of the CA.			
Guanajuato	Act on the Rights of CA for the State of Guanajuato	Does not contemplate municipal protection agencies	---	---	---	The state protection agency is charged with the protection of CA
Guerrero	Act for the Protection of the Rights of CA for the State of Guerrero	Does not contemplate municipal protection agencies	---	---	---	The state and regional protection agencies are charged with the protection of CA (The CA protection agency of each region in the state depend on the state DIF system.)
Hidalgo	Act on the Rights of CA for the State of Hidalgo	Does not contemplate municipal protection agencies	---	---	---	The state protection agency shall have regional protection agencies as a form of presence in municipalities. **Article 135** states that every city council shall have a CA assistance program and an initial contact area that will serve as a liaison with local and federal authorities.
Jalisco	Act on the Rights of CA for	Does not contemplate	---	---	---	The state protection agency is charged

	the State of Jalisco	municipal protection agencies				with the protection of CA.
Michoacán	Act on the Rights of CA for the State of Michoacán de Ocampo	Does not contemplate municipal protection agencies	---	---	---	**Articles 75, Section II and 79 last paragraph,** stipulates that the state protection agency shall have regional representation offices in order to achieve the greatest possible presence and coverage in municipalities.
Morelos	Act on the Rights of CA for the State of Morelos	Does not contemplate municipal protection agencies	---	---	---	
Nayarit	Act on the Rights of CA for the State of Nayarit	Does not contemplate municipal protection agencies	---	---	---	**Article 112** sets forth that each municipality shall have at least one state protection agency delegate who will work with his or her superior in order to achieve greater efficiency in the protection and restitution of CA's rights. Said delegate shall only act within the

						territory of the municipality to which he or she was appointed.
Nuevo León	Act on the Rights of CA for the State of Nuevo León	Does not contemplate municipal protection agencies	---	---	---	**Article 136** Municipalities shall have the following functions: **VI.** To assist the protection agency with the urgent protection measures it may determine and to coordinate the appropriate actions within the scope of its powers.
Oaxaca	Act on the Rights of CA for the State of Oaxaca	Municipal Protection Agencies	**Article 23** indicates that, within their scope of responsibility, municipal protection agencies shall provide guidance regarding CA's right to identity.	---	---	**Article 119** establishes that each city council shall have a CA assistance program and an initial contact area that will also serve as a liaison with local and federal authorities, and when this area detects any violation of rights, it shall immediately bring it before the

						local protection agency.
Puebla	Act on the Rights of CA for the State of Puebla	Does not contemplate municipal protection agencies	---	---	---	
Querétaro	Act on the Rights of CA for the State of Querétaro	Protection Agencies for Children and Adolescents in each municipality	**Article 26 second paragraph** states that municipal protection agencies shall assist the state protection agency in carrying out psychological and medical assessments, socioeconomic, social work and any other study needed to determine the suitability of those requesting adoption under the terms set forth in the applicable laws. **Article 78, third paragraph**, within the framework of their powers, the state protection agency or	Yes, Article 99	Yes, Article 99	

			municipal protection agencies must, where appropriate, immediately request from the competent authority the necessary measures for the comprehensive protection, social assistance and, if the case, full restitution of rights and ensure that children will not be subjected to discrimination. **Article 106**. The state and municipal protection agencies shall be responsible for supervising SACs and, where appropriate, shall bring legal action for non-compliance with the requirements established in this law and all other			

			applicable provisions. **Articles 126 and 127,** Municipal protection agencies may assist, within the scope of their respective powers, the state protection agency in the performance of its duties.			
Quintana Roo	Act on the Rights of Children and Adolescents for the State of Quintana Roo	Does not contemplate protection agencies	---	---	---	**Art. 101** Since protection agencies act in the public interest, they may therefore, in the performance of their duties, request advice and assistance from federal, state and municipal authorities, which are in turn obligated to provide said assistance according to the applicable provisions. Protection agencies shall have

						delegations in each of the municipal centers.
San Luis Potosí	Act on the Rights of Children and Adolescents for the State of San Luis Potosí	Does not contemplate municipal protection agencies		---	---	**Art. 104** State and municipal authorities shall ensure the intervention of protection agencies or municipal DIF systems in any jurisdictional or administrative proceedings so that they may exercise intervening representation.
Sinaloa	Act on the Rights of Children and Adolescents for the State of Sinaloa	Does not contemplate a municipal protection agency	---	---	---	**Art. 113** City councils shall have an assistance program and an area or public servants to act as the initial contact with children and adolescents, and as a liaison with the competent local and state.
Sonora	Act on the Rights of Children and Adolescents for	Municipal protection agencies	**Art. 71** State authorities that discharge jurisdictional or	Yes, Article 71, Section V	Yes, Article 71, Section V	**Art. 100** The state protection agency shall have regional representation

	the State of Sonora		administrative proceedings and carry out any act of authority involving CA shall be obligated to: **V.** To guarantee the CA's right to intervening or substitute representation provided by state or municipal protection agencies under the terms established in the General Act, this act and other applicable provisions, as well as to receive information on other available protection measures.			offices and shall coordinate municipal protection agencies in order to achieve the greatest possible presence and coverage in municipalities. Article 76 provides for the protection that shall be given to CA in immigration proceedings.
Tabasco	Act on the Rights of CA for the State of Tabasco	Municipal Agency for the Protection of the Family and the Rights of CA	**Article 4, Section XXIII, 116** The municipal protection agency is responsible for providing comprehensive protection in compliance with	Yes, collaboratively and under the coordination of the state protection agency, Article 116 Section II	Yes, collaboratively and under the coordination of the state protection agency, Article 116 Section II	

			the LGDNNA, such as: to ensure medical care, to follow up on academic activities, to apply for measures of protection and restitution, to request CA's admission to a SAC, to supervise municipal SACs.			
Tamaulipas	Act on the Rights of CA for the State of Tamaulipas	Does not contemplate municipal protection agencies	---	---	---	**Article 87** states that the protection agency may have regional protection agencies, but it does not establish their powers.
Tlaxcala	Act on the Rights of Children and Adolescents for the State of Tlaxcala	Does not contemplate municipal protection agencies	---	---	---	
Veracruz	Law No. 573 on the Rights of CA for the State of Veracruz	Protection Agencies for CA in state municipalities	**Article 122** These agencies shall seek to provide comprehensive protection to CA as established, among elsewhere, in the LGDNNA: medical care,	Yes, Article 122 Section II	Yes, Articles 89, first paragraph and 122, Section II	

			measures of protection and restitution, the requesting the admission of CA to a SAC			
Yucatán	Act on the Rights of Children and Adolescents for the State of Yucatán	Does not contemplate a municipal protection agency	---	---	---	
Zacatecas	Act on the Rights of Children and Adolescents for the State of Zacatecas	Does not contemplate a municipal protection agency	---	---	---	

X. SOURCES OF INFORMATION

A. International Scope

1. Universal System for the Protection of Human Rights

- ✓ United Nations High Commissioner for Refugees (UNHCR):
  - • Convention Relating to the Status of Refugees, July 28, 1951
  - • 1967 Protocol Relating to the Status of Refugees
  - • Handbook and Guidelines on Procedures and Crieria for Determining Refugee Status, Geneva 2011
  - • "*Migrant Children and Adolescents: Central America and Mexico [Niños, Niñas y Adolescentes Migrantes América Central y México]"*, United Nations High Commissioner for Refugees, International Labour Organization (ILO), International Organization for Migration (IOM) and the United Nations International Children's Emergency Fund (UNICEF), San José, January 2013.
  - • *"Uprooted (Arrancados de Raíz)"*, Report, August 2014
  - • "*International Protection for LGBTI Individuals [La Protección Internacional de las Personas LGBTI]"*, Mexico, 2014
- ✓ United Nations International Children's Emergency Fund (UNICEF):
  - • Convention on the Rights of the Child, November 20, 1989
  - • "*The Passage: Migration and Childhood [La Travesía Migración e Infancia]",* Mexico, November 2011
  - • "*Migrant Children and Adolescents Returned: An Analysis of the Contexts and Responses of the Services and Policies of Protection in El Salvador, Guatemala, Honduras and Mexico [Niñas, Niños y Adolescentes Migrantes Retornados Un análisis de los contextos y las respuestas de los servicios y las políticas de protección en El Salvador, Guatemala, Honduras y México]",* Buenos Aires, Argentina, 2015

• *"Practical Guide for the Protection and Restitution of the Rights of Children and Adolescents: Procedure [Guía Práctica para la protección y restitución de derechos de niñas, niños y adolescentes. Procedimiento]"*, with the National System for the Comprehensive Development of the Family, August 2016

- ✓ United Nations (UN):
  - • Universal Declaration of Human Rights, December 10, 1948
  - • International Covenant on Civil and Political Rights, 1966
  - • *"Guidelines for the Alternative Care of Children"*, adopted by the UN General Assembly, February 2010
- ✓ Committee on the Rights of the Child
  - • *"General Comments of the Committee on the Rights of the Child",* April 2001
  - • General Comment No. 14 (2013) *"on the right of the child to have his or her best interests taken as a primary consideration",* May 29, 2013
  - • General Comment N° 6 (2005) *"Treatment of unaccompanied and separated children outside their country of origin",* September 1, 2005
- ✓ International Labour Organization, *"Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour"*, Geneva, Switzerland, June 1999
- ✓ International Committee of the Red Cross, Central Tracing Agency and Protection Division, *"Inter-agency Guiding Principles on UNACCOMPANIED and SEPARATED CHILDREN",* January 2004
- ✓ Regional Conference on Migration*, "Regional Guidelines for the Assistance to Unaccompanied Children in Cases of Repatriation"*, July 2009

2. Inter-American Human Rights System

- ✓ American Convention on Human Rights, 1969
- ✓ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

- ✓ Cartagena Declaration on Refugees, 1984
- ✓ Inter-American Commission on Human Rights:
  - Organization of American States and the Inter-American Commission on Human Rights, *"The Right of Boys and Girls to a Family: Alternative Care. Ending Institutionalization in the Americas"*, October 17, 2013
  - *"Human Rights of Migrants and Other Persons in Context of Human Mobility in Mexico"*, December 30, 2013
  - "*Situation of Human Rights in Honduras*", Country Report, December 31, 2015
  - *"Situation of Human Rights in Guatemala*", Country Report, December 31, 2015
- ✓ Inter-American Court of Human Rights (IACtHR):
  - *Case of Atala Riffo and Daughters* v. *Chile*, Merits, Reparations and Costs, February 24, 2012
  - *Case of Expelled Dominicans and Haitians* v. *Dominican Republic*, Judgment of August 28, 2014
  - Advisory Opinion OC-17/2002 *"Juridical Condition and Human Rights of the Child"*, August 28, 2002
  - Advisory Opinion OC-21/2014 *"Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection"*, August 19, 2014.

3. International Institutions

- ✓ Amnesty International, *"Annual Report 2015/2016"*
- ✓ Internal Displacement Monitoring Centre
  - *"New humanitarian frontiers: Addressing criminal violence in Mexico and Central America",* Report, Geneva, Switzerland, October 2015
- ✓ Human Rights Watch, *"Closed Doors: Mexico's Failure to Protect Central American Refugee and Migrant Children"*, March 2016

4. International Legal Framework

- ✓ Memorandum of Understanding between the Governments of the United Mexican States, the Republic of El Salvador, the Republic of Guatemala, the Republic of Honduras and the Republic of Nicaragua for the Dignified, Orderly, Prompt and Safe Repatriation of Central American Nationals by Land, signed in the City of San Salvador on May 5, 2006

5. Other Sources

- ✓ Conclusions and Recommendations: "*The Colloquium on Asylum and International Protection in Latin America [El Coloquio sobre asilo y la protección internacional de refugiados en América Latina]",* Meeting held in Mexico from May 11 to 15, 1981 (Tlatelolco Conclusions), Conclusion No. 4.
- ✓ Catholic Relief Services, *"Child Migration: The Detention and Repatriation of Unaccompanied Central American Children from Mexico*", January 2010.
- ✓ Sin Fronteras I.A.P. and the Central American Institute of Social and Development Studies [Instituto Centroamericano de Estudios Sociales y Desarrollo – INCEDES] report entitled *"Unaccompanied Adolescents: Studies on their human rights during the process of immigration verification, detention, deportation and reception [Adolescentes Migrantes No Acompañados. Estudios sobre sus derechos humanos durante el proceso de verificación migratoria, detención, deportación y recepción]*", 2010.
- ✓ "*Report on the General Situation of the Rights of Migrants and Their Families [Informe sobre la situación general de los derechos de los migrantes y sus familias]",* prepared by civil society organizations for the visit to Mexico by Commissioner Felipe González, Special Rapporteur on the Rights of All Migrant

Workers and Members of Their Families of the Inter-American Commission of Human Rights, Mexico, July 2011

- ✓ Latin American Foster Care Network [Red Latinoamericana de Acogimiento Familiar (RELAF)], *"Migrant Children and Adolescents: Status and Framework for the Fulfillment of Their Human Rights [Niñez y adolescencia migrante: situación y marco para el cumplimiento de sus derechos humanos]"*, Series: Publications on Children and adolescents without parental care in Latin America: Contexts, causes and consequences, October 2011
- ✓ Ceriani C. Pablo, coord., National University of Lanús and the Fray Matías de Córdova Human Rights Center, *"Childhood Detained: The human rights of migrant children and adolescents on the Mexico-Guatemala border [Niñez Detenida. Los derechos humanos de niñas, niños y adolescentes migrantes en la frontera México-Guatemala]"*, Mexico 2012.
- ✓ High Level Round Table: *"Call to Action: Protection Needs in the Northern Triangle of Central America*" San Jose Action Statement, San José, Costa Rica, July 7, 2016.
- ✓ High Level International Conference entitled "*Challenges for Ombudsman Institutions with respect to mixed migratory flows"*, held on September 7-8, 2016 in Tirana, Albania

B. National Scope

1. Legislative Framework

- ✓ **Federal**

  • Political Constitution of the United Mexican States [*Constitución Política de los Estados Unidos Mexicanos*]

  • Federal Civil Code [*Código Civil Federal*]

• Circular No. 001/2010, which instructs the procedure for the care of unaccompanied migrant children and adolescents, published in the Federal Official Gazette [*Diario Oficial de la Federación*] on January 12, 2010

• Refugee, Supplementary Protection and Political Asylum Act [*Ley sobre Refugiados, Protección Complementaria y Asilo Político*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on January 27, 2011

• Migration Act [*Ley de Migración*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on May 25, 2011

• Agreement that issues the INM Guidelines for Migrant Protection [*Acuerdo por el que se emiten los Lineamientos en materia de Protección a Migrantes del Instituto Nacional de Migración*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on November 29, 2011

• "*Protocol of Action for those who administer justice in cases involving children and adolescents issued by the Supreme Court of Justice [Protocolo de actuación para quienes imparten justicia en casos que involucren niñas, niños y adolescentes]"*, Supreme Court of Justice [*Suprema Corte de Justicia de la Nación*], February 2012

• Refugee, Supplementary Protection and Political Asylum Act Regulations [*Reglamento de la Ley sobre Refugiados y Protección Complementaria*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on February 27, 2012

• Migration Act Regulations [*Reglamento de la Ley de Migración*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on September 28, 2012

• "*Protocol of Action for those who administer justice in cases affecting migrant persons and those subject to international protection [Protocolo de actuación para quienes imparten justicia en casos que afecten a personas migrantes y sujetas de protección internacional]"*, Supreme Court of Justice [Suprema Corte de Justicia de la Nación], Mexico, 2013

• *Protocol of Action for those who administer justice in cases involving children and adolescents issued by the Supreme Court of Justice. It is not binding and therefore has no normative value to form the basis of a legal decision, but it is a tool for those who exercise this role* [*Protocolo de actuación para quienes imparten justicia en casos que involucren niñas, niños y adolescentes emitido por la Suprema Corte de Justicia de la Nación. No es vinculante y por tanto no tiene valor normativo para fundar una decisión jurisdiccional, pero constituye una herramienta para quienes ejercen dicha función]*, Weekly Federal Court Report [*Semanario Judicial de la Federación*], July 2014, Registry No. 2006882

• General Act on the Rights of Children and Adolescents [*Ley General de los Derechos de Niñas, Niños y Adolescentes*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on December 4, 2014

• Agreement issuing the Organic Statute of the National System for the Comprehensive Development of the Family [*Acuerdo mediante el cual se expide el Estatuto Orgánico del Sistema Nacional para el Desarrollo Integral de la Familia*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on April 2, 2015

• Regulations for the General Act on the Rights of Children and Adolescents [*Reglamento de la Ley General de los Derechos de Niñas, Niños y Adolescentes*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on December 2, 2015

• *"Initial Assessment Protocol for the Identification of Indications of Unaccompanied or Separated Children's and Adolescents' Need for International Protection [Protocolo de evaluación inicial para la identificación de indicios de necesidades de protección internacional en niñas, niños y adolescentes no acompañados o separados]"*, 2016

• Manual for the Organization and Operation of the National System for the Comprehensive Protection of Children and Adolescents [Manual de Organización y Operación del Sistema Nacional de Protección Integral de

Niñas, Niños y Adolescentes], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on March 3, 2016

• Organic Statute of the National System for the Comprehensive Development of the Family [*Estatuto Orgánico del Sistema Nacional para el Desarrollo Integral de la Familia*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on May 11, 2016

• Guidelines for the Restitution of Rights and for Measures for the Protection of Children and Adolescents [*Lineamientos para la Restitución de Derechos y Medidas de Protección de Niñas, Niños y Adolescentes*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on May 30, 2016

• Manual for the Supervision of Social Assistance Centers [Manual de Supervisión de Centros de Asistencia Social], published on May 30, 2016 in the Federal Official Gazette [*Diario Oficial de la Federación*]

• Agreement establishing the Internal Procedure for the Restitution of Rights and Measures for the Protection of Children and Adolescents [*Acuerdo por el que se establece el Procedimiento Interno para la Restitución de Derechos y Medidas de Protección a Niñas, Niños y Adolescentes*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on May 30, 2016

• Protocol of Action to ensure respect for the principles and protection of the rights of children and adolescents in administrative immigration proceedings [*Protocolo de actuación para asegurar el respeto a los principios y la protección de los derechos de niñas, niños y adolescentes en procedimientos administrativos migratorios*], published in the Federal Official Gazette [*Diario Oficial de la Federación*] on August 10, 2016

✓ **State**

• Manual for the Organization of the National System for the Comprehensive Development of the Family for Reynosa 2013-2016 [*Manual de Organización*

del Sistema para el Desarrollo Integral de la Familia de Reynosa], published in the State Official Gazette [*Periódico Oficial del Estado*] on November 24, 2010

• Act on the State System to Guarantee the Human Rights of Children for the State of Coahuila de Zaragoza [*Ley del Sistema Estatal para la garantía de los Derechos Humanos de Niños y Niñas del Estado de Coahuila de Zaragoza*], published in the Official Gazette of the State Government [*Periódico Oficial del Gobierno del Estado*], on March 18, 2014

• Act on the Rights of Children and Adolescents for the State of Durango [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Durango*], published in the Official Gazette of the Government of the State of Durango [*Periódico Oficial del Gobierno del Estado de Durango*] on March 12, 2015

• Act on the Protection and Defense of the Rights of Children and Adolescents for the State of Baja California [*Ley de la Protección y Defensa de los Derechos de Niñas, Niños y Adolescentes del Estado de Baja California*], published in the State Official Gazette [*Periódico Oficial del Estado*], on April 17, 2015

• Act on the Rights of Children and Adolescents for the State of Colima [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Colima*], published in the “El Estado de Colima” Official Gazette, on April 18, 2015

• Act on the Rights of Children and Adolescents for the State of Hidalgo [*Ley de los derechos de niñas, niños y adolescentes para el Estado de Hidalgo*], published in the State Official Gazette [*Periódico Oficial del Estado*], on Monday, April 20, 2015

• Act on the Rights of Children and Adolescents for the State of Quintana Roo [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Quintana Roo*], published in the State Official Gazette [*Periódico Oficial del Estado*] on April 30, 2015

• Act on the Rights of Children and Adolescents for the State of México [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de México*], published in the "Gaceta del Gobierno" Official Gazette, May 7, 2015

• Act on the Rights of Children and Adolescents for the State of Campeche [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Campeche*], published in the State Official Gazette [*Periódico Oficial del Estado*], on June 2, 2015

• Act on the Rights of Children and Adolescents for the State of Michoacán de Ocampo [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Michoacán de Ocampo*], published in the Official Gazette of the State of Michoacán [*Periódico Oficial del Estado de Michoacán*], on June 2, 2015

• Act on the Rights of Children and Adolescents for the State of Chihuahua [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Chihuahua*], published in the State Official Gazette [*Periódico Oficial del Estado*], on June 3, 2015

• Act on the Rights of Children and Adolescents for the State of Aguascalientes [*Ley de los Derechos de las Niñas, Niños y Adolescentes para el Estado de Aguascalientes*], published in the Official Gazette for the State of Aguascalientes [*Periódico Oficial del Estado de Aguascalientes*], on June 3, 2015

• Act on the Rights of Children and Adolescents for the State of Puebla [*Ley de los Derechos de las Niñas, Niños y Adolescentes del Estado de Puebla*], published in the State Official Gazette [*Periódico Oficial del Estado*] on June 3, 2015

• Protocol of Action for the Care of Unaccompanied Migrant and Repatriated Children and Adolescents [*Protocolo de Actuación para la Atención de Niñas, Niños y Adolescentes Migrantes y Repatriados No Acompañados*], issued by the System for the Comprehensive Development of the Family of the State of

Tamaulipas [*Sistema Integral de la familia del Estado de Tamaulipas*], published in the State Official Gazette [*Periódico Oficial del Estado*] on June 4, 2015

• Act on the Rights of Children and Adolescents for the State of Yucatán [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Yucatán*], published in the Official Gazette of the Government of the State of Yucatán [*Diario Oficial del Gobierno del Estado de Yucatán*], on June 12, 2015

• Act on the Rights of Children and Adolescents for the State of Chiapas [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Chiapas*], published in the State Official Gazette [*Periódico Oficial del Estado*], on June 17, 2015

• Act on the Rights of Children and Adolescents for the State of Tlaxcala [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Tlaxcala*], published in the Official Gazette of the State Government [*Periódico Oficial del Gobierno del Estado*], on June 18, 2015

• Act on the Rights of Children and Adolescents for the State of Tamaulipas [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Tamaulipas*], published in the Official Gazette for the State of Tamaulipas [*Periódico Oficial del Estado de Tamaulipas*], on July 1, 2015

• Act on the Rights of Children and Adolescents for the State of Zacatecas [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Zacatecas*], published in the Official Gazette, organ of the Government of the State of Zacatecas, on July 1, 2015

• Law No. 572 on the Rights of Children and Adolescents for the State of Veracruz de Ignacio de la Llave [*Ley número 573 de los Derechos de Niñas, Niños y Adolescentes del Estado de Veracruz de Ignacio de la Llave*], published in the Official Gazette, organ of the Government of the State of Veracruz de Ignacio de la Llave, on July 3, 2015

• Act on the Rights of Children and Adolescents for the State of Nayarit [*Ley de los Derechos de Niñas, Niños y Adolescentes para el Estado de Nayarit*],

published in the Official Gazette, organ of the Government of the State of Nayarit, on July 8, 2015

• Act on the Rights of Children and Adolescents for the State of San Luis Potosí [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de San Luis Potosí*], published in the Official Gazette for the State of San Luis Potosí [*Periódico Oficial del Estado de San Luis Potosí*], on July 27, 2015

• Act on the Rights of Children and Adolescents for the State of Querétaro [Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Querétaro], published in the "La Sombra de Arteaga", the official gazette of the State Government, on September 3, 2015

• Act on the Rights of Children and Adolescents for the State of Jalisco [*Ley de los Derechos de Niñas, Niños y Adolescentes en el Estado de Jalisco*], published in the "El Estado de Jalisco" Official Gazette, on September 5, 2015

• Act on the Rights of Children and Adolescents for the State of Guanajuato [*Ley de los Derechos de Niñas, Niños y adolescentes del Estado de Guanajuato*], published in the Official Gazette of the State Government [*Periódico Oficial del Gobierno del Estado*], on September 11, 2015

• Law No. 812 for the Protection of the Rights of Children and Adolescents for the State of Guerrero [*Ley número 812 para la Protección de los Derechos de Niñas, Niños y Adolescentes del Estado de Guerrero*], published in the Official Gazette of the State Government [*Periódico Oficial del Gobierno del Estado*], on October 9, 2015

• Act on the Rights of Children and Adolescents for the State of Morelos [*Ley de los Derechos de las Niñas, Niños y Adolescentes del Estado de Morelos*], published in the "Tierra y Libertad" Official Gazette of the State of Morelos, on October 14, 2015

• Act on the Rights of Children and Adolescents for the State of Sinaloa [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Sinaloa*], published in the "El Estado de Sinaloa" Official Gazette,on October 14, 2015

• Act on the Rights of Children and Adolescents for Mexico City [*Ley de los Derechos de Niñas, Niños y Adolescentes de la Ciudad de México*], published in the Official Gazette of the Government of the Federal District [*Gaceta Oficial del Gobierno del Distrito Federal*], on November 12, 2015

• Act on the Rights of Children and Adolescents for the State of Nuevo León [*Ley de los Derechos de Niñas, Niños y Adolescentes para el Estado de Nuevo León*], published in the State Official Gazette [*Periódico Oficial del Estado*], on November 27, 2015

• Act on the Rights of Children and Adolescents for the State of Oaxaca [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Oaxaca*], published in the Official Gazette of the Government of the State of Oaxaca [*Periódico Oficial del Gobierno del Estado de Oaxaca*] on December 16, 2015

• Act on the Rights of Children and Adolescents for the State of Sonora [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Sonora*], published in the Official Bulletin of the State Government [*Boletín Oficial del Gobierno del Estado*], on December 17, 2015

• Act for the Protection of the Rights of Children and Adolescents for the State of Tabasco [*Ley de Protección de los Derechos de Niñas, Niños y Adolescentes del Estado de Tabasco*], published in the Official Gazette of the State of Tabasco [*Periódico Oficial del Estado de Tabasco*], on December 23, 2015

• Act on the Rights of Children and Adolescents for the State of Baja California Sur [*Ley de los Derechos de Niñas, Niños y Adolescentes del Estado de Baja California Sur*], published in the Official Bulletin of the Government of the State of Baja California Sur [*Boletín Oficial del Gobierno del Estado de Baja California Sur*], on December 31, 2015

2. Information from Federal Authorities

- ✓ National Institute for Migration [*Instituto Nacional de Migración*], Official Letter INM/DGJDHT/DDH/913/2016, dated May 13, 2016
- ✓ National Institute for Migration General Office of Migrant Protection and Liaison [*Dirección General de Protección al Migrante y Vinculación del Instituto Nacional de Migración*], Official Letter DGPM/DAI/781/2016, dated May 27, 2016
- ✓ National Institute for Migration [*Instituto Nacional de Migración*], Official Letter INM/DGJDHT/DDH/1407/2016, dated June 24, 2016

3. Information from Public Human Rights Agencies

- ✓ 650 Testimonies from accompanied and unaccompanied children and adolescents in context of migration housed at SACs, shelters and/or migrant stations in Mexico
- ✓ Recommendation: 18/2010
- ✓ Recommendation: 27/2010
- ✓ Recommendation: 23/2011
- ✓ Recommendation: 54/2012
- ✓ Recommendation: 77/2012
- ✓ Recommendation: 31/2013
- ✓ Recommendation: 36/2013
- ✓ Recommendation: 17/2014
- ✓ Recommendation: 22/2015
- ✓ Recommendation: 27/2015
- ✓ Recommendation: 22/2016
- ✓ Complaint files. Between 2010 to May 2016, this national agency investigated complaints in which 881 UCACIM were found to be injured parties (48 summary proceedings).
- ✓ Special Report by the National Human Rights Commission on transnational criminal gangs known as “Maras”, Mexico, 2008

- ✓ Between 2015 and October 7, 2016, this national agency issued 40 precautionary measures addressed to the INM, the COMAR, the SNDIF and the DIF systems in Mexico City and Tabasco.

4. Information Obtained from the Media

- ✓ Migration Policy Unit [*Unidad de Política Migratoria*], Monthly Migratory Statistics Bulletins [*Boletines Mensuales de Estadísticas Migratorias*] from 2014, 2015 and 2016.
- ✓ El Universal news website, *"Imparable, Migración Infantil",* May 29, 2016, (Pérez García, Director de la Red por los Derechos de la Infancia en México, REDIM).
- ✓ Mexican Commission for Refugee Assistance [*Comisión Mexicana de Ayuda a Refugiados*], accessed on June 9, 2016, available at: http://www.comar.gob.mx/work/models/COMAR/Resource/267/6/images/ESTADISTICAS_2013_A_02-2016_act.pdf
- ✓ Official UNHCR website (Spanish versión), *"Protección"* section, accessed on June 16, 2016, available at: http://www.acnur.org/t3/que-hace/proteccion/
- ✓ General Directorate of Statistics and Censuses of El Salvador [*Dirección General de Estadística y Censos de El Salvador* (DYGESTYC)], "Multi-Purpose Household Survey *[Encuesta de Hogares de Propósito Múltiples]"*, Gobierno de la República de El Salvador, Ministerio de Economía y Dirección General de Estadística y Censos, Publicación EHPM 2014, accessed on June 17, 2016, available at: http://www.digestyc.gob.sv/index.php/temas/des/ehpm/publicaciones-ehpm.html
- ✓ World Bank Group, *"Honduras: Overview"*, accessed on June 17, 2016. http://www.worldbank.org/en/country/honduras/overview

- ✓ Republic of Guatemala, *National Living Conditions [Encuesta Nacional de Condiciones de Vida], Instituto Nacional de Estadística, 2014 Tomo I,* Guatemala, January 2016, accessed on June 29, 2016, available at: https://www.ine.gob.gt/sistema/uploads/2016/02/03/bWC7f6t7aSbEI4wmuExoNR0oScpSHKyB.pdf.
- ✓ Republic of Guatemala, *National Living Conditions 2014: Key Findings [Encuesta Nacional de Condiciones de Vida 2014. Principales Resultados]*, Instituto Nacional de Estadística, Guatemala, December 2015, accessed on July 14, 2016, available at: https://www.ine.gob.gt/sistema/uploads/2015/12/11/vjNVdb4IZswOj0ZtuivPIcaAXet8LZqZ.pdf

5. Other sources

- ✓ Inter-Institutional Roundtable on UCACIM and Migrant Women, organized by the SEGOB Under-Secretariat of Population, Migration and Religious Affairs and held in Mexico on March 30, 2007. The "*Model for the Protection of the Rights of Unaccompanied Migrant and Repatriated CA [Modelo de Protección de los Derechos de los NNA Migrantes y Repatriados No Acompañados]"* was introduced at this event.
- ✓ Bulletin No. 8, Series: Migration Management in Mexico [*La Gestión Migratoria en México*], "*CPOs: Protectors of vulnerable persons or the IMN's image? [Los OPIS ¿Protectores de personas en situación de vulnerabilidad o de la imagen del INM?]",* General Office of Migration and Human Rights [*Dirección General de Migración and Derechos Humanos*], and Institute for Security and Democracy [*Instituto para la Seguridad y la Democracia A.C. (INSYDE*)], November 2013
- ✓ El Colegio de la Frontera Norte, *"Detention and Return of Unaccompanied Migrant Children and Adolescents" [Detención y Devolución de Niñas, Niños y Adolescentes],* October 2015

- ✓ *"Central American Migration in the Metropolitan Area of Monterrey" [Migración Centroamericana en la Zona Metropolitana de Monterrey],* Casa Nicolás, University of Monterrey Center for Comparative Politics and International Studies, Human Rights Center and Facultad Libre de Derecho de Monterrey, Fourth Report, 2015
- ✓ *"Draft Decree reforming various articles of the Migration Act referring to migrant children*" *[Iniciativa con proyecto de decreto por el que se reforman diversos artículos de la Ley de Migración en materia de infancia migrante]*, presented to the Senate Committee on April 26, 2016
- ✓ Cruz González, Gerardo, *coord., "Migrating Children" [Niños migrando],* Asociación Mexicana de Promoción y Cultura Social A.C., Informe, Mexico, May 2016
- ✓ INM Catalog of Positions and Salaries and Wages Scale [*Catálogos de Puestos y Tabulador de Sueldos y Salarios para el INM*]
- ✓ Meeting of August 3, 2016, between the Senate Foreign Affairs Committee and the INM Commissioner
- ✓ *"Expert Opinion of the United Commissions on Migrant Affairs and Legislative Studies on the Minutes of the Draft Decree reforming Article 112, paragraph 1 and Sections I, II and III of the Migration Act*" [*Dictamen de las Comisiones Unidas de Asuntos Migratorios y de Estudios Legislativos, de la Minuta con Proyecto de Decreto por el que reforman el primer párrafo y las fracciones I, II y III del artículo 112 de la Ley de Migración]*, passed by the Senate on October 13, 2016