

The Forgotten Border

Migration & Human Rights at Mexico's Southern Border

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Introduction

In the highly polarized immigration debate taking place in the United States today, Mexico is typically characterized as a country of origin for millions of migrants to the United States. Indisputably, it is the point of origin for millions of Mexican migrants who live and work in the United States, sending \$24.2 billion in remittances home to Mexico in 2006.¹ However, the phenomenon of migration in Mexico is considerably more complex. In addition to serving as a point of origin, Mexico is a destination point for many—migrants, primarily from Guatemala, come to Mexico each year seeking jobs in agriculture and construction. Mexico is also a transit point—every year, migrants from Central America, South America and elsewhere cross Mexico's southern border or enter by air or sea and continue through Mexico en route to the United States.

Indeed, as the U.S.-Mexico border has served as a central and contentious focal point in the U.S. immigration debate, Mexico's other border has for the most part served as an afterthought. There are indications this may be changing. When the United States Senate considered comprehensive reform in 2005 and 2006, the proposed legislation included provisions addressing migration over Mexico's southern border.² In late 2007, the Bush administration unveiled the "Merida Initiative," a \$1.4 billion counternarcotics, human interdiction and border security package for Mexico. Even so, discussion of the U.S.-Mexico border dominates the public discourse.

Similarly, in Mexico, relatively little attention is paid to the southern border.

Despite the fact that migrant flows from south to north have grown dramatically over the past twenty to thirty years, Mexico's politicians and academics often refer to the southern border as "*la frontera olvidada*"—the forgotten border.³

As they journey northward, migrants crossing Mexico's southern border region face a myriad of challenges and are highly in danger of exploitation and abuse ranging from rape and robbery to extortion and assault. In large part, these challenges are the result of problems that persist throughout Mexico—the weakness of the rule of law, pervasive corruption, a lack of political will, and the inadequacy of federal, state, and local government resources. However, because of their vulnerability—typically young, traveling clandestinely, afraid to seek assistance, carrying cash, lacking social networks—migrants are victimized more often than others. Antiquated immigration laws that give authorities broad discretion have only made the situation of migrants worse.⁴ Mexico's recent adoption of United States-style border enforcement strategies has exacerbated the situation further.

This report will provide a brief history of the nature of transborder migration at Mexico's southern border and how it has evolved over the past several decades, illustrate the plight of migrants in Mexico's southern border region and the manner in which Mexican immigration enforcement policies compound the challenges that these migrants face. A deeper understanding of the broader context in which human rights abuses take place in the border region will help ensure that U.S. policy, and in particular, the Merida Initiative, does not aggravate the situation any further.

Executive Summary

The nature of migrant flows over Mexico's southern "forgotten" border has changed dramatically in recent decades. As the armed conflicts in Central America ended, the migrating population at Mexico's southern border shifted from political refugees to a growing number of migrants fleeing poverty, underemployment, crime and violence, and devastation caused by an unrelenting series of natural disasters.

These migrants—typically young Central Americans, traveling clandestinely, reticent to seek assistance, carrying cash, lacking social networks—are especially vulnerable to abuse during their travels north, particularly the growing numbers of women and unaccompanied minors. The most common types of abuses reported by migrants include extortion, robbery, assault, verbal threats, sexual assault and rape, document destruction and irregular detention. Human trafficking and forced prostitution are growing concerns and have reached alarming levels in Mexico's southern border region, especially Tapachula, Chiapas and its environs.

Although abuse of migrants by petty thieves, criminals, smugglers, traffickers and gangs is commonplace, exploitation, particularly extortion, by unscrupulous, corrupt or ignorant governmental authorities is rampant and particularly problematic. Promoting respect for, and enforcement of, the rule of law is critical to fighting human rights abuses perpetrated against migrants and ending the culture of corruption and impunity associated with such abuses.

Mexican Presidents Zedillo, Fox and Calderón have all made lofty expressions of concern regarding the need for Mexico to treat Central American migrants justly and fairly, at least in part to provide Mexico with the moral authority needed to denounce abuses suffered by Mexicans in the United States and demand fair treatment for them. However, rhetoric has not been matched by results as abuse of migrants is pervasive and the current administration continues to promote similar border enforcement policies initially spearheaded by President Fox, which fail to protect adequately migrants' rights.

Mexican nongovernmental organizations have called for reforms that would square the rhetoric of recent administrations with actual migration policy, including the repeal of penalties associated with undocumented entry, arguing that these penalties "criminalize undocumented migration," and therefore increase the vulnerability of migrants. Although these reforms are critical, they are merely one piece in the puzzle and their effect will be limited without strong steps to combat corruption and hold abusive authorities and criminals accountable for their actions.

In October 2007, President Bush announced the "Merida Initiative," a \$1.4 billion total organized crime and border security aid package for Mexico and Central America. As large-scale U.S. funding to support human interdiction and border security efforts is considered, it is imperative to take into account the pervasive human rights abuses too often linked with such activities. As

abuse of migrants reflects the larger lack of respect for the rule of law in Mexico, expanded immigration enforcement capacity without accompanying improvements in accountability and oversight mechanisms risks additional perils to migrants and further undermining of the rule of law.

In large part, the exploitation and abuse of migrants is the result of problems that persist throughout Mexico—the weakness of the rule of law, pervasive corruption, a lack of political will, and the inadequacy of federal, state, and local government resources. Numerous challenges face Mexico in its efforts to reduce human rights abuses perpetrated against migrants, but the issue also presents an opportunity to improve the situation for migrants and to foster confidence in the effectiveness of governmental institutions. Internationally, the situation at Mexico’s southern border provides the country with an opportunity to develop and implement the model policies that they would like to see for Mexicans abroad and in particular, for those Mexicans currently living undocumented in the United States.

Recommendations for the Mexican Government:

- Adhere to the National Commission for Human Rights’ (*Comisión Nacional de Derechos Humanos* or CNDH) recommendations regarding fair treatment of migrants.
- Aggressively investigate, prosecute and sanction cases of abuse against migrants by law enforcement agencies and security forces.
- Expand human rights law training for law enforcement entities that interact with migrants.
- Expand support for under-resourced humanitarian unit of the National Migration Institute, Grupo Beta.
- Take steps to improve conditions in the migrant detention facilities and ensure that human rights groups, clergy and lawyers have unfettered access to facilities to meet with INM detainees.
- Provide training for agencies that will prosecute cases as well as those that give assistance and protection to victims to allow for the full implementation of the newly enacted anti-trafficking law.

Recommendations for U.S. government:

- Ensure that U.S. funding does not support or appear to endorse the use of the Mexican armed forces for immigration control activities in the Mexican interior.
- As U.S. resources for Mexican border enforcement are expanding, strengthen U.S. diplomatic efforts and oversight mechanisms to ensure that human rights abuses by law enforcement agencies against migrants and Mexican citizens are investigated and prosecuted.
- Provide support to Mexican governmental and nongovernmental initiatives that combat corruption, increase citizen oversight of law enforcement agencies, and promote and protect the rights of migrants.

Characteristics of Mexico's Southern Border

Mexico's modern-day southern border is 1,149 kilometers in length, sharing a 956-kilometer border with Guatemala and a 193-kilometer border with Belize. Although less than half the length of Mexico's 3,152-kilometer border with the United States, Mexico's border with Belize and Guatemala is similar in that it contains significant rural, remote and isolated stretches. Fifty-six percent of the population that live in the Mexican state of Chiapas' border municipalities reside in communities of 2,500 inhabitants or less.⁵ Instead of desert, this region is covered with dense tropical vegetation, mountains and rivers, including the Suchiate and Usumacinta Rivers, which form a natural boundary in stretches of the border between Mexico and Guatemala.

Like the U.S.-Mexico border, Mexico's southern border region is marked

by poverty.⁶ Marginalization and underdevelopment have long characterized the region despite its wealth of natural resources, including natural gas, fertile land, oil and hydropower. Chiapas is the country's poorest with a poverty rate of 75.5 percent; the southern states of Oaxaca and Tabasco are not far behind.⁷ Poverty is widespread in Guatemala's border departments as well.⁸ Recent natural disasters, most notably Hurricane Mitch (1998), Hurricane Stan (2005) and severe flooding in Tabasco (2007), have taken a heavy toll on Mexico's southern border states and northern Central America, leading to the destruction of homes, crops, roads and other infrastructure.⁹

The region is marked by popular movements and civil unrest. The Mexican state of Chiapas drew international attention following the uprising of the Zapatista National Liberation Army (*Ejercito Zapatista para Liberación Nacional*, or EZLN) in 1994. The governmental response





included increasing the presence of military and law enforcement personnel in the region. This trend of expanded militarization and law enforcement continues as Mexico endeavors to address growing concerns regarding organized crime-related violence, as well as the trafficking of drugs, other goods and humans across Mexico's southern border.

Eighty percent of Mexico's indigenous population lives in southern Mexico¹⁰ and these communities share strong ethnic and cultural bonds with populations in northern Guatemala.¹¹ This is unsurprising

sugar plantations in Chiapas, Campeche and Tabasco, providing an invaluable workforce for the local economy.¹⁴ Although many agricultural workers from Guatemala work without documents in Mexico, an official agricultural workers visa (*Forma Migratoria de Visitante Agrícola*) was developed in 1997 as a credential and was used to document over 41,000 workers yearly (on average) between 2001 and 2004,¹⁵ although other sources indicate that the total number of documented and undocumented agricultural workers who migrate into Mexico each year for temporary labor is as high as 100,000.¹⁶

Acknowledging concerns regarding the prevalent use of fraudulent documents at the southern border, the Mexican government has stated that it plans to implement a program starting in March 2008 giving identification cards with electronic chips to temporary workers and local visitors.

as the Soconusco region (part of current-day Chiapas, Mexico) was once part of the United Provinces of Central America, encompassing modern day Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica, prior to its annexation to Mexico in the 1820s. Mexico's contemporary border with Guatemala was established in 1882 after both countries signed the Treaty of Limits.¹²

The close cultural links shared by residents of the region (particularly the region of the border encompassing the state of Chiapas and Northern Guatemala) lend themselves to the history of transborder migration and informal commerce that has long-characterized and played an important role in the region. Local, seasonal cross-border migration associated with coffee cultivation dates back to the 19th century. This almost exclusively Guatemalan¹³ and predominantly male workforce enters Mexico each year to perform seasonal work on coffee, as well as banana, mango and

Women have also long participated in local cross-border migration. For instance, approximately 90 percent of all domestic workers in Tapachula, Mexico are female migrant workers from the Guatemala border region.¹⁷

The National Migration Institute (*Instituto Nacional de Migración* or INM), the branch of the Secretariat of the Interior (*Secretaría de Gobernación*) responsible for the regulation and enforcement of immigration laws, estimates that 85% of all crossings over Mexico's southern border are made by residents of local Guatemalan or Belizean communities.¹⁸ However, many of these crossings and activities are conducted without official papers, either due to a lack of awareness, mechanisms or means to obtain such documents.¹⁹ Acknowledging concerns regarding the prevalent use of fraudulent documents at the southern border, the Mexican government has stated that it plans to implement a program

River Crossings

Cross-border ties and informal commerce are evident in cities like Ciudad Hidalgo, Chiapas, Mexico, which is divided from Tecún Umán, Guatemala by the Suchiate River. Here you see Mexicans and Guatemalans crossing the river using “*cámaras*,” improvised rafts fashioned from inner tubes and wooden platforms. Operators maneuver across the river using tall poles to deliver people and goods like toilet paper, fresh vegetables, beer and eggs across the river. In Ciudad Hidalgo, these river crossings occur within a short distance an international bridge and port of entry. During an October 2007 trip to Ciudad Hidalgo, operators told LAWGEF that they charge the equivalent of 10 to 15 pesos (1 - 1.50 USD, approximately) to cross the river by “*cámara*,” and more, up to 40 - 50 pesos (4-5 USD, approximately), during rainy season. Occasionally, people swim across the river. Operators also told LAWGEF that officials seldom intervene in these crossings.

starting in March 2008 giving identification cards with electronic chips to temporary workers and local visitors.²⁰

Available data indicates that there are currently 13 official ports of entry at Mexico’s southern border: 9 in Chiapas, 2 in Tabasco and 2 in Quintana Roo,²¹ as well as tens of additional unofficial crossing points. According to a 2005 INM report, approximately 50 INM agents staff these entryways and approximately 215 additional INM agents carry out migration control exercises, including the use of checkpoints on highways in the interior of the southern border states.²² In 2004, the INM estimates that there were a total of 1,830,000 entries into Mexico over its southern border, 78% of which were documented entries.²³

Layered on top of traditional regional movement, non-local migration has taken root and expanded over the past thirty plus years, dramatically changing the character of migration in the border region. An early sign of changes to come arrived in the 1970s and early 1980s when a new group of Central American migrants began fleeing over Mexico’s southern border to escape civil war and associated economic, political and social upheaval.²⁴

War, Disaster and Economics: Drivers of Changed Regional Migration

The civil wars in Guatemala, as well as Nicaragua and El Salvador, had broad-reaching economic, political and social effects that radically altered migration dynamics at Mexico’s southern border. An estimated 200,000 Guatemalan refugees fled across the border into Mexico to escape their country’s civil war in the 1980s.²⁵ In the case of El Salvador, the trend of northward migration can be seen in the dramatic growth of Salvadorans in the United States in the war-torn 1980s: in 1979, there were 50,000 Salvadorans living in the United States; 10 years later, there were more than a million.²⁶

As the armed conflicts in Central America ended, the migrating population at Mexico’s southern border shifted from political refugees to migrants fleeing poverty, underemployment, crime and violence, and devastation caused by an unrelenting series of natural disasters, including Hurricane Mitch in 1998, the Salvadoran earthquake in 2001, and Hurricane Stan in 2005.

Due to its inherently clandestine nature, undocumented migration is virtually



Goods and people crossing Suchiate River, dividing Tecún Umán, Guatemala from Ciudad Hidalgo, Chiapas via improvised rafts. Photo: Author

impossible to quantify. For this reason, it is difficult to measure the precise number of undocumented migrants who pass through Mexico. However, the growth of this flow can be deduced as Mexico's deportations of Central Americans have steadily increased each year since the late 1990s.²⁷ Additionally, the number of Central American (specifically from Guatemala, Honduras, El Salvador and Nicaragua) migrants detained in Mexico grew substantially from 144,216 in 2001 to 225,928 in 2005.²⁸ Detention figures may be somewhat misleading as many migrants report having been detained and deported on multiple occasions in their journey north, some as many as 16 times.²⁹ Similarly, the number of Hondurans, Guatemalans, Salvadorans and Nicaraguans apprehended by the U.S. Border Patrol increased substantially between 2002 and 2005.³⁰ While these are rough measures, they indicate the increasing level of migration across the southern border.

Although Central Americans comprise over 90 percent of all INM detentions, extrare-

gional migrants from Cuba, Brazil, Asia, and elsewhere also cross Mexico's southern border with the goal of continuing northward to United States-Mexico border. For this reason, academics and officials, including Mariano Herran Salvatti, general prosecutor of the state of Chiapas, have noted that Mexico's southern border has been dubbed the "third border of the United States."³¹

In recent years, there has been a notable increase in the number of Central American women and children migrating, primarily for reunification with family members already living in the United States.³² While the INM does not currently break down national migration statistics by sex, it estimates that approximately 20 percent of undocumented migrants transiting through Mexico are women.³³ This is consistent with statistics generated from interviews at the Mexico City Detention Center that indicate that between 2003 and 2005, the percentage of female migrants increased from 16.7 to 21.3 percent.³⁴ The interviewers also found that most female migrants were young: of those inter-

Children and Migration

Children, especially those traveling unaccompanied, are extremely vulnerable to abuse when migrating. Of approximately 200,000 Central Americans returned to their countries of origin from Mexico in 2004, approximately 17 per cent were minors, most were traveling unaccompanied and many were returning for the second, third or fourth time.³⁶ Nongovernmental organizations and academics note an upward trend of minors migrating without a parent, attributing this change to enhanced enforcement measures implemented on the U.S.-Mexico border which have disrupted circular migration patterns.³⁷ Some parents residing in the United States who used to make the trip down to Central America to retrieve their children are now hiring smugglers to transport their minor children to the United States.³⁸ Other children embark on this dangerous journey alone. Nongovernmental organizations and the media have noted that it is not unusual to see children as young as 9 years old making the journey northward unaccompanied.³⁹ Most of the children migrating through Central America and Mexico to the United States do so for reasons of family reunification.⁴⁰

viewed, 46 percent were younger than 24 years of age and approximately 70 percent were between 18 and 29 years of age.³⁵

In summary, the face of migration on Mexico's southern border has changed over the past few decades. While historic regional migration persists, it has now been overlaid by an increasing level of Central American migration driven first by war, then natural disasters, economics, crime and violence. Migrants confront many serious challenges as they move north across the border. These challenges will be discussed in the next section of this report.

Migration Across the Southern Border: A Dangerous Journey

Traveling with cash for their journey with relatively few contacts in an unfamiliar country, migrants are highly vulnerable to abuse during their travels north, especially in the southern border region. Thugs, gangs, petty thieves, opportunists, smugglers, traffickers, INM and other federal, state and municipal authorities all take

advantage of and abuse migrants' vulnerable position. The Albergue Belén, a migrant shelter in Tapachula, Chiapas run by the Scalibrini fathers, reported that during the first half of 2004, it recorded approximately 2,000 human rights violations committed against migrants.⁴¹ The most common types of abuses reported include extortion, robbery, assault, verbal threats, sexual assault and rape, document destruction and irregular detention.⁴²

Although abuse of migrants by criminals, gangs and thugs is commonplace, exploitation by unscrupulous, corrupt or ignorant authorities is rampant and particularly problematic. Although these officials are ostensibly responsible for preserving the law, some have suggested that migrants who come to Mexico have "more fear of the police than of criminals."⁴³ A group of nongovernmental and academic institutions, including the *Facultad Latinoamericana de Ciencias Sociales* (FLACSO), interviewed 1,003 undocumented Honduran, Salvadoran, Guatemalan and Nicaraguan U.S.-bound migrants in Saltillo, Coahuila in 2005 and

“Perhaps the gravest human rights violations against migrants occur at the southern border.”

– José Luis Soberanes Fernández, President of the National Human Rights Commission

2006. Of the 1,558 abuses reported by this pool of migrants, the majority were reported to have been committed by municipal, state or federal authorities, from the INM to local police to the military.⁴⁴

Extortion is one of the most common practices reported, with authorities requesting monetary or sexual bribes from migrants to avoid detention. Accounts of extortion by federal, state and municipal authorities abound, which is unsurprising as many migrants report having paid bribes to five or six officials as they cross into Mexico.⁴⁵ Regional human rights advocates described to LAWGEF instances in which municipal police illegally detain migrants until the migrants’ families in their home countries paid the bribe necessary to avoid being turned over to INM. Anecdotal reports of migrants crossing the Guatemala-Mexico border in the area near Ciudad Hidalgo report being extorted by members of the Mexican military for sums between 50 and 500 pesos (approximately 5 – 50 USD) per person.⁴⁶

As part of an effort to fight corruption, Grupo Beta, a “humanitarian” branch of the INM that patrols the border region unarmed with the goal of protecting migrants’ rights and safety, has begun distributing literature to migrants to raise awareness regarding how to avoid being extorted.⁴⁷ The first unit of Grupo Beta was established in Tijuana in 1990, but later expanded to Mexico’s southern border in 1996 after criminals began to target clusters of migrants waiting for trains to carry them northward. The southern branch of Grupo Beta has approximately 45 agents in offices in Acayucan, Veracruz; Tenosique, Tabasco; Comitán, Chiapas; and Tapachula, Chiapas. Despite Grupo Beta’s constructive efforts, nongovernmental organizations have



Cautionary poster in the Tenosique, Tabasco Grupo Beta Office. Photo: author

raised concerns that their resources are inadequate to be truly effective against the widespread violence and abuse perpetrated against migrants.

Although Grupo Beta itself enjoys a positive reputation, academics and civil society organizations have disconcertingly noted that corruption and associated abuse is widespread within the INM.⁴⁸ Among a pool of migrants deported from Mexico and delivered to Guatemalan authorities who were interviewed by the Human Rights Commission of Guatemala (*Procuraduría de Derechos Humanos de Guatemala*), 25 percent reported being victims of abuse. Twenty-six percent of those abuses were reported to have taken place in Guatemala, 74 percent in Mexico. The authority most often cited

as perpetrator of these abuses and human rights violations—47 percent of all incidences—was the INM.⁴⁹ In another study, researchers noted that INM agents extorted significant sums of money from migrants in exchange for allowing them to avoid detention and continue their journey north.⁵⁰

Thugs, gangs, criminals and ruthless smugglers also prey on the vulnerability and desperation of migrants. Collusion between these groups and municipal, state and federal authorities is a serious problem. Repeatedly, governmental authorities have been accused of collusion with traffickers and smugglers, as evidenced by the very low number of smugglers (*polleros*) and traffickers who have been prosecuted for their crimes.⁵¹ The Tapachula-based Human

summarizing interviews conducted with Central American women detainees in an immigration detention facility in Mexico City, half reported that they had been victims of extortion. State highway police, municipal police and INM agents, as well as civilians who threatened to turn them over to authorities if they refused to pay, were cited as the main perpetrators of extortion. Women stated that they had paid between \$10 and \$100 per incident, with some women paying between 5 and 20 times before being detained. Although researchers stated that many women were reluctant to discuss assault, approximately one-quarter reported sexual or physical assault, including rape by train security guards, as “compensation” for transportation by smugglers, or in

Rape and sexual coercion to avoid detention by authorities, criminals and smugglers is so commonplace that many female migrants report taking birth control pills prior their departure to avoid pregnancy.

Rights Center Fray Matías de Cordova has publicly denounced authorities, including INM agents, of colluding with smugglers to allow trucks filled with undocumented to pass “undetected” in exchange for large sums of money, from Ciudad Talisman, on the border with Guatemala, up to Arriaga, Chiapas, near the border with Oaxaca.⁵² A 2006 U.S. Department of State report noted that a judge issued arrest warrants for seven INM agents in connection with their participation in a human smuggling ring, although none were ever charged.⁵³ Inadequate resources, capacity and political will have further undermined the efforts of local police and other authorities to apprehend criminals who prey on migrants.

Female Migrants

Female migrants are particularly vulnerable to abuse. According to an article published by the Migration Policy Institute

exchange for avoiding detention by authorities. Although civilians were named as perpetrators in these assaults, law enforcement, immigration or security forces were cited in the majority of cases.⁵⁴

Despite widespread abuse, many migrants—male and female—do not denounce their abusers, especially if presented with an option to pay a bribe and continue on with their journey northward.⁵⁵ Many fear that calling attention to themselves and their undocumented status will result in reprisals or deportation, instead of redress for the abuses they have suffered.⁵⁶ Some migrants are also unaware of their rights and how to file a complaint. As many Central American migrants are deported within relatively shortly after being detained, there is little opportunity to report violations. Yet, low levels of reporting human right abuses preclude stakeholders from gaining a full picture of the scope and



gravity of the problem. This, in turn, inhibits reform. As the United Nations Special Rapporteur Gabriela Pizarro states, “one of the main obstacles to remedying violations of the human rights of migrants consists in the lack of information regarding the type of violations, the places where they occur and their characteristics.”⁵⁷

Human trafficking and forced prostitution have reached alarming levels in Mexico’s southern border region, especially Tapachula and its environs.⁵⁸ Unfortunately, female migrants are often victims, tricked and trapped by organized crime and human traffickers,⁵⁹ or robbed of documents and money that can only be recuperated through prostitution. According to a report by the organization ECPAT (End

region over the past 10 years, from a field of almost exclusively undocumented Central American women, to younger women and minors, including young teens and children.⁶³

Until recently, because there was no specific law that prohibited human trafficking, a variety of federal and state statutes had to be utilized to prosecute trafficking crimes. However, pressure from domestic and international nongovernmental organizations has resulted in legislative advances. In late 2007, new federal legislation that aims to prevent and penalize human trafficking, as well as assist victims, “*la Ley para Prevenir y Sancionar la Trata de Personas*,” was passed by Congress.⁶⁴

To travel by train is more dangerous, but it’s free. You can be assaulted by gangs, detained by the police or kidnapped by thugs... some fall asleep and fall off the train, lost a leg or an arm, some lose their lives.

Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), if a woman is not able to cover costs associated with being smuggled, the smuggler may sell her off to a brothel to “recover expenses” and make a profit.⁶⁰ In a 2006 U.S. Department of State human rights report, young female migrants recounted being robbed, beaten and raped by criminals and gangs and then being forced to work in bars or as prostitutes under threat of further harm to them or their families.⁶¹

The Tapachula area is also a destination for children trafficked from Central America, with brothel owners trafficking hundreds of Central American minors into prostitution with almost complete impunity.⁶² Immigration scholar Rodolfo Casillas notes a disturbing shift in the population of prostitution and commercial sex workers in the southern Mexico border

Unfortunately, the human rights abuses that migrants suffer heading north may continue even after Mexican officials have officially detained them. The Mexican National Human Rights Commission and Mexican nongovernmental organizations have documented grave violations committed against detained migrants at *estancias migratorias* (migrant detention facilities), including: excessive force; beatings; robbery; assault; impeding migrants’ access to legal services or assistance; severely unhygienic conditions; insufficient separation of men, women, families and minors; denying medical treatment; severe overcrowding; denying migrants the opportunity to communicate with their consulate; and cruel treatment, including the use of isolation for extended periods of time.⁷¹

The plight of the migrants crossing the southern border is compounded by the role of authorities in perpetrating abuses

Migrating North on the “Death Express”

Called the “death express” or “the beast” due to the dangers experienced by migrants,⁶⁵ travel by freight train has nevertheless been viewed by many impoverished migrants as a form of “public transportation.” In many cases, hundreds of migrants ride a single train, on top of cars, clinging to its ladders or hiding in freight cars. Such train travel has led to hundreds of deaths, losses of limb and other injuries each year when migrants who fall or have been pushed off moving trains and fall under their wheels. In the past five years, 291 undocumented migrants from Guatemala, Honduras, El Salvador and Nicaragua were mutilated in train-related accidents.⁶⁶ Additionally, migrants traveling by train are highly vulnerable to robbery, assault, extortion, and rape and sexual assault at the hands of gangs, criminals, private train security and federal and state authorities, among others.

Until it withdrew from its 30-year concession in July 2007, the U.S.-owned Genesee & Wyoming, Inc. owned the rights to two rail routes in Chiapas frequently used by migrants to travel north—one that traveled from Tapachula up the Pacific coast towards Arriaga and Oaxaca, and a second that ran near Tenosique, Tabasco, linking the Yucatan Peninsula with the state of Veracruz.

In 2005, Hurricane Stan destroyed bridges and miles of train track, spurring the Genesee & Wyoming to cease operations on the Pacific coast line. Unaware that the trains were no longer running, migrants continued along set routes that brought them to the line, where months earlier they would have been able to catch a freight train north. By 2006, in response to the closure of Genesee & Wyoming’s Pacific coast line, the number of migrants using its eastern rail line near Tenosique, Tabasco as a starting point to travel north to the United States had dramatically increased. However, in July 2007, when the company terminated operations on this line, migrants found themselves stranded in similar straits. By mid-August, up to 6,000 migrants were stranded in this region encompassing the Tabasco municipalities of Tenosique, Balancán, and Macuspana. Responding to the large number of migrants, INM officials, working in collaboration with the Mexican military and other municipal, state and federal authorities, carried out operations to detain and deport hundreds of stranded migrants.⁶⁷ Statements made to LAWGEF by local advocates indicate that the municipal police and other authorities utilized excessive force in their efforts to round up migrants.

The Mexican National Human Rights Commission has stated that the absence of the trains has made migrants in the southern border region even more vulnerable to a wide range of abuses.⁶⁸ However, it appears that the lack of trains has not dissuaded migrants from crossing the border and heading northward.⁶⁹ Encountering no train when they cross the border, some migrants attempt to walk hundreds of kilometers northward from Tenosique towards Coatzacoalcos or Tapachula to Arriaga, traveling down isolated stretches of train track or in remote areas, vulnerable to attack by gangs of thugs who prey on migrants. Others pay a smuggler to transport them by mini-bus or hidden in a compartment or under cartons of fruit of a trailer truck, risking possible asphyxiation or car accident. According to migrants, smugglers have reportedly taken further advantage of migrants by increasing smuggling fees from \$5,000 to \$7,000.⁷⁰



against them ranging from extortion to rape. Some of this grave misconduct is a reflection of fragility of the rule of law that pervades Mexican society. But some of the misconduct is a result of fundamental flaws in the legal framework that dictates Mexican immigration law and policy. The next section of this report will review these problems in more detail.

Mexican Migration Law Enforcement and Policy

Mexican immigration and enforcement policy is governed by the *Ley General de Población* (LGP, or General Population Law). The LGP was first enacted in 1974 and the latest regulations were published in 2000. Although unauthorized entry into Mexico is deemed to be “illegal” and can result in imprisonment, fines and deportation,⁷² the sanctions for unauthorized entry into Mexico are considered administrative, not criminal, under the LGP.

However, many human rights organizations, as well as politicians, have raised concerns that the harsh LGP penalties associated with unauthorized entry are essentially criminal in nature and contribute to an environment that encourages corruption. A statement published in the Mexico’s Official Journal of the Federation (“*Diario Oficial de la Federación*”) on April 25, 2007 and endorsed by members of all three major political parties states that the penalties associated with undocumented migration “create fertile ground for harassment and corruption on the part of some authorities.”⁷³ Nongovernmental organizations attribute the threat of incarceration, fines and deportation as inhibiting migrants from coming forward to report abuse.

The LGP and accompanying regulations dictate that only the National Migration Institute (*Instituto Nacional de Migración* or INM) and the Federal Preventative Police (*Policía Federal Preventiva* or PFP) are

charged with carrying out and enforcing Mexican immigration policies. Authorization for other authorities to collaborate with immigration officials must be confirmed in writing.⁷⁴ Nevertheless, municipal, state and federal entities regularly engage in verification, apprehension and control activities without authorization.⁷⁵ In too many cases, these unauthorized activities conducted by poorly paid frontline officials reportedly lead to the extortion of the migrants involved. Similarly, private security companies, especially those working for the railway, have reportedly attempted to enforce immigration law, verify status and detain migrants, threatening to hand them over to INM or other authorities unless bribes were paid.⁷⁶

The diffuse number of agencies indiscriminately engaging in immigration control and exploiting this already vulnerable population has become such a problem that the Mexico’s National Commission for Human Rights (Comisión Nacional de Derechos Humanos, or CNDH) issued a recommendation in 2006 stating that the Secretaries of State and the Federal Investigation Agency (*Agencia Federal de Investigación* or AFI) should instruct public servants to abstain from carrying out migrant verifications and detentions unless their collaboration is explicitly requested by the INM or PFP.⁷⁷ While the INM and the PFP have committed abuses against migrants, vigorously restricting immigration control responsibilities to these two entities would help to create an environment where accountability, oversight, and reform are possible.

In Mexico, most immigration enforcement activities take place in the interior. Unlike the United States, Mexico has not deployed significant physical infrastructure aimed at deterring entry over its southern border (i.e. fencing). In fact, the majority of detentions take place inland at the numerous roadblocks that cross routes taken by migrants or in special patrol operations.⁷⁸ Particularly since 2002, these efforts have been heavily focused in the area between the southern border and the Isthmus of



The rural backdrop of Mexico's border region, 2 kilometers from the border towns of Ciudad Talismán, Chiapas & El Carmen, Guatemala. Photo: Author

Tehuantepec, the narrowest part of the country—approximately 125 miles from coast to coast—located approximately 200 miles north of the southern border.

Detention Facilities

In the last decade Mexico has significantly increased efforts to identify, detain and deport unauthorized migrants. Accordingly, the number of immigration detention centers, referred to as *estancias migratorias* or migrant stations in Mexico, increased between 2002 and 2006 to 52 with the construction of seven new centers. Two more are currently under construction and 11 additional facilities are reported to be in the planning stages.⁷⁹

As required by the Mexican Constitution, Mexico draws a distinction between detention facilities for those being

detained for having committed a crime and detention facilities for those being detained for having violated Mexican immigration law (e.g., entering without proper documents).⁸⁰ This means that when referring to migration matters, Mexico uses specific terminology to avoid the appearance of criminalizing migrants and migration: “*asegurar*” (secure) instead “detain” and “*estancias migratorias*” (migrant stations) instead of the term “detention centers.” However, these may be distinctions without a difference for detained migrants. Although “*estancias migratorias*” are supposed to be separate and distinct from facilities in the criminal prison system, the INM detention facilities share many of the same characteristics of jails; bars, a cells, locks, and cement blocks for beds. Moreover, many of the problems that plague Mexico’s criminal prison facilities – inhumane conditions,



human rights violations, lack of access to medical care – also pervade its immigration detention facilities.⁸¹

Zedillo, Fox and Calderón on Migration and Human Rights: Rhetoric versus Reality

In a 1996 speech given in Tijuana, Baja California, President Zedillo stated that he was ashamed of how Mexico had treated Central American migrants and that Mexico will “only have the moral authority to continue denouncing with United States government for the abuses that our co-nationals have suffered if we are capable of avoiding all types of violations

In the context of these U.S.-Mexico bilateral discussions, then Mexican Secretary of the Interior (Gobernación) and government spokesman Santiago Creel traveled to Washington, D.C. for meetings with U.S. Secretary of State Colin Powell in April 2001. At that time, Creel said that Mexico could implement tighter enforcement on the Mexico-Guatemala-Belize border: “In exchange for greater facilities for Mexicans working in the US, our government is prepared to increase measures aiming to arrest foreigners crossing the country heading for the US.”⁸⁴

The pressure placed by the United States government on Mexico to overhaul its southern border strategy was subtle. Few,

“We can’t treat the people who pass through our country like criminals: because they are our brothers, we can’t see them as enemies. Just as we ask for humane treatment of Mexicans in the United States, we too need to respect the rights of all.”

– Bishop Felipe Arizmendi Esquivel of San Cristobal de las Casas, Chiapas

committed against Central Americans in our country.”⁸² Following President Zedillo, Presidents Fox and Calderón have made similar lofty expressions of concern regarding the need for Mexico to treat Central American migrants justly and fairly, at least in part to provide Mexico with the moral authority needed to denounce abuses suffered by Mexicans in the United States and demand fair treatment for them.⁸³ However, rhetoric has not been fully matched by reality.

In the months following his inauguration in 2000, President Vicente Fox met with President Bush and members of his administration to discuss immigration reforms that Mexican officials hoped would secure legalization for some of the millions of Mexican nationals working without documents in the United States.

if any, clear demands of Mexico were publicly made by the United States to fortify its southern border. Nevertheless, in June 2001, a few short months after Secretary Creel’s statement, President Fox announced implementation of *Plan Sur*, an “unprecedented” governmental effort aimed at halting the north-bound flow of migrants, drugs, and arms from Central America⁸⁵ through expanded enforcement activities at the southern border and in the border region south and east of the Isthmus of Tehuantepec, including road blocks and increased military participation in interdiction efforts.⁸⁶ Some *Plan Sur* program objectives that sought to mitigate the increased enforcement impact included increasing funds for Grupo Beta to aid migrants, reducing gang activity in the border region, and halting abuses perpetrated by Mexican authorities against

INM's Integration into the National Security System of Mexico: *Moving towards a national security immigration model*

In 2005, during President Fox's tenure, the INM was integrated into the National Security System of Mexico (*Sistema de Seguridad Nacional de Mexico*), joining the Department of Public Security, Internal Revenue & Finance, Public Administration, Foreign Relations, the Attorney General's office, and the General Director of the Center for Investigation and National Security (CISEN). The inclusion of the INM in this body emulates the U.S. model of including the agencies responsible for immigration regulation and enforcement within the Department of Homeland Security. With Mexico making this transition, it conveyed a message that migrants were a threat to national security, a surprise to many advocates as it was seemingly contradictory to President Fox's repeated comments that he was interested in addressing immigration in a comprehensive manner and fighting for the rights of migrants.⁹⁵

migrants. However, these associated efforts were critiqued as superficial and insufficient to adequately protect migrants' rights in the face of stepped up enforcement. To make it more difficult for deported immigrants to re-enter Mexico, the governments of Mexico, Guatemala and the United States developed plans to send Central American immigrants back to their home countries, rather than depositing them all on the Guatemalan side of the border.⁸⁷

Unsurprisingly, the United States supported these expanded efforts to stem the northward flow of migrants.⁸⁸ But critics questioned the human rights impact and the motivation behind the increased enforcement efforts on the southern border. United Nations Special Rapporteur Gabriela Pizarro expressed concern that this increased enforcement effort could have a negative impact on the rights of Central Americans, as well as Mexican nationals, migrating north.⁸⁹ Mexican advocates also expressed concern that Mexico's efforts to replicate U.S. border security measures would push migrants into crossing in more remote and dangerous regions, increasing migrant deaths and human rights abuses.⁹⁰ Somewhat paradoxically, President Fox had made the same argument when he asserted

that U.S. migration policies and security efforts on the U.S.-Mexico border had failed to reduce unauthorized migration, but had also made migrants more dependent on smugglers, creating a "fatal black market in migration."⁹¹

Sectors of Mexican civil society and academics asserted that these efforts to thwart Central American migration were primarily a gesture to the United States.⁹² In the words of academic Juan Manuel Sandoval, the Mexican government was "recreating the U.S. border control model in operation on the northern border."⁹³ Confronted with accusations that Mexico was implementing hypocritical policies, then commissioner of the INM Felipe Preciado stated, "We're trying to catch them because it's good for Mexico, but I also know very well that our efforts are of great benefit to the United States."⁹⁴

Admittedly, piecemeal efforts have been made to curb Mexican authorities' abuses of migrants. For instance, in 2002, during his tenure as the commissioner of the INM, Felipe Preciado took steps to address the corruption problem rampant in the agency by replacing 94 percent of the state supervisors and dismissing approximately



20 percent of the INM's employees. He also created a special prosecutor's office, the *Fiscalía Especial de Asuntos Migratorios*, tasked with combating abuse and impunity within the agency. Nongovernmental organizations stated that these efforts did not sufficiently change the climate of violence and impunity in the border region.⁹⁶ Unfortunately, his efforts do not appear to have had a lasting effect and as discussed earlier in this report, human rights violations against migrants by Mexican authorities, in particular the INM, persist.

President Calderón has continued to promote U.S.-style southern border enforcement policies. Shortly following his inauguration in December 2006, one of President Calderón's first trips was to Chiapas where he stated that the federal government would start cracking down on unauthorized Guatemalans living in Chiapas, enhance overall security in the border area, and create a local security force.⁹⁷ As part of these efforts, in December 2006, President Calderón and Chiapas Governor Juan Sabines set up the Border State Police Force (*Policía Estatal Fronteriza* or PEF), comprised of police from the *Fiscalía del Estado*, the Secretariat of Public Security (*Secretaría de Seguridad Pública*) and municipal police from the region. The force would start off with 645 officers and aims to combat crime in the border region.⁹⁸ Since January 2007, AFI, PFP and INM have had mobile checkpoints in the coastal area of Chiapas.⁹⁹ Human rights organizations have expressed concern that detaining migrants is not rightfully under the jurisdiction of the PEF and that the role of the PEF remains ambiguous, especially in relation to immigration enforcement and other federal matters.¹⁰⁰ However, in the same speech, President Calderón expressed that his administration's goal was to "secure the border while guaranteeing human rights for everyone."¹⁰¹

Like Zedillo and Fox, President Calderón appears to fail to see the paradox between his proposals and their implications in the

absence of reforms and measures to protect migrants: "Just as we demand respect for the human rights of our countrymen, we have the ethical and legal responsibility to respect the human rights and the dignity of those who come from Central and South America and who cross our southern border," Calderón said during the presentation of human rights awards to several Mexican activists. "Migrants from Central America and South America who cross through our national territory also suffer abuses, extortion and are victims of crime, many times with the complicity of authorities."¹⁰² Despite this rhetoric, human rights abuses against migrants persist.

For instance, the administration's new detention center regulations reflect the disconnection between Calderón's rhetoric and policy choices. The new regulations were purportedly designed to reduce the risk that migrants will be taken advantage of by parties claiming to be their advocates. However, in practice these regulations have limited the ability of migrant advocacy groups and clergy to communicate with detainees and provide legal advice and support. Additionally, the new regulations give migrant detention center employees the authority to deny the migrants access to visits or isolate them from other detainees for as long as 40 days.¹⁰³ There does not appear to be any justifiable rationale for the policy or the discretion it grants to station employees. According to Edgar Cortez, from the National Network of Civilian Human Rights Organizations "All rights for everyone," (*Red Nacional de Organismos Civiles de Derechos Humanos "Todos los derechos para todos"*), the new regulations "would seem to be a strategy to further limit visits to detention centers and the monitoring of their conditions."¹⁰⁴

Calls for Reform

Of course, to address the larger context in which abuses against migrants take place, measures must be taken to overhaul the United States' broken immigration system and address the economic forces that

Merida Initiative

In October 2007, President Bush announced that he was sending to Congress a counternarcotics, organized crime and border security aid package that would include \$500 million for Mexico the first year, and a total of \$1.4 billion over the course of the next three years. This “Merida Initiative,” presented as a supplemental appropriations bill that also included \$50 million for Central America, has not been approved by the Congress as of the date of this report. As the package was unveiled, human rights advocates raised concerns regarding this funding in light of Mexican President Felipe Calderón’s strategies for addressing drug trafficking and related violence, especially his extensive use of the military in these efforts. Soldiers are not trained for domestic law enforcement and should not take over policing roles, even in cases where, as in Mexico, police are tainted by corruption and impunity; instead, this highlights the need for substantial police reform and increased accountability.

The proposed package’s incorporation of funding for human interdiction and border security operations raises red flags for migrants’ rights advocates due to the pervasive and well-documented problems of human rights abuses associated with such activities in Mexico. Approximately 60 million dollars was included in the proposed package for the Customs Service and Secretariat of Public Security (*Secretaría de Seguridad Pública* or SSP) to support efforts to detect and intercept “illicit” migrant flows throughout the country, efforts that would be coordinated with similar interdiction activities conducted by the Secretariat of National Defense (*Secretaría de la Defensa Nacional* or SEDENA) at interior checkpoints.¹⁰⁵ This raises questions regarding the scope of the army’s role in interdiction efforts, as well as concerns that this support may expand the engagement of the army these operations, continuing the flawed and dangerous framework of using the military for domestic interdiction efforts.

As human rights abuses are far too often associated with immigration control activities, it is critical that safeguards be put in place to ensure that this increased human interdiction and immigration enforcement capacity does not further exacerbate the precarious situation facing migrants. Given that abuse of migrants reflects the larger lack of respect for the rule of law in Mexico, expanded immigration enforcement capacity without accompanying improvements in accountability and oversight mechanisms risks further undermining the rule of law. This will carry consequences not just for migrants whose human rights are abused, but Mexican society overall. Given the significant sum of funds allocated towards human interdiction, correspondingly significant improvements to accountability and oversight mechanisms need to be included, both in terms of programs funded and in terms of conditions attached to this funding.

Fortunately, the Merida Initiative also includes substantial funding for constructive programs to strengthen the rule of law. Some of the potentially positive funding includes programs to strengthen prosecutorial and investigative capacity for justice sector and law enforcement agencies, human rights training, and the establishment of citizen complaint centers. Specifically for migrants, the

package includes support for “search and rescue equipment to assist Mexican immigration authorities in rescue operations along Mexico’s southern border.”¹⁰⁶ To improve mechanisms that protect the rights of migrants, several programs outlined in the Merida Initiative that aim to engage the broader public in reporting crime, expand professionalization and human rights trainings for police and prosecutors, and develop programs to combat corruption and protect crime victims and witnesses should be designed and implemented in a manner that incorporates the needs and concerns of migrants.

drive Central American as well as Mexican migration. However, even in the absence of progress of these more durable solutions, targeted and discreet measures can help to protect the human rights of migrants

Mexican human rights organizations have called for reforms that would square the rhetoric of recent administrations with actual migration policy. More specifically, these groups have called for an overhaul of the General Population Law, arguing that Mexico needs to provide the framework to grant its own migrants the same fair treatment that it demands for Mexicans living abroad. Human rights organizations, including the CNDH and Foro Migraciones, have called for the repeal of penalties associated with undocumented entry, arguing that these penalties “criminalize undocumented migration,” and therefore increase the vulnerability of migrants.¹⁰⁷ Reforms along these lines have been introduced in the Mexican Congress and passed in the Chamber of Deputies (*Cámara de Diputados*), but not the Senate.¹⁰⁸

In 2006, legislators, academics, civil society representatives, and federal authorities, including the INM, established a working group and developed a document, “Mexico and the Migration Phenomenon,” outlining the broad principles that should shape Mexico’s immigration policy. Idealistically, it states that Mexico must develop and enforce

migration laws and policies “with full respect for the human rights of migrants and their relatives, regardless of their country of origin or documentation status, as well as safeguard the border under the shared principles of human rights.”¹⁰⁹

The Mexican Congress is expected to consider reforms to the General Population Law (LGP) by the end of 2008. Although these reforms are critical, they are merely one piece in the puzzle and their effect will be limited without strong steps taken by the INM, as well as other federal, state and municipal law enforcement authorities, to combat corruption and hold abusive authorities and criminals accountable for their actions.

Of course, numerous challenges face Mexico in its efforts to reduce human rights abuses perpetrated against migrants. However, the issue also presents an opportunity. Addressing the problems that migrants confront can improve not just them, but the situation all of Mexicans. Domestically, it could help foster greater respect for the rule of law, combat corruption, and foster confidence in the effectiveness of governmental institutions. Internationally, the situation at Mexico’s southern border provides the country with an opportunity to develop and implement the model policies that they would like to see for Mexicans abroad and in particular, those Mexicans currently living undocumented in the United States.

Policy Recommendations

To the Mexican government:

- Adhere to the National Commission for Human Rights' (*Comisión Nacional de Derechos Humanos* or CNDH) recommendations regarding fair treatment of migrants and in particular, General Recommendation 13 (*Recomendación General 13 Sobre la Práctica de Verificaciones Migratorias Ilegales*) concerning the unauthorized document verification exercises and detention of migrants by diverse municipal, state and federal authorities other than the National Migration Institute (*Instituto Nacional de Migración* or INM) and the Federal Preventative Police (*Policía Federal Preventiva* or PFP).
- Federal and state attorney general's offices should aggressively investigate allegations of abuse against migrants by law enforcement agencies and security forces, prosecute meritorious cases, and punish those found guilty to the fullest extent of the law. Special attention should be paid to cases involving extortion and sexual and physical assault.
- Expand material support and personnel for under-resourced Grupo Beta.
- Ensure that human rights groups, clergy and lawyers have unfettered access to facilities to meet with INM detainees.
- Take steps to improve conditions in the migrant detention facilities, including by training detention center personnel in human rights and appropriate protocol. The INM should develop and post signs that are clearly labeled and easily visible to detained migrants and the public in each detention facility with information regarding legal detention-related standards and practices, and anonymous abuse reporting procedures.
- The Secretariat of the Interior should collaborate with appropriate

counterparts in the governments of Guatemala, Honduras, El Salvador and Nicaragua to initiate public information campaigns aimed at orienting the public regarding the human rights of migrants, resources available to transmigrants and victims of trafficking in Mexico, and abuse reporting procedures.

- Expand training in the area of human rights for the INM, PFP and law enforcement agencies and officials whose collaboration with the INM and PFP may be formally requested. Additionally, develop metrics to examine if this training qualitatively improves the protection and respect of migrants' human rights.
- Provide training to allow for the full implementation of the newly enacted anti-trafficking law for agencies that will prosecute cases as well as those that give assistance and protection to victims. This includes appropriate agencies within the Secretariat of Health (*Secretaría de la Salud*), the Secretariat of Public Security (*Secretaría de Seguridad Pública* or SSP), and Office of the Attorney General (*Procuraduría General de la República* or PGR). As the federal law will be applied only in cases involving organized crime, urge states to create their own legislation and develop programs to assist and protect victims.

To the U.S. government:

- Ensure that U.S. funding does not support or appear to endorse the use of the Mexican armed forces for immigration control activities in the Mexican interior.
- As U.S. resources for Mexican border enforcement increase, strengthen diplomatic efforts and oversight mechanisms to ensure that human rights abuses by law enforcement agencies against migrants and Mexican citizens are investigated and prosecuted.

- Ensure that funding for border enforcement is targeted to the appropriate law enforcement agencies, the INM and PFP.
- Support programs that promote and protect the rights of migrants, such as activities by Grupo Beta to provide humanitarian assistance to migrants along the southern border.
- Support programs that combat corruption, such as the strengthening of the PGR's office of the Inspector General and SSP's Office of Professional Responsibility, as proposed in the Merida Initiative, to reduce incidents of abusive behavior by police and judicial authorities who have contact with migrants.
- Expand the scope of programs targeted for funding in the Merida Initiative or future aid programs to incorporate the concerns of and help protect vulnerable populations, including migrants. Human rights training for police and prosecutors, witness and victim protection, and public education campaigns, for example, should include specialized components addressing the needs and concerns of vulnerable populations, including migrants.
- Extend outreach efforts for the PGR's citizen complaint centers included in the Merida Initiative to target and engage migrants as well as Mexican citizens.

ENDNOTES

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