



MEXICO: DEPORTATIONS TO CENTRAL AMERICA DURING THE PANDEMIC PUT THE RIGHTS AND HEALTH OF THOUSANDS OF PEOPLE AT RISK

In 2020, thousands of people from El Salvador, Honduras and Guatemala in need of international protection fled to Mexico¹ to save their lives and the lives of their loved ones and escape persecution. They were joined by thousands of others who had no option other than to emigrate because of deepening poverty and inequality as a result of the pandemic and the devastation caused by hurricanes Eta and Iota in November 2020.

The joint initiative Alianza Movilidad Inclusiva en la Pandemia (Inclusive Mobility in the Pandemic Alliance)² is concerned about the serious risks to health and to other rights of migrants and asylum-seekers from El Salvador, Guatemala and Honduras posed by Mexico's immigration policy of continuing detentions and unlawful returns to home countries in the midst of a pandemic, without sufficient measures being taken to prevent COVID-19 infection in migrant detention centres run by the National Migration Institute (Instituto Nacional de Migración, INM) or taking into account risks to their lives and health in their countries of origin.

The Alianza calls on the Mexican government, in order to abide by its international human rights obligations, to temporarily suspend, for the duration of the COVID-19 pandemic, deportations to El Salvador, Guatemala and Honduras, where people's lives and health are at risk.

Prior to 2020, international experts and civil society organizations³ had repeatedly pointed out that Mexico was failing to comply with its obligation under international law to protect those in need of international protection and was repeatedly violating the principle of non-refoulement, a binding pillar of inter-

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- 1 COMAR 2018-2020 statistical reports show that El Salvador, Guatemala and Honduras remain among the 6 countries producing the highest number of asylum applications in Mexico, available at: <https://www.gob.mx/comar/articulos/boletin-estadistico-de-solicitantes-de-refugio-en-mexico-182244?idiom=es> (Spanish only).
 - 2 Alianza Movilidad Inclusiva en la Pandemia is an initiative led by Amnesty International, the Independent Monitoring Group of El Salvador (Grupo de Monitoreo Independiente de El Salvador) and the Institute for Women in Migration (Instituto para las Mujeres en la Migración), involving more than 30 civil society organizations and hostels in Mexico and Central America. The Alianza emerged in March 2020, with the support of the Open Society Foundations, to promote the protection, non-discrimination and inclusion of health measures for migrants detained, deported or under international protection in Mexico and Central America; it advocates for an end to detention and deportation and for appropriate reception, from a gender and health perspective, in communities.
 - 3 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the third periodic report of Mexico, 2017 (CMW/C/MEX/CO/3), para. 39, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/MEX/CO/3&Lang=En Consejo Ciudadanos del Instituto Nacional de Migración, Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración [Citizens Council of the National Migration Institute, monitoring mission of National Migration Institute facilities], 2017, available at: <https://observatoriocolef.org/articulos/personas-en-detencion-migratoria-en-mexico-mision-de-monitoreo-de-estaciones-migratorias-y-estancias-provisionales-del-instituto-nacional-de-migracion/> (Spanish only) and Amnesty International, *Overlooked, under-protected: Mexico's deadly refoulement of Central Americans seeking asylum*, 2018, available at: <https://www.amnesty.org/en/documents/amr41/7602/2018/en/>. See also, Asylum Access, *El Instituto Nacional de Migración Viola los Derechos Humanos de una Mujer que por Segunda Ocasión Solicita Asilo en México* [The National Migration Institute of Violates the Human Rights of a Woman Who Requests Asylum in Mexico for a Second time], December 2019, available at: <https://asylumaccess.org/el-instituto-nacional-de-migracion-viola-los-derechos-humanos-de-una-mujer-que-por-segunda-ocasion-solicita-asilo-en-mexico/> (Spanish only).



national law, which prohibits people being returned to situations where they are at real risk of irreparable harm, such as persecution, torture, ill-treatment or other human rights violations.⁴

The violations documented include the failure of the INM to inform people about the reasons for their detention and their right to request asylum, despite express provisions for this in Mexican law;⁵ restricted access for lawyers from civil society organizations seeking to provide assistance and legal representation; as well as other procedural irregularities that, in practice, prevent people from challenging their expulsion and accessing protection in Mexico. These irregularities include, for example, deporting asylum-seekers even though they have asylum application procedures for recognition of their refugee status pending before the Mexican Commission for Aid to Refugees (Comisión Mexicana de Ayuda a Refugiados, COMAR), or getting people to sign documents agreeing to assisted return, which in practice makes their deportation possible, without explanation and sometimes even under pressure.⁶

These are not the only violations of the human rights of migrants and asylum-seekers. Depriving someone of their liberty, including immigration-related detention, should be an exceptional measure of last resort, limited to the shortest possible time and based on a case-by-case assessment of the personal situation of each individual. However, in Mexico, immigration-related detention is the automatic response and all migrants in an irregular situation apprehended by the INM are detained, even if they express their wish to request asylum. Over the years, the National Human Rights Commission (Comisión Nacional de los Derechos Humanos, CNDH) and civil society organizations have warned about the overcrowding⁷ and precarious conditions faced by migrants from Central America in Mexico and in migrant detention centres and facilities prior to their deportation, including lack of water, hygiene, adequate sanitation and ventilation, as well as lack of access to services for detainees, which constitute violations of the right to health.⁸ At least three people died in the custody of the INM in circumstances related to their detention in 2019.⁹

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- 4 In a report published in 2018 based on 500 responses from migrants and asylum-seekers interviewed during their journey through Mexico, Amnesty International documented 120 statements containing strong indications that there had been refoulement. This represented 24% of the total number of responses and 40% of responses from former National Migration Institute (INM) detainees. These statements detailed how detainees were returned to their country despite having explicitly requested asylum or expressed fear for their lives in their country of origin. Amnesty International, *Overlooked, under-protected: Mexico's deadly refoulement of Central Americans seeking asylum*, 2018, available at: <https://www.amnesty.org/en/documents/amr41/7602/2018/en/>
 - 5 Article 19 of the Ley de Refugiados y Protección Complementaria (Refugees Law and Additional Protection), available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LRPCAP_111120.pdf (Spanish only).
 - 6 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the third periodic report of Mexico, 2017 (CMW/C/MEX/CO/3), para. 3; Amnesty International, *Overlooked, under-protected: Mexico's deadly refoulement of Central Americans seeking asylum*, 2018.
 - 7 CNDH, Informe especial: situación de las estaciones migratorias en México, hacia un nuevo modelo alternativo a la detención [Special report: situation of immigration stations in Mexico, towards a new alternative model to detention], 2019, available at: <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019-RE.pdf>; Recommendation 77/2019, available at: https://www.cndh.org.mx/sites/default/files/documentos/2019-09/Rec_2019_077.pdf and Recommendation 68/2016, 28 December 2016 (on the Mexico City Migrant Detention Centre), available at: http://www.cndh.org.mx/sites/all/doc/Recomendaciones/2016/Rec_2016_068.pdf (Spanish only).
 - 8 The Citizens Council of the INM published the findings of its monitoring of the migrant detention centres and facilities. Among the factors highlighted were overcrowding in most centres; lack of sleeping supplies, such as mattresses, mats and bedding; problems with sanitary facilities and a shortage of drinking water, resulting in poor hygiene; and a proliferation of bad smells and insects. In addition, it documented a lack of access to adequate medical services for detainees, and a lack of electricity and ventilation in some small centres. Citizens Council of the National Migration Institute, *Misión de Monitoreo de Estaciones Migratorias y Estancias Provisionales del Instituto Nacional de Migración*, [Monitoring Mission of Migrant Detention Centres and Temporary Facilities] 2017.
 - 9 Amnesty International, *Annual Report 2019: 'Mexico'*, available at: <https://www.amnesty.org/download/Documents/POL1032022021ENGLISH.PDF>



Monitoring carried by organizations from the Alianza during 2020 shows that this situation has continued during the pandemic. The Mexican authorities continued to violate the rights of people in need of protection. They also continued to detain thousands of people, despite the fact that immigration-related detention during a pandemic poses serious risks to the health and lives of detainees, and in general cannot be considered a justified or proportionate response, especially when the right to health cannot be ensured.¹⁰ The Alianza was able to verify that the conditions in various migrant detention centres are and remain of great concern, including:

- **Overcrowding:** some people report, for example, being held in rooms without adequate ventilation with 50 other people, making it impossible to practise physical distancing.
- **Lack of hygiene and sanitation facilities in migration detention centres:** people often cannot wash their hands with soap regularly and antibacterial gel and face masks are often not provided, (or, when masks are provided, they cannot be changed).
- **Lack of infection prevention measures and information about the COVID-19 health emergency** on arrival and inside migration detention centres and a failure to identify asymptomatic cases that could lead to outbreaks: after being transferred there in a patrol car, often without physical distancing or face masks, people entering migrant detention centres are not always given a health check. Sometimes on arrival all that happens is that their temperature is taken or they are asked a few questions about their health. The statements gathered indicate that new arrivals are not given COVID-19 tests.
- **Lack of medical care:** There is no systematic guaranteed access to health services for people suspected of having COVID-19 or who present with a respiratory tract infection, or for people with other health needs, such as reproductive and sexual health care and obstetrics, pre-existing conditions or conditions identified in transit.
- **Lack of measures to guarantee access to mental health services,** despite the widespread need for treatment among detainees.

Some of these elements identified by civil society organizations are consistent with CNDH Recommendation No. 34/2020 of 31 August 2021. The CNDH recognized the violation of the right to protection of health, life and access to health information of a Salvadoran migrant woman who died of COVID-19 after being held in the Mexico City Migration Detention Centre, as well as the protection of the health of people in the context of migration housed in that facility and of all those who enter, stay or work there.¹¹

The statements collected by organizations from the Alianza during this period also show that the immigration authorities in Mexico do not carry out PCR tests before the deportation or assisted return of detainees to their countries, and that people only have one face mask for the bus journey, which can last as long as 15 hours for those who are returned from Tapachula in Mexico to Tegucigalpa in Honduras.

¹⁰ For example, in April 2020 a judge in Mexico City issued a judicial ruling setting out 11 measures designed to preserve the life and health of people on the move detained in migrant detention centres. The INM has not complied with the provisions of the ruling and to date it has not provided a report on the implementation of the measures ordered by the judge.

¹¹ CNDH, Recommendation 34/2020, 31 August 2020, available at: <https://www.cndh.org.mx/documento/recomendacion-342020> (Spanish only).



Some people even reported that the Mexican authorities asked them to reuse the same mask that they were given on their arrival at the migrant detention centre.

Regarding the implementation of infection prevention and information measures when people arrive in their countries of origin, the information received from people returned from the USA and Mexico and, in some cases, from Guatemala, indicate that the necessary protocols are not implemented systematically. Although some people reported having passed through quarantine centres where they did have a PCR test and were given face masks and others said that had their temperature taken and they were advised to quarantine, the Alianza also received information from people who did not have their temperature taken when they crossed the border and were not asked questions or given information.

The unnecessary risks to individual and public health created by these situations are even more worrying, given that on their arrival back in El Salvador, Honduras and Guatemala those returned face other serious socioeconomic difficulties in ensuring their survival (housing, food, work) and personal security, which are likely to undermine even further their rights to life and health and those of the people around them. Added to this, there are now restrictions on access to care and treatment in public health services due to the pandemic.

According to health experts interviewed by the Alianza, if people become infected with COVID-19 or suspect that they have been infected, the chances that returnees can be treated for free in public hospitals in Honduras and Guatemala are almost nil, due to a lack of beds and a backlog of people needing treatment. They also cannot access private diagnostic and health care services where costs are much higher than the average income and, therefore, unaffordable for returnees with scarce resources.¹² Even more worryingly, if people experience complications, it is difficult for them to get free treatment because of the frequent shortages in public hospitals in these countries. The information received by the Alianza shows that in these situations it frequently falls to relatives, if they are able to do so, to pay the extremely high medical costs.¹³

In addition, a lack of specialized intensive care personnel limits even to appropriate care for patients with COVID-19 more access, as is the case for example in Honduras and El Salvador.¹⁴ Dr Suyapa Figueroa,

12 The Guatemalan Health Prosecutor of the PDH has highlighted difficulties in accessing diagnostic tests for COVID-19 and delays in receiving results and pointed out that costs in the private sector are very high: approximately 600 quetzals (GTQ) (USD77) for the PCR test and between GTQ200 and GTQ250 (USD26-33) for the rapid test. In Guatemala, the minimum wage in 2020 was GTQ2, 581 for the lowest category (USD334). See <https://www.mintrabajo.gob.gt/index.php/dgt/salario-minimo> (Spanish only). However, more than 70% of the population works in the informal economy <https://www.prensalibre.com/economia/al-menos-dos-de-cada-10-guatemaltecos-ganan-por-debajo-de-sus-capacidades-segun-el-ine/> According to the President of the Honduran College of Physicians, who was consulted by telephone in March 2021, a PCR test costs approximately 3,500 lempiras (HNL) (USD145) in the private sector and a rapid test ranges between HNL800 and HNL1,200 (USD33-50). In Guatemala, where 58% of the population works in the informal economy, according to the World Bank, the monthly minimum wage for the lowest category is HNL6,762 (USD280). See <http://www.trabajo.gob.hn/wp-content/uploads/2020/01/Tabla-Salario-Minimo-2020.pdf> (Spanish only).

13 Zulma Calderón, Health Prosecutor of the Guatemalan Human Rights Ombudsman’s Office (PDH) indicated that due to budget cuts, public hospitals no longer have certain medicines to treat critical patients, so families have to pay for medicines whose unit price can amount to GTQ5,000 (USD650) and they are required for several days or weeks. Similarly, Suyapa Figueroa, President of the Honduran College of Physicians pointed out that there was a shortage of the medication used to sedate, treat and avoid complications in patients requiring ventilation. Faced with this situation, and despite the fact that this practice is prohibited, doctors in public hospitals give prescriptions to the relatives of critical patients so that they can buy medicines such as Tocilizumab in the private sector; four ampoules of this can cost HNL21,000 (USD870).

14 Dr Figueroa of the Honduran College of Physicians believes that the country has fewer than 20 intensive care physicians. In El Salvador, the head of the Intensive Care Unit of El Salvador Hospital also referred to the lack of intensive care physicians. <https://saludconlupa.com/series/la-segunda-ola/el-salvador-el-nuevo-hospital-que-no-estuvo-listo-para-la-emergencia/> (Spanish only).



lawfully return people in need of international protection, without guaranteeing their right to request asylum, to their countries of origin, where their lives and health are at serious risk.

This is incompatible with the international obligations Mexico has undertaken to uphold. The Alianza therefore urges the Mexican authorities to:

- Temporarily suspend the deportation of people to El Salvador, Honduras and Guatemala during the entire COVID-19 pandemic, as well as to any other country where their lives or health could be at risk, in compliance with Mexico’s international human rights obligations.
- Adopt measures to ensure that apprehended and detained migrants in an irregular situation are properly informed of their right to request asylum in Mexico and guarantee their effective and unrestricted access to these procedures.
- Where a person freely expresses a desire to be returned: implement infection prevention health measures at all stages of the journey, ensuring in particular that the means of transport used are fully equipped to cope with pandemic conditions, for example in terms of ventilation, sanitation and the use of masks and anti-bacterial gel.
- Comply with the recommendations made by international organizations who are part of both the International and Inter-American Human Rights Systems to ensure respect for and protection of the human rights of migrants during and after the Covid-19 pandemic.

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